

# GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

## MINUTES

Council Chamber

December 9, 2020

**RECONVENE:** 9:01 a.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair (arrived at 9:06 a.m.)  
Councilmember Tasha Kama, Member  
Councilmember Kelly T. King, Member  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member (arrived at 9:10 a.m.)

**EXCUSED:** Councilmember Riki Hokama, Member

**STAFF:** Shelly Espeleta, Legislative Analyst  
James Forrest, Legislative Attorney  
David Raatz, Supervising Legislative Attorney  
James Forrest, Legislative Attorney  
Richard Mitchell, Legislative Analyst  
Wilton Leauanae, Legislative Analyst  
Pauline Martins, Committee Secretary

Laura McDowell, Executive Assistant to Councilmember Molina  
Kate Griffiths, Executive Assistant to Councilmember King  
Michelle Del Rosario, Executive Assistant to Councilmember King  
Lois Whitney, Executive Assistant to Councilmember Kama  
Sarah Pajimola, Executive Assistant to Councilmember Rawlins-Fernandez

**ADMIN.:** Richelle Thomson, First Deputy Corporation Counsel, Department of the Corporation Counsel  
Moana M. Lutey, Corporation Counsel, Department of the Corporation Counsel  
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel  
Caleb Rowe, Deputy Corporation Counsel, Department of the Corporation Counsel  
Ipo Mossman, Executive Assistant, Office of the Mayor  
Victor Ramos, Assistant Chief, Department of Police  
John Jakubczak, Assistant Chief, Department of Police

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Brandon Phillips, Sergeant, Juvenile Crime Prevention Division,  
Department of Police  
Jonathan Honda, Officer, Juvenile Crime Prevention Division,  
Department of Police  
Shayne Agawa, Deputy Director, Department of Environmental  
Management  
Brandon Segal, Deputy Prosecuting Attorney, Department of the  
Prosecuting Attorney

**OTHERS:** Ashlee Klemperer, Community Coalition Coordinator, Hawaii  
Public Health Institute, Maui Coalition for Drug-Free Youth  
Rick Collins, Project Director, Hawaii Public Health Institute, Maui  
Coalition for Drug-Free Youth  
Andrea Snow, Community Coalition Coordinator, Hawaii Public  
Health Institute, Maui Coalition for Drug-Free Youth  
Plus (2) other people

**PRESS:** *Akakū Maui Community Television, Inc.*

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CHAIR MOLINA: . . .*(gavel)*. . . The recessed GET Committee meeting of December 1st, 2020 is now in session. I'm Mike Molina, your Chair, and today is December 9th. The time is one minute after the hour of 9:00 a.m. Members, thank you very much for being available for this recessed meeting. We will be addressing GET Item 60, 11(45), 11(48), and end of term referrals. And the Chair's intention today is not to meet past 1:00 p.m. today. And I assume everybody is good until 1:00? Good. Well, let's first do Council roll call or Committee roll call. Let's start off first with our Council Chair to give us our...our cultural good morning. Good morning, Chair Lee.

COUNCILMEMBER LEE: Okay. Cultural good morning. Those of you who will be traveling to Portugal soon, you could say bom dia. Bom dia, everyone. Good morning.

CHAIR MOLINA: Good morning. Bom dia back to you, Chair. All right, and let's go out to West Maui. Good morning, Councilmember Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka kākou, and bom dia to you all.

CHAIR MOLINA: All right. Back at you. Boy, I love that background. And let's go out to East Maui. Good morning, Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aloha kakahiaka, Chair. Mai na moku Na Wai Eha, and bom dia, everyone.

CHAIR MOLINA: Bom dia to you. And let's see how the neighborhood is doing in Central Maui. Councilmember Kama, good morning.

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COUNCILMEMBER KAMA: Aloha kakahiaka, Chair. It's a beautiful day in the neighborhood of Kahului, and bom dia to each and every one of you.

CHAIR MOLINA: All right, mahalo. And let's go out to South Maui. Councilmember King, good morning.

COUNCILMEMBER KING: Aloha kakahiaka, good morning, and bom dia.

CHAIR MOLINA: Good morning and bom dia --

COUNCILMEMBER KING: Beautiful day here.

CHAIR MOLINA: -- to you too. And let's go out to the beautiful island of Moloka'i. Good morning, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, mai Moloka'i nui a Hina. It is a beautiful day on this island, and bom dia kākou.

CHAIR MOLINA: All right, bom dia kākou back to you as well. Now I've been informed Councilmember Hokama, I believe he told us this last week that he would not be present for today's meeting. He's handling some NACo responsibilities. And we're still awaiting Councilmember Sugimura. I believe she should be joining us in progress real soon. All right, then as we...you recall, Members, public testimony was closed for this meeting today. And I want to remind those who are observing the meeting to log off of BlueJeans now and instead tune in to *Akakū* Channel 53 or mauicounty.us to track the progress of this meeting. Staff will be disconnecting individuals from the meeting so that only required personnel such as Councilmembers, Staff, Administration, and resource personnel are on. And Members, again, just a general courtesy, please silence your cell phones as well. And joining us today from Corporation Counsel, we have Corporation Counsel Moana Lutey, Deputy Corporation Counsel Caleb Rowe, Deputy Corporation Counsel Stephanie Chen, and First Deputy Corporation Counsel Richelle Thomson. And from the Police Department, we'll have Sergeant Brandon Phillips, Officer Jonathan Honda, and Assistant Chief John Jakubczak. And the Prosecuting Attorney's Office, Acting Prosecuting Attorney Robert Rivera. Department of Liquor Control, Director Layne Silva. Director of Environmental Management, Director Eric Nakagawa or Deputy Director Shayne Agawa. And outside personnel joining us specifically for GET Item 60 will be, from the Maui Coalition of Drug-Free Youth, Public Health Institute, Rick Collins, Project Director; Andrea Snow, Community Coalition Coordinator; Ashlee Chapman, Community Coalition Coordinator. And last, but not least, our very trusty and hardworking Committee Staff, Ms. Pauline Martins, Committee Secretary; Shelly Espeleta, Legislative Analyst; Kasie Apo Takayama, Legislative Analyst; and our good friend Mr. Wilton Leauanae, Legislative Analyst. And our Legislative Attorney, Mr. James Forrest. So I've said a mouthful, Members. Let's get right into it.

