



RESOLUTION

URGING THE GOVERNOR AND STATE LEGISLATORS TO CONVENE THE LEGISLATURE IN SPECIAL SESSION AS SOON AS POSSIBLE TO AMEND THE PENALTY PROVISION UNDER THE HAWAII EMERGENCY MANAGEMENT ACT, SECTION 127A-29, HAWAII REVISED STATUTES.

WHEREAS, on March 4, 2020, Governor David Ige ("Governor") issued a proclamation declaring the existence of a state of emergency in the State of Hawaii ("State") due to the COVID-19 outbreak and invoking his authority under the Hawaii Emergency Management Act, Hawaii Revised Statutes ("HRS") Chapter 127A; and

WHEREAS, also on March 4, 2020, Mayor Kirk Caldwell ("Mayor") issued a proclamation declaring the existence of a state of emergency in the City and County of Honolulu ("City") due to the COVID-19 outbreak and invoking the Mayor's authority under the Hawaii Emergency Management Act; and

WHEREAS, since March 4, 2020, the Governor and the Mayor have issued a series of proclamations, supplementary proclamations, and emergency orders related to the COVID-19 pandemic, which, among other things, have mandated physical distancing measures, required individuals to wear face coverings in public settings, and closed certain State and City facilities; and

WHEREAS, under existing law, enforcement officers have only two enforcement options when an individual intentionally or knowingly violates emergency restrictions, conditions, or requirements promulgated under the Hawaii Emergency Act: provide a warning; or take enforcement action, either by arrest or the issuance of a misdemeanor criminal citation requiring the individual to appear in court; and

WHEREAS, pursuant to HRS Section 127A-29, regardless of the nature of the offense or severity of the conduct, any person found in violation of these emergency restrictions, conditions, or requirements shall be guilty of a misdemeanor and, upon conviction, the person shall be fined not more than \$5,000, or imprisoned for not more than one year, or both; and

WHEREAS, recently-released statistics from the State Judiciary indicate that a only a very small percentage of citations issued for the violation of COVID-19 emergency orders have resulted in convictions; and



RESOLUTION

WHEREAS, of the more than 60,000 criminal charges issued by the Honolulu Police Department that have been already gone through the court system, the Department of the Prosecuting Attorney declined to prosecute approximately 43,000 due to insufficient evidence, and approximately 15,700 were dismissed by a judge or prosecutor in court; and

WHEREAS, effective enforcement of COVID-19 restrictions, conditions, and requirements has proven to be difficult in part due to the severity of the available penalty and the natural reluctance of prosecutors and judges to impose penalties that seem disproportionately severe in relation to the violation; and WHEREAS, amending the penalty section under HRS Section 127A-29 to provide greater flexibility and discretion to the police, prosecutors, and judges, by allowing for less severe criminal sanctions and civil, rather than criminal, monetary fines to be imposed, could result in more successful enforcement of statewide COVID-19 restrictions, conditions, and requirements; and

WHEREAS, the City Council believes it is imperative that the State address this issue as quickly as possible, given the surge in COVID-19 cases across the mainland United States, the rise in the number of local cases expected due to upcoming holiday gatherings and "COVID fatigue," and increasing reports of violations of COVID-19 restrictions, conditions, and requirements; and

WHEREAS, the Legislature is not scheduled to convene again until its Regular Session begins at 10:00 a.m. on Wednesday, January 20, 2021; and

WHEREAS, Article III, Section 10 of the Hawaii State Constitution allows for the Legislature to convene in Special Session at the discretion and direction of the Governor, or at the written request of two-thirds of the respective members of the House of Representatives and Senate; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Governor and State Legislators are urged to convene the Legislature in Special Session as soon as possible to amend the penalty provision under the Hawaii Emergency Management Act, Section 127A-29, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that these amendments should take effect immediately upon enactment, and provide the possibility of less severe criminal sanctions, and the option to impose civil fines, in appropriate instances for individuals violating orders promulgated by the Governor or a county mayor pursuant to the Hawaii Emergency Management Act; and



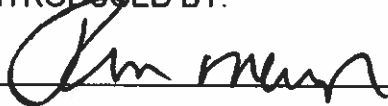
CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 20-328

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Governor, the President of the State Senate, the Speaker of the State House of Representatives, and the State Attorney General.

INTRODUCED BY:



DATE OF INTRODUCTION:

DEC 02 2020

Honolulu, Hawaii

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 20-328

Introduced: 12/02/20 By: RON MENOR

Committee: COUNCIL

Title: RESOLUTION URGING THE GOVERNOR AND STATE LEGISLATORS TO CONVENE THE LEGISLATURE IN SPECIAL SESSION AS SOON AS POSSIBLE TO AMEND THE PENALTY PROVISION UNDER THE HAWAII EMERGENCY MANAGEMENT ACT, SECTION 127A-29, HAWAII REVISED STATUTES.

Voting Legend: * = Aye w/Reservations

12/09/20	COUNCIL	RESOLUTION 20-328 WAS ADOPTED.
		8 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TEXEIRA, WATERS.
		1 NO: TSUNEYOSHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



GLEN I. TAKANASHI, CITY CLERK



ANN KOBAYASHI, CHAIR AND PRESIDING OFFICER