



# For Our Rights a non-profit organization

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P.O. Box 1633  
Kapa'a, Hi. 96746  
levana@forourrights.org

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## TESTIMONY ON HOUSE BILL 643: A BILL RELATING TO EMERGENCY MANAGEMENT

PRESENTATION TO THE HOUSE COMMITTEE ON PANDEMIC AND  
DISASTER PREPAREDNESS and COMMITTEE ON LABOR AND TOURISM

### **STRONGLY OPPOSED**

BY LEVANA LOMMA, CEO OF FOR OUR RIGHTS INC. February 1, 2021

House Bill 643 relating to emergency management, introduced to the House on January 25, 2021 which acts to define “essential worker” and make interference with an “essential worker” during an emergency a felony criminal offense is an abomination to the Hawai`i State Constitution and to the Constitution of the United States of America. This bill acts to deconstruct the basic fundamental liberties of the citizens of Hawai`i while fostering division amongst the community and

creating “compliance officers” out of those whom the government has classified as “essential”.

The Hawai`i State Constitution and the U.S. Constitution, from which the principles were derived, are the sacred documents which protect the fundamental God-given rights of the people and these documents are never suspended during times of emergency. The Hawai`i statute authorizing the Governor’s emergency powers expressly states the law confers no power or authority to act “which is inconsistent with the Constitution and laws of the United States.”<sup>1</sup> The U.S. Supreme Court has expressly condemned the idea that a mere declaration of an “emergency” be an excuse to trump all constitutional forms of power, rights, and protections:

*Emergency does not create power. Emergency does not increase granted power or remove or diminish the restrictions imposed upon power granted or reserved. The Constitution was adopted in a period of grave emergency. Its grants of power to the federal government and its limitations of the power of the states were not determined in the light of emergency and they are not altered by emergency. What power was thus granted and what limitations were thus imposed are questions which have always been, and always will be, the subject of close examination under our constitutional system.*

*Home Bldg. & Loan Ass’n v. Blaisdell*, 290 U.S. 398, 425-426 (1934) (emphasis added).

Under this authority it is an aberration of duty to bring forth any regulation which would trespass upon a free people’s protected rights to freedom of

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<sup>1</sup> HRS § 127A-1(c).

movement, freedom of speech, freedom of expression, their right to be secure in their person, their right to associate and their right to due process.

Section 1 of this act states: *“Additionally, the legislature finds that the pandemic has given rise to a multitude of essential workers in various job sectors who, through the course of their work are required to relay and impose emergency rules and orders that have been enacted by the appropriate governmental authority. Emergency response measures to reduce the spread of SARS-CoV-2 through, for example, the use of face coverings or masks has placed great responsibility and risk on essential workers who have experienced harassment, intimidation, verbal abuse, and physical assault from members of the public who disagree with the government's order.”* To remove the right of the people to govern their own health and be free to move about in society without violations to their bodily autonomy is an obtrusion in itself, but to grant authority of select members of society deemed “essential” to enforce governmental overreach upon those who resist unconstitutional regulations is egregious.

There are already sufficient laws in place to protect citizens from harassment and assault. This bill acts as a clandestine, coercive measure intended to enforce compliance through the threat of imprisonment and must be struck down for its unconstitutionality and danger in promoting an atmosphere of warfare among citizens. No particular vocation should ever be considered more essential than

another, placing certain protections and rights above the rights and protections of others. This is a direct violation to the Equal Protection Clause within our United States Constitution and found in the Hawai'i State Constitution under Article 1 Section 5.<sup>2</sup>

This is why we urge you to submit to the demands of your constituents and protect their civil liberties from current and future infringements being covertly forced upon the people under the guise of “emergency” management. We strongly oppose House Bill 643.

Sincerely,



Levana Lomma

Chief Executive Officer

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<sup>2</sup> <https://lrh.hawaii.gov/constitution#article1>