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**GET-60            SOCIAL HOST LIABILITY REGULATIONS (CC 20-432)**

CHAIR MOLINA: We'll start off first with GET Item 60, which is the Social Host Liability Regulations. Members, we've previously met on this matter on October 6th and November 17th. And at the November 17th meeting, the Committee discussed several items in the bill requiring correction and further clarification. A revised proposed bill was transmitted from the Corporation Counsel's Office, which was dated November 25th of this year. The Committee also received correspondence dated November 30th from the Department of the Prosecuting Attorney's Office transmitting additional comments on the bill, and a proposed amendment to the definition of "responsible person." The Chair would like to outline the latest changes to the bill as incorporated by Corporation Counsel, which is in the revised bill dated November 25th, 2020. Members, you can track these changes, which is in your Granicus. And the track changes document show changes to the bill between November 10th and November 25th from Corp. Counsel. And among the changes in the current revised bill, the clear and convincing burden of proof has been removed from Section 1 after finding that the clear and convincing standard would not assist police in implementation of this ordinance. And also, titles for Sections 9.40.040, 9.40.050, and 9.40.060 have been changed to administrative enforcement, appeal procedure and standards, and administration, respectively. So starting off that way first, what I'd like to do, if you can indulge me...everybody has had some time to review the proposed changes from last week. I hope all of you have looked at it. Now, my understanding is there may be some amendments today being considered, and we'll certainly open the floor up for that. But just on the revised changes, I'd like to get some initial comment first from the police, followed by the Coalition, and then Corp. Counsel, and then Members. Okay. So let's start off with the Police Department. Any concerns? Before we do that, Councilmember King?

COUNCILMEMBER KING: Yeah, thank you, Chair. I just wondered, is there one document we should be following of all the documents that are listed under this item?

CHAIR MOLINA: Well, I've been told in your Granicus, the November 25th, that's the revised bill. Yeah, if you can...yeah.

COUNCILMEMBER KING: From Corp. Counsel?

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: Okay, great.

CHAIR MOLINA: The...the revisions were made based on recommendations from the Committee, as well as, I believe, Corp. Counsel and others as well. So yeah --

COUNCILMEMBER KING: Okay, thank you.

CHAIR MOLINA: -- just...just...just follow along those.

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COUNCILMEMBER KING: Yeah, no, I appreciate that because I...there's so many documents in there, and I wanted to make sure I was...

CHAIR MOLINA: Yeah. Yeah. It is...it is quite a load, but we're going to try and make it as easy for everyone as possible here today. So okay, our members from the Police Department, I guess either we could have Officer Honda or...Chief, any thoughts on the revisions thus far? Some of these revisions were housekeeping, but more on the ones that have a lot of emphasis or meat to it. Sergeant Phillips?

MR. PHILLIPS: Hi. Good morning, Councilmembers. Sergeant Brandon Phillips on behalf of the Maui Police Department. After looking over the...the latest revisions to the proposed ordinance, we don't foresee any issues. I think the changes are good. As far as from an enforcement standpoint, I think they will assist us and separate themselves from the criminal HRSs that we already will be enforcing when responding to these cases. So no issues there. We've also looked at the...the revision to the appeals process, and I've let the...the command staff know via Captain Okamoto about the appeals process going through the Police Commission. And I haven't heard of any issues regarding that matter as well.

CHAIR MOLINA: Okay. Thank you very much, Sergeant Phillips. Members, I'll...we'll...like I said we'll hear from our resource personnel first, and then I'll open the floor up for questions from you for any of our resource personnel. Okay, let's ask Mr. Collins from the Coalition for Drug-Free Youth for your comments on the revisions.

MS. KLEMPERER: Actually, good morning, everyone. This is Ashlee Klemperer Chapman, I'm the Coordinator for the coalition. I'm going to go ahead and...and make the statement today if that's all right with...with you, Chair?

CHAIR MOLINA: Sure, go ahead.

MS. KLEMPERER: All right. Good morning, everyone. Awesome. Thank you so much. Thank you, Committee Chair Molina and Committee Members. I thank you all, the staff of Corporation Counsel, the Prosecuting Attorney's Office, and all of the community members who have contributed to GET-60. As you consider your vote today, I really wanted to take this opportunity to remind us all of the purpose of this ordinance. Our purpose is to protect young people from the harms of alcohol, the dangers of consuming it in the first place, and the severe and life-altering consequences that occur after consumption. With rigorous investigation of our community, the coalition found that large parties occurring at private residences where underage youth are consuming alcohol is a major risk factor, creating real harm in our community. Youth are being sexually assaulted, they're getting into physical fights, they're going to the hospital, they're drinking and driving, and they're getting arrested. All of these traumas can be reduced, and GET-60 is that solution. GET-60 is not a noise ordinance, it is not an attack on celebration, it is a targeted civil ordinance intended to fill a gap in our existing laws that seek to reduce and prevent youth from drinking. Police have the tools to curb underage drinking in public spaces like beaches, parks, school. Yet there are no effective tools for addressing this inside

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the home and private residences where youth are actually experiencing harm. There is no evidence from other communities with similar policies that underage drinking increases in other location after the social host ordinance is enacted. The research shows that communities with local social host ordinances secure unruly house parties, and police report it is simple and effective to enforce. With great partnerships between the coalition, MPD, and the community, we are really confident that an effective education plan will encourage adults to shift behaviors without the need for fines. Our goal really is for the community to agree that underage drinking is never safe, not anywhere, including the home. Alcohol is the most widely used and ultimately accepted substance in society. Ultimately, we need to recognize that pushback against this ordinance against protecting the youth from these consequences means the condoning of underage drinking. This is a perception the Coalition hopes will shift after this ordinance becomes a law. We believe that GET-60 will protect the youth of Maui County from those who might otherwise have allowed or enabled underage drinking to happen in their home. This is an opportunity for real prevention. We thank you, Committee Members, for your serious consideration, your time, and prioritizing this issue. And I'm happy to answer any questions that you might have.

CHAIR MOLINA: Okay, thank you very much, Ms. Klemperer and...and...and Chapman. All right, and let's continue with our comments from our resource personnel. Again Members, I'll open the floor up once we've all heard from our resource personnel. I believe we have Liquor Control Director, Mr. Silva, on the line. And we did receive I believe a letter of support for this legislation from the Liquor Commission. Director Silva, are you available to respond? Before I do that, Chair would like to recognize the presence of Councilmember Sugimura to our meeting this morning.

COUNCILMEMBER SUGIMURA: Good morning, everybody, from the County Building. Good morning.

