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**DEPARTMENT OF THE PROSECUTING ATTORNEY
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**TESTIMONY ON BILL 53 (2026), PROPOSED CD1
RELATING TO SHOPPING CARTS**

October 22, 2026

Chair Waters and Members of the Public Safety & Economy Committee:

The Department of the Prosecuting Attorney of the City and County of Honolulu submits the following comments regarding Bill 53 (2026), Proposed CD1, Relating to Shopping Carts.

The Department recognizes the City's legitimate interest in addressing abandoned shopping carts that obstruct sidewalks, create public safety hazards, and interfere with the public's use of shared spaces. However, the Department has concerns regarding the proposed criminal penalties.

Under the proposed CD1, a person who unlawfully possesses or uses a shopping cart may be subject to a fine of up to \$2,000, imprisonment for up to 30 days, or both. The possibility of incarceration makes the offense a petty misdemeanor under Hawai'i law.

The Department is concerned that imposing a potential jail sentence for simple possession of a shopping cart outside an authorized location raises questions regarding the proportionality of the punishment. In *State v. Davia*, 87 Hawai'i 249, 258, 953 P.2d 1347, 1356 (1998), the Hawai'i Supreme Court identified three factors for evaluating whether a punishment is cruel and unusual under the Hawai'i Constitution: (1) the nature of the offense and the danger posed to society; (2) the severity of the penalty compared to punishments for more serious offenses in Hawai'i; and (3) the penalty compared to punishments for the same offense in other jurisdictions.

Other jurisdictions have addressed shopping cart violations through civil penalties rather than incarceration. For example, Virginia authorizes a civil penalty of up to \$500 for unauthorized possession of a shopping cart outside the premises of a retail establishment.¹ Similarly, Missouri

¹ Va. Code Ann. § 15.2-985(D).

provides for civil liability, including a \$100 civil penalty, when a person takes a shopping cart with the intent to convert it.² These approaches demonstrate that jurisdictions have adopted non-jailable penalties to address shopping cart violations.

The Department respectfully requests that the Council reconsider the proposed criminal penalty and evaluate whether a non-jailable violation, with an appropriate monetary penalty, would adequately accomplish the bill's public safety objectives while avoiding potential constitutional challenges.

Thank you for the opportunity to provide these comments.

² Mo. Rev. Stat. § 537.127(4).