CHAIR MOLINA: Good morning. Okay. Director Silva, any thoughts?

MS. ESPELETA: Mr. Chair, this is Staff. We've been informed that Mr. Silva is in a Liquor Commission meeting going on right now, and he will not --

CHAIR MOLINA: Okay.

MS. ESPELETA: -- be available to attend.

CHAIR MOLINA: Okay. No problem. We'll move on. From the Prosecuting Office, I believe Acting Prosecuting Attorney Rivera, or I believe Attorney Segal is available. Good morning, Mister...is it [See-gul] or [See-gall]?

MR. SEGAL: [See-gul], thank you.

CHAIR MOLINA: Segal, okay.

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MR. SEGAL: Thank you, Chair.

CHAIR MOLINA: Go ahead. Your comments, sir?

MR. SEGAL: I submitted a letter on November 30th. I'll rest on the comments that are in that letter. I just want to let you know for the record that we do support the intent of this bill, and we had some revisions that we have proposed that we thought would make the bill a better complement to the criminal laws we have on the books now. So I will rest on the comments that were made in that letter unless the Council has questions.

CHAIR MOLINA: Okay. Thank you, Mr. Segal. And we'll...we'll get...once we get to that point of discussing a...any amendments, we'll...we'll address that as well.

MR. SEGAL: Okay. Thank you.

CHAIR MOLINA: Okay. Thank you. All righty, did I miss anyone else from Administration for comments? I believe that covers it all on this matter. So with that being said, Members, I'll open the floor up for any questions for our resource personnel. I believe...Councilmember King, I guess you had a question for the Coalition. I'll address you first. And I see Member Sugimura with her hand up. And Members, let's keep it three minutes. If you want, we can...we can put a timeclock just so we can keep things moving. So go ahead, Councilmember King.

COUNCILMEMBER KING: Okay. Thank you, Chair. Basically my questions were about the revisions and just wanting to make sure that...that they cover all the concerns that you heard in the last meeting and that you may have. And I...and I'd like to hear, if possible, Chair, from the Prosecutor's Office as well on those revisions. Thank you.

CHAIR MOLINA: Okay. Thank you, Member King. I guess, Mister...oh, let's see, well let's...let's ask Ms. Klemperer Chapman in response to Councilmember King's questions. Your thoughts?

MS. KLEMPERER: Sure. We're actually really, really happy with the changes. We do believe that it really strengthens the intention of the ordinance, and making sure that we are really addressing situations where, you know, young people are getting hurt. I just want to remind everyone that, you know, this ordinance has to be triggered by a call for service. So the party has to be loud, unruly enough to get the attention of someone to take the time and energy to call the police. So really, just wanting to...to be mindful of that. So we're...we're very thankful for the Prosecuting Attorney Office for...for their strong comments, and we're very happy with the revisions.

CHAIR MOLINA: Okay. Thank you, Ms. Klemperer Chapman. Councilmember King, do you want to hear from the Prosecuting Attorney, Mister...Mr. Segal?

COUNCILMEMBER KING: Yeah, if it's possible. It sounded like he felt there was something that we hadn't addressed yet.

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UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER KING: Mr. Segal?

CHAIR MOLINA: Okay, go ahead, Mr. Segal.

MR. SEGAL: Yes. Thank you. So this...this bill had been going back and forth between our office and Corp. Counsel. We had made some suggestions. The final bill that had gotten...that was transmitted to...to the Council, I believe on November 25th, did not have one of the proposed revisions. But I...I felt strongly enough that I...I...I sent in the letter to the Council for a possible amendment. And then the reason why...from our perspective, the way we're looking at this bill, as I mentioned it, is as a complement to our criminal laws that are already on the books. And so we have 712-1250.5, which is promoting intoxicating liquor to a person under the age of 21. We have other potential applicable laws, which could be endangering the welfare of a minor. If the person has care or custody of the minor and gives them a controlled substance, then we have promoting intoxicating compound. So these are all criminal laws. As I mentioned in the letter, they all require proof beyond a reasonable doubt in a criminal court, and require a state of mind, they're intentionally knowingly or recklessly. And so to me, it...it made the best sense, if we were going to enact this law, that we truly have a strict liability type of state of mind on the civil side. Because otherwise, you're going to kind of run into the same issues that we...that we could run into in criminal court, which is proving the state of mind. And oftentimes, you know, there are defenses that can be raised, which are the--the...the difficulty of disproving those...those defenses are complicated by the investigation itself. And oftentimes, if people are Mirandized and they don't want to make a statement, then we could have a difficult time proving that they either permitted the drinking to occur, or that they were otherwise recklessly aware of the...the drinking that was occurring on their property, whether it was an adult or a landowner. And I mean...and that's fine, that's why we have, you know, proof beyond a reasonable doubt in criminal court. But my suggestion, as outlined in the redlines, is to make the responsible person strictly a person who is on the...who owns the property or who permits the gathering. The way it's worded now, I...I had a little bit of concern is that there were...that evidence would be required to prove both that they facilitated the gathering and that they actually permitted the underage minors to consume the alcohol or drugs on the property if you read it strictly. And I'm a lawyer, I'm always trying to play devil's advocate here. So that's why I made those suggestions to revise it so that there...the evidence...there would be no required evidence to show that someone actually permitted the minors to drink. The other...it would simply be that if you're an adult or a guardian, you're responsible for what happens on your property. There's a party, you have to take affirmative measures to make sure that you're not...that...that they're not drinking. You can't just claim you didn't know or that you weren't aware. And so that's the purpose of that revision.

COUNCILMEMBER KING: Okay. Yeah, that makes sense. I think that was the original intent of this, was to have that responsibility. So I...I see Ms. Klemperer Chapman



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nodding her head, so I'm just going to take that as you agree with the prosecuting...with Mr. Segal. Okay.

MS. KLEMPERER: We do.

COUNCILMEMBER KING: Thank you, Chair.

MS. KLEMPERER: Absolutely.

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR MOLINA: Okay. Okay. Thank you, Member King. Councilmember Sugimura, questions for any of our resource personnel?

COUNCILMEMBER SUGIMURA: Thank you, Chair. So nice to see you, Ashlee. You have a new look. You look beautiful, by the way. And --

MS. KLEMPERER: Thank you.

COUNCILMEMBER SUGIMURA: -- thank you very much for your hard work in this area. You talked about education. So what kind of education --

MS. KLEMPERER: Yeah.

COUNCILMEMBER SUGIMURA: -- are you planning or...or how will that happen, who will do it, and what is the education?

MS. KLEMPERER: Yes. So thank you so much for asking about that. We do believe that...that education with policy really creates long-lasting change in behavior and in the community. So we've been working really hard this past year to build up our social media during this...this unprecedented time and with everything going in the virtual space. We have worked really hard to adapt and...and utilize social media to our...our greatest advantage. So we have budget to...to boost posts for...for educational graphics and different things that our Coalition and our Youth Council will be producing. And through amazing partnerships with our youth-serving organizations to have great relationships with parents and families throughout the community, we will be working to disseminate information about the ordinance and resources and tips and tools. And prior to...to introducing the ordinance, we were doing a series of town halls where we were talking about tips and tricks for safe parties. And actually, when we had met with Councilmember Fernandez, you had shared with us some really great things that community members in Hāna have been doing for quite some time, like putting lights in places to keep kids from being able to hide in...in bushes or unlit areas and, you know, different things that families can do to keep everyone safe, like separating alcoholic beverages from non-alcoholic beverages, marking coolers, having people specifically monitor alcohol in a party. So we do plan on...on providing those tools and tips, and we have resources already developed.

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COUNCILMEMBER SUGIMURA: So how big is your social media reach, and what platforms? Just curious.

MS. KLEMPERER: Actually if I can call on our...our social media expert, Andrea Snow. She can give you those numbers. With our budget we do boost posts, which does really increase our reach, but she can share better specific numbers. Andrea, are you able to...to jump on at least on the audio? I know that you're in a meeting. Oh, there you are.

MS. SNOW: Sure. I'm sorry you guys, I didn't know if I could unmute myself, but I guess I can. Yeah. Thank you, Ashlee. Thanks for the question, Councilmember Sugimura. We...yeah, we've been pivoting with COVID away from town halls and in-person gatherings, which is really how we like to educate the community, right? And moving more towards social media and things that...that we can do . . .*(inaudible)*. . . And we think this is actually really a strength. We can reach...

COUNCILMEMBER SUGIMURA: Do you know the number? Do you know...my question was do you know the platforms and...could you give us the platforms and the number of your...your reach?

MS. SNOW: Absolutely. Facebook and Instagram primarily, and our reach in the past two months was 35,000, a little over 35,000 with our initial videos and posts.

COUNCILMEMBER SUGIMURA: And do you also communicate with the schools, DOE, and I guess the private schools too? So the parents that come through the communication with actual schools.

MS. SNOW: We do have...

MS. KLEMPERER: We do.

MS. SNOW: Go ahead, Ashlee.

MS. KLEMPERER: Sorry, I'll take that one. Yeah, we do have relationships mostly with the PCNCs and...and other parent support network individuals that can help disseminate information through the schools. Again, we utilize a lot of our youth-serving partners. The Boys and Girls Club are really phenomenal partners at helping us to share and disseminate information, and they have a phenomenal reach. Maui Family Support Services, Maui Economic Opportunity has helped us disseminate information. So we do rely heavily on...on all of our members. I think that that's really one of the powerful benefits of...of the Coalition that we have.

COUNCILMEMBER SUGIMURA: Okay, thank you. And Chair, if I could...I have a question for Prosecuting Attorney, if I could?

CHAIR MOLINA: Go ahead...go ahead --

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COUNCILMEMBER SUGIMURA: Mr. Segal.

CHAIR MOLINA: -- Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Mr. Segal, your letter that you're referencing dated November 30th, could you explain your...your--you're asking that the Committee incorporate the following revisions. Can you talk about that and explain it further? You did submit a letter. I...I have it.

MR. SEGAL: Yeah. Certainly. So as defined now...and I'm pulling up the...pulling up the...the current one before the Committee. So as defined now, responsible person is in the definition section. And the way it reads is that a responsible person means a person with a right of possession to the residence who conducts, aids, allows, permits, or facilitates a gathering where an underage person possesses or consumes an intoxicating substance. So that reads as being not only do you have to conduct, aid, allow, and permit the gathering, but you also have to conduct, aid, allow, or permit the underage drinking or drug use. So my suggested revision...it also would require that the person who is held responsible under this civil statute would also have to be...actually have permitted or conducted the gathering. My revision changes that to simply the private property owner on which the gathering occurs, such as the owner, tenant, or lessee, or a person who conducts, aids, or permits the gathering. And I removed the part at the end where it says "where an underage person consumes an intoxicating substance." And so that avoids the defense there that...oh, a person could raise where they would say I didn't...yeah, I permitted the gathering, but I told them they couldn't drink and they drank (*audio interference*) And it's also sort of duplicative because...because the underage drinking is further defined under Section 9.40.030. And so it's really...that language is actually even unnecessary because it's...it's already in Subsection B.

COUNCILMEMBER SUGIMURA: For clarity then, you think it's --

MR. SEGAL: Yeah.

COUNCILMEMBER SUGIMURA: -- important to...to make the amendment?

MR. SEGAL: Yes.

COUNCILMEMBER SUGIMURA: Okay. And based upon what you've just said then, how would you be able to define that this...the party was allowed on the private property? Would it have to be an invitation, would it have to be an email invite, or...or what...what would then cement that relationship? Is there something written or is it can just be a verbal, you're invited, this is my friend, they're coming, everybody shows up? I mean, what...what would you need as a PA?

MR. SEGAL: Well, on...on...on the criminal side, we would need certainly some investigation done by the police to show that they permitted this gathering. And it would be...have

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to rise to a level of proof beyond a reasonable doubt. I think...in this context, I think Sergeant Phillips had brought up previously is it's going to arise as part of a call for a disorderly conduct or a fight. And when they arrive, they're going to document who's there, and...including any adults or guardians. And they're going to, I would assume, attempt to interview the witnesses who are there. And so if the witnesses who are there are adults or guardians, and they say yeah, there was a party and this happened, then that's obviously evidence that they permitted the gathering. But the way I frame this, or my frame...or my proposed amendment is that just being present as an adult or...or as a property owner would put the affirmative onus on them to prevent that. And so police would simply need information that they were present and they are the property owners, and they could follow up with...on the civil side. That would not be enough to prosecute them criminally.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

MR. SEGAL: Does that make sense?

COUNCILMEMBER SUGIMURA: Yeah. Thank you for the --

MR. SEGAL: Thank you.

COUNCILMEMBER SUGIMURA: -- legal clarification.

CHAIR MOLINA: Okay.

MR. SEGAL: No problem.

CHAIR MOLINA: Thank you very much, Member Sugimura. And just as an FYI, I've been informed that Deputy Corporation Counsel Thomson will...will be filling in for Corporation Counsel, Ms. Chen, just as an FYI. And just quickly continuing on that line, maybe for, I guess, Corporation Counsel Thomson or even Mr. Segal. Last week we had a testifier that wanted to know how this law would apply to someone who's hosting a party at a government facility, such as our community centers. Now, I know the law's intent is...is geared more towards private property. How does this law apply towards a parent who's hosting, say, a graduation party at a community center? Would this have any impact on that? Because I know when you do a community center, you have to sign all these forms and indicate in writing that you will not be serving liquor, et cetera, et cetera. Your thoughts first, Mr. Segal, and then Corporation Counsel.

MR. SEGAL: The way I read the intent and the language, at least with my proposed amendment, it...it wouldn't matter where the gathering is occurring. So if you have a graduation party at a community center, you're still responsible to make sure that the underage people do not consume alcohol or drugs.

CHAIR MOLINA: Okay, thank you. Ms. Thomson, any thoughts?

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MS. THOMSON: Thank you...

CHAIR MOLINA: Corporation Counsel perspective? Go ahead.

MS. THOMSON: Thank you for that, Chair. So currently, the responsible person, the definition of responsible person is targeted to residence or other private property. So it's...this bill would not affect government property. There's also a definition of residence or other private property, home, yard, apartment, condo, hotel or motel room, or other dwelling unit or hall or meeting room where...occupied on a temporary or permanent basis, whether occupied as a dwelling and whether owned, leased, rented or used with or without compensation. The way that we're reading that intent is that the...this responsible person has the right to possess that entire physical area. So I...I don't believe that it would be applicable to government buildings where there may be other parties that have other types of, you know, rights of possession. This is primarily targeted to your house party.

CHAIR MOLINA: Oh, okay, great. Thank you for that clarification. All right, continuing on. Members, questions for our resource personnel? We'll go with Member Paltin, followed by Member Sinenci.

COUNCILMEMBER PALTIN: Thank you, Chair. And kind of on your same line, I just wanted to clarify that includes like beaches and other places, not just the civic center? I mean, whether it's government or just in front of your house below the high tide line, I guess, this legislation wouldn't apply?

CHAIR MOLINA: Mr. Segal or Ms. Thomson, a response to Member Paltin's question?

MR. SEGAL: I'll defer to Corp. Counsel based on her reading of the definition.

MS. THOMSON: No, I...I don't believe that it would apply there.

COUNCILMEMBER PALTIN: Thank you. And I just wanted to clarify one more thing because I got some differing informations [sic], whether or not it was like just a parent and their own kids at home drinking, whether they're 20, 19 or whatever, would this one apply? It's not a party, it's just regular residents of the same house, that parent kind of...

MS. THOMSON: And...and, Chair, if I may, so Stephanie Chen, Deputy Chen is also online, and she's the...the primary deputy that has been working with this bill. I've been, you know, reviewing it with her, but she's got a lot more in-depth information on it. But as to Councilmember Paltin's question, it would apply in those family-type situations, you know, if a minor is being...is consuming alcohol, you know. But a gathering of two or more...two or more people. So it doesn't...

COUNCILMEMBER PALTIN: So...

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MS. KLEMPERER: But we do want to clarify...we do want to clarify though that...that...that there is State law that already creates exemptions for that. So that was the clarification in that, you know, if...if we're just talking about a family having dinner with their own children, there are State laws that allow you as a parent to give your own child alcohol. So the social host ordinance would not be in effect in those circumstances. If there were other children not related to that family, and those children were given alcohol, and the...the situation got loud enough to where the police were called, and the police came and found that underage drinking were occurring, then the social host ordinance would be potentially enacted.

COUNCILMEMBER PALTIN: Okay. Yeah, I just wanted to clarify that on the record because those were the two conflicting informations [sic] I had heard. So just wanted to clarify which one we're going with. Thank you.

CHAIR MOLINA: Thank you for that question, Member Paltin, it's certainly a good one to get clarity on. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair, for the opportunity. I just had a clarifying question for Mr. Segal...Segal. You mentioned frame of mind. Can you briefly just explain frame of mind?

MR. SEGAL: Certainly. So in a...in a criminal proceeding, almost all offenses require a state of mind that has to be proven by the State beyond a reasonable doubt to be intentionally, knowingly, or recklessly. But they're all a heightened standard of proof which requires evidence to show what their intent was, whether they actually...in...in this case, whether they actually intended to permit or recklessly permitted underage drinking or underage drug use, versus a strict liability offense, which is simply that there is no state of mind, basically. And so there is no evidence required to prove a strict liability offense as far as a person's intent.

COUNCILMEMBER SINENCI: So for in this case, specific to...to the responsible people as far as liability, how does that apply to state of mind? Like where...where they would be considered, I guess, guilty.

MR. SEGAL: And...and...and I just want to just clarify. So I mean on...on the civil side...on the civil side, the way it's proposed, there is no state of mind required. The state of mind is required on the criminal side. And so again, there would have to be evidence on the criminal side that they permitted this gathering or that they intended to permit this gathering. On the civil side, it would simply be property owner or the person holding the gathering is strictly liable for what happens. I think that's really the...the...the goal of this civil proposal is to really complement the criminal proposal and act as a deterrent. To really put people on notice that they need...that, you know, this...this type of conduct where parents are allowing kids to drink or, you know, giving them the house to have house parties is not acceptable in our community. And for the reasons stated by...by others, you know, this deterrent helps prevent underage drinking, helps prevent the consequences of underage drinking, and...including impaired driving, which our office is particularly concerned with.

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COUNCILMEMBER SINENCI: Okay. Thank you for that added explanation. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Sinenci. Committee Members, any other questions for our resource personnel? Committee Vice-Chair Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I...I wanted to first thank Deputy Corporation Counsel Chen and Thomson for making quite...quite a bit of amendments to reflect the Committee's discussion at the first meeting that we had on this bill. I understand, you know, our Chair's urgency to want to pass this out today, as he stated in a previous meeting that the holidays are coming up and we know that there's, in past years, a spike in drinking and driving because of the amount...holiday parties that happen. In an article that came out from *The Maui News*, the Police Department reported that fatalities drastically went down by 73 percent due to the pandemic because gatherings aren't permitted during this time. So I think that, you know, that...that urgency that would have existed pre-pandemic is...is not so much the case in this...this year because of the pandemic. There's...I have a lot of questions still on this bill, and a lot of proposed amendments. And I won't, you know, take them all up at once because I'll share the floor, Chair. But I...I wanted to correct Ms. Chapman's comments that she made earlier. When I met with them and spoke about some of the things, it was...it was regarding parties on Moloka'i, not Hāna.

MS. KLEMPERER: Thank you for that correction. I apologize, I misspoke, it was nerves. I apologize.

VICE-CHAIR RAWLINS-FERNANDEZ: And...and in the, you know, opening comments, I...I...I really didn't appreciate the characterization that not supporting this bills means that someone supports underage drinking because there are other approaches to achieving the same goal that's not necessarily passing out this bill. So my...my first question is for Mr. Segal. Has the Department, Prosecutor's, Police made any attempts in the past to address the concerns about enforcement with the existing criminal laws by strengthening them? As...as you stated earlier, you know, this...this one...this civil law would be strictly liable. So strengthening the existing criminal laws by making those strictly liable so that it...it would be easier for enforcement.

MR. SEGAL: Thank you for your question. So really, the...the state of the law as it is now on the criminal side, there's really not any strengthening we can do because of the way our criminal system works. Because of our heightened standard of proof and because of our Constitution, there are very, very few strict liability offenses on the criminal side on the books. And so, you know, constitutionally, states of mind are required to prove criminal offenses, and that's...and that's the way our, you know, the Constitution works. And so I couldn't there's a way to strengthen the law on our side. There might be a way to tweak it a little bit, but I'm not aware right now of any...any efforts or even a method to make the law stronger. I think what happens is, is that they're just often difficult to prove because of the requirements on the (*audio interference*) side.

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Segal. I wanted to ask the same question of Corporation Counsel, Ms. Thomson.

MS. THOMSON: Thank you. In terms of strengthening the civil...the civil laws, that's outside of my wheelhouse, but I...I do think that there might be certain avenues that could be done through the State Legislature, you know, that could be part of your package with HSAC potentially.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson. And I guess I also wanted to...so there was a statement made earlier about that this...this law would only be triggered if a call was made. And I...and I don't believe that that is necessarily the case. It can be the case, it can be complaint driven, but it doesn't have to be. So it's not necessarily a trigger. I guess, Corporation Counsel? Ms. Chen or Ms. Thomson.

MS. CHEN: Aloha, Members. Thank you for the question. That is my understanding as well, and that could be fleshed out further through admin rules perhaps. But as the proposed ordinance is drafted, there's no requirement that it be complaint driven.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chen. Okay. I wanted to go into the new section...

CHAIR MOLINA: Oh, sorry, Committee Vice-Chair Rawlins-Fernandez, can I interrupt you for just a second? I just want to put out an FYI to all the Members, please do not use the chat for any substantive discussions as it relates to this proposal. I've just been informed by Staff. So again, Members, do not use the chat to have any types of discussions that can be considered, you know, substantive, if you will. So just a friendly reminder, okay. All right, please continue, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'm going to ask my next set of questions, and then I'll yield the floor for other Members' questions. Okay. In the...the new appeal procedure and standards. So I...I looked in the...this will be for Deputy Corporation Counsel Chen. In the Charter, at the authority for the Police Commission and the authority to adjudicate peals...appeals is not explicitly stated in the Charter, but I understand that it does say, or other duties as outlined in the ordinance...or in the Code. And so I looked in the Code, and adjudicating appeals is...is not in the Code either. So I...I wanted to get an understanding of how the amendment to have the Police Commission review appeals put into the bill?

MS. CHEN: Thank you for the question. So the...the question...sorry, there was a bit of a lag right before you finished. The question is, how did this come to be put into the bill, is that it? Okay. So when we were looking, you know, at...originally...as originally drafted, as everybody knows, the appeal, the new was...first the Board of Variances and Appeals. And after conferring with really, the...the litigation division of the Department of the Corporation Counsel, we decided that the Police Commission would be more appropriate, just given the subject matter and the nature of...of what these



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appeals would...the content of these appeals. So it would be under Chapter 12. And Department of Police is...as you correctly pointed out in the Charter, Section 8-12.25, that the Police Commission shall have such other powers and duties as may be provided by law. And I believe that if the Committee were to, you know, pass this, and then Council were to pass this ordinance, that would be sufficient law to add this to the Police Commission's duties.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So prior to creating or passing out this bill, would there not need to be a law authorizing them to adjudicate appeals, and then like have some kind of administrative rule process for them to review the appeals?

MS. CHEN: Thank you. That's a good point. My understanding is that this would be sufficient, but perhaps First Deputy Thomson can comment further on that.

MS. THOMSON: So I...I agree with Deputy Chen that this...this enabling legislation would assign that additional duty to the Police Commission. And the...but, you know, further kind of fleshing out of...of the appeal and the...the grounds for an appeal could be done by admin rules.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, (*audio interference*) and Ms. Chen. I guess I still have concerns about just throwing this appeal process into this bill without first explicitly giving them that authority, and then outlining how that would work prior to throwing this kuleana on them. But I'll yield the floor at this time, Chair. Mahalo.

CHAIR MOLINA: Okay. Thank you very much, Committee Vice-Chair Rawlins-Fernandez. Staying on your question, with regards to the appeals process now. Initially...I guess for Corp. Counsel, we initially thought of the BVA, but there is a cost associated with it. Now, if...if this bill goes through with the Police Commission as serving as like the adjudication body on this...these types of matters, would there be a cost for, I guess, the accused who wants to make the appeal? Would they have to pay a cost like you would if you had to go before the BVA?

MS. CHEN: Thank you, Member Molina. You know, I...generally there...there is a cost, as you say, and I believe there...there would be a cost, a filing fee for this. And usually that...that's outlined in the admin rules.

CHAIR MOLINA: Okay. All right. So now would it be somewhat...I know we heard, I guess, some really high figures for appealing before the BVA. Would appealing before the Police Commission come anywhere near the cost of like going before the BVA?

MS. CHEN: Thank you. That's a very valid concern. You know, I'm...I'm not sure. The filing fee is based on the...the requirements of the support staff and the time it takes to put these together and printing. So I think that would be a discussion perhaps for...to have with the Police Department. You know, technically, the BVA is an acceptable appeal venue, but it just seemed a little bit odd to fit this in with their other duties. You know, generally, they hear...they hear other subject matter. And...and this, since

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it's the Police Department that would be the enforcing department and the Chief of Police, who would be in charge would just be more appropriate given...

CHAIR MOLINA: So...so this was kind of parallel like, for example, to the Liquor Department. You have a Liquor Adjudication Board that have permittees that violate the law, they want to appeal, then you go to the Adjudication Board to have your appeal heard, yeah? So...so you're looking at it more like because this is a legal matter, police matter, that...I guess the logical assumption would be the Police Commission rather than the BVA. Is that the mode of thought?

MS. CHEN: Yes, essentially. It just seems more logical. But it's not wrong, per se, to have it, you know, be the BVA, but I think it's more logical, as you say.

CHAIR MOLINA: Okay. Okay, certainly. Okay, moving on to the...oh, sorry, Member Rawlins-Fernandez, before I recognize other Members, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to follow up on your question. So I'm not familiar with the process with the BVA or the Liquor Adjudication. So if it cost a filing fee to appeal the, you know, violation, is...is that like a deposit? Do you get that back if you are found...you know, if the ruling is overturned, or it's...it's a filing fee and regardless of whether you win or lose your appeal, you have to pay that price?

MS. CHEN: Thank you for the question. Yes, it's just a...a fee that you lose, regardless of the outcome. And usually it's...it's not, you know, I know for like the Real Property Division, when you appeal your property tax bill, it's a \$75 fee, for example, whether you win your appeal or lose.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you very much, Committee Vice-Chair Rawlins-Fernandez. And what came to my mind was when you talked about Real Property Tax Review Board, I remember Chair Lee was on that board, and we know that Board certainly has a lot of appeals. Am I correct? And was...I guess it's a non-refundable fee, yeah? If I recall, Chair Lee?

COUNCILMEMBER LEE: I was on many boards, but not that one.

CHAIR MOLINA: Not that one? Oh, civil service. Okay. I don't know why I kept thinking you were on the Real Property Tax Review Board. Okay, maybe somebody else. My...my bad. Okay. Opening up for other Committee Members, questions of our resource personnel on the matter? Okay, Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to say that after I let it percolate, I wasn't clear if we're listening to Deputy...First Deputy Thomson or Ms. Klemperer Chapman, since it was still conflicting information to me. So I just was wondering what the final answer on that was.

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CHAIR MOLINA: Okay. Any of our...Ms. Thomson, or Ms. Chen, or Ms. Klemperer, any thoughts to the response to Ms. Paltin?

MS. CHEN: Thank you, Councilmember Paltin. Do you mean...could you specify which issue or question you're concerned about?

COUNCILMEMBER PALTIN: Oh, okay. Sure. I was concerned that on the one hand, Ms. Thomson was saying that it would apply to...this bill would apply to parents drinking with their children who were not 21, and then Ms. Klemperer Chapman said it, because the State law supersedes this bill, that it wouldn't apply...this bill would not apply to parents drinking with their children who are under 21. So I felt like two different people said two different things, and I just was wondering if we could clarify which one us eight folks are going with.

MS. CHEN: Thank you. Yes, it's...it's my understanding that this bill would apply to instances where families chose to...to provide alcohol to their children at, say, a family dinner unless one of these exemptions...exceptions apply. And as you...you know, per the Committee's comments at the last meeting these exceptions were added. If it's in...if an intoxicating substance is an ingredient and a medicine prescribed to an underage person, a medicine prescribed by a licensed physician for medical treatment of the underage person, then that's one exception. Second one would be an intoxicating substance provided to an underage person as part of a ceremony of a recognized religion. So if the family dinner were...you know, if it were some celebration where alcohol were a part of that celebration and it were a recognized religion, that exception would apply. The third exception is possession or consumption of an intoxicating substance by an underage person is allowed by law. And the fourth is any location regulated by the Department of Liquor Control, this ordinance wouldn't apply. So I believe Ms. Klemperer is referring to HRS 7...she can correct me if I'm mistaken, but HRS 7...Section 712-1250.5(2)(e). And that is a criminal law. So you know, perhaps families choosing to provide alcohol as part of a family dinner or something like that to an underage person, perhaps those families would not be criminally liable. I wouldn't say in no instance will they...but that is an exception under this criminal statute that is a State law. But our County ordinance is a civil law, so you could be civilly liable where you're not criminally liable. Does that make sense?

COUNCILMEMBER PALTIN: Okay. And then so if...is there any kind of assurance, like say they become civilly liable, but it wasn't a loud social gathering, could they then get out of this civilly liable? It was just a family dinner. Because it was represented that a trigger would be like a complaint being made because of a party or noise. So is there some sort of guarantee in this bill that the police aren't going to use suspicion of underage guardian or minor being drinking to then try to come into folk's house or something? Is it written in the bill in a wording that it would have to be complaint driven or that it has to be a large gathering that's kind of being complained about by the neighbors? They can't just like, you know, somebody has bad blood between your family and be like "hey, that person's drinking, go check 'em out, he's drinking with

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his kids, or something like that.” Is there any kind of protection for families against that? Like it would be used as a way into folk’s house or something?

MS. CHEN: Thank you. And you know, and that is not written into the bill. You know, there’s nothing requiring that a complaint be filed. This could...I don’t know practically speaking how it would occur, you know, that a...unless like you said the neighbor would, you know, there’s just bad blood. But in order for the police to come onto your property, they need to have...there needs to be probable cause. And so I don’t know how likely it would be that they would just...you know, they can’t just come through your door without probable cause. But I am going to actually ask that MPD answer that question since they’re really the experts on that. And happy to respond to anything else that I’m able to.

CHAIR MOLINA: Thank you. Good suggestion, Corporation Counsel Chen. If we could hear from Sergeant Phillips in response to the question from Member Paltin.

MR. PHILLIPS: Yes, thank you for the question, Councilmember Paltin. I think it’s not expressly written in the bill about the search and seizure aspects. But most criminal laws don’t have it expressly written as well. So I would fall back to the Fourth Amendment. You know, us as police officers trained that there is...we cannot do any unreasonable search and seizures. We’re bound to that, you know, by the Fourth Amendment. So that’s...that would occur for any call for service or complaint from the public, or even if we were...notice a violation on beat, we have to...we are bound by the Fourth Amendment, a reasonable search and seizure. So in layman’s terms, what that means is we still have to have some kind of reasonable suspicion to investigate a matter further. And especially if it’s becoming private property, as the Corporation Counsel said, you’re going to have to reach a level of probable cause to actually search something. And you know, at that point, you might have to get either a consent or a search warrant or anything like that. So I think that’s the protections that are afforded. Like say if you were having a private dinner in your own house, there’s no unreasonable noise that the neighbors are aware of, I...I don’t see an instance where any of our officers is going to come knocking on your door and just checking to see if you’re serving a glass of wine to your kid or something like that. And that’s really my response to...to that question. Would you...do you need further clarification, Councilmember?

COUNCILMEMBER PALTIN: That’d be awesome. Thank you, Sergeant Phillips. Just, you know, sometimes when families split up, the parents sometimes act like kids as well, you know, when there’s messy divorce and whatnot. And what if one of the parents uses that as a weapon to the other parent? Like, you know, oh, they’re letting my kid get drunk when they’re not with me, or something like that. Whether it’s true or not, can...could that be a scenario? I mean, you know, not proud of all of the parents. Sometimes we don’t act like adults either, I guess.

MR. PHILLIPS: Sure. You know, we’ve definitely come across those cases, myself personally, where the parents are trying to make allegations against the...the other half if they’re split up. And many times, you know, it comes down to us having to investigate. We’re

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not just going to go on a...on someone's statement of this occurred at this time, we're going to have to find some kind of evidence or something to kind of prove it. And all of our officers are aware of that. And you know, I think we're going to use our...our good judgment and discretion when looking into those matters. So say if like a husband makes a complaint against the wife, oh, she's serving them liquor or whatever like that, then we'll probably go and contact the wife and see if that's true or not to the best of our ability, but that doesn't mean we're going to come barging through their door necessarily or anything like that. Like again, we'd still be bound by Fourth Amendment search and seizure procedures.

COUNCILMEMBER PALTIN: So and then in the case of...like what if you add to the mix, like one parent has a TRO against the other, then you already know there's some sort of trust issues amongst the two sides. Do you just automatically take the side with the restraining order, or how does that work?

MR. PHILLIPS: No, I think as it relates to the proposed ordinance, we're definitely not going to just take it at face value. And even if we're investigating a TRO violations, we're bound to enforce the order as its stated by the judge. But any other complaints about any, you know, other violations of criminal or civil statutes, in this case the officer will still do an investigation, not just take things at face value. You actually have to look at the whole facts, the circumstances, and see if there's any evidence pertaining to any violation.

COUNCILMEMBER PALTIN: Thank you so much, Sergeant Phillips. I'm going to have to let that percolate --

MR. PHILLIPS: Okay.

COUNCILMEMBER PALTIN: -- for me.

CHAIR MOLINA: Okay, thank you very much --

COUNCILMEMBER PALTIN: Thank you, Chair.

CHAIR MOLINA: -- Member Paltin. I see...Corporation Counsel Chen, you have some comments in response to Member Paltin's question? Go ahead.

MS. CHEN: Thank you. And I...I wasn't super clear before, the...you know, this HRS Section 712-1250.5 prohibits providing alcohol to minors, and then it lists many exceptions. We took several of the exceptions out of here per the Committee's comments at the last meeting, and included them in the revised bill. I...I specifically did not include the letter E exception for...which perhaps it would be helpful if I just read what that is. Would that be helpful? Okay. The defendant provided the intoxicating liquor to the person under the age of 21 with the express consent of the parent or a legal guardian and with the belief, which was reasonable under the circumstances, that the person under the age of 21 would consume the substance only in the presence of the parent or a legal guardian. And you know, it's my

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understanding that the...the Committee's intent was to specifically discourage, deter, prohibit this type of gathering where maybe parents are okay with their children going to a friend's house and...and drinking, and that's an...an agreement that they've made. But you know, as a policy matter, the Committee was concerned with that. So I will say that that was specifically left out of the exceptions because it was my understanding that was a concern of the Committee.

COUNCILMEMBER PALTIN: So to follow up, if it was added in, then it would be as Ms. Klemperer Chapman originally said?

MS. CHEN: If that were to be added in, then I'm not sure what...it would defeat a lot of the purposes of the ordinance, I believe. Because as this is written...and we could...you know, the language can always be changed, but that would require much further consultation and research. But if this were to be added in, then families, you know, kids of a certain age, say a bunch of 16-year-olds, their parents live down the road and they're of the opinion well, it's better that our kids just drink at so and so's house rather than going, I don't know, wherever else, sneaking around. So we're okay with that. We're okay, as long as you're there, you know, as long as an adult is there. And it would really change the entire...we'd have to reword this whole thing, and it would change...the definition of "responsible person" right now is, you know, as you've heard, is...is that you have to have a right of possession to the private property, and you have to...you have to conduct, aid, allow, permit, or facilitate a gathering where an underage person possesses or consumes an intoxicating substance. So if you were to say with the consent of a parent or a legal guardian that those people are exempt, it would undermine the intent and the strict liability of the bill.

COUNCILMEMBER PALTIN: So then basically what you're saying is that the State exempts parents from criminal liability, but we, as a County, won't exempt them from civil liability?

MS. CHEN: Exactly. Thank you for putting it so --

COUNCILMEMBER PALTIN: If they get caught.

MS. CHEN: -- concisely. Correct. And that...you know, and that's a complete policy decision. And yes, but it...the State exempts people from criminal liability under that exception. But the County, under this proposed ordinance, would not exempt them from civil. Exactly as you said.

COUNCILMEMBER PALTIN: Okay, thanks. Going to percolate a little more.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Let me check with the other Members who have not had any comments or questions for resource personnel on the bill as revised. Let's start with Chair Lee, any thoughts or questions?

COUNCILMEMBER LEE: No. I think Ms. Paltin is doing a great job for all of us. Thank you.

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CHAIR MOLINA: Okay. Thank you, Chair Lee. Member Kama? And thanks for being back with us. I know you had some network difficulties, but thanks for coming back. Your thoughts thus far, or any questions on the revised bill?

COUNCILMEMBER KAMA: Thank you, Chair. You know, growing up, you know, and having, you know, the underage drinking become part of our lifestyle, and that's why I know a lot of parents today would rather have their kid drink at home with them where they can watch them. That was...and so...so this bill is...I think it's going to either force parents to either keep their kids at home in the front of them and they going monitor them, or the kids still going to figure out how to go sneak around. Our job is to figure out, right, how to keep them safe. Not how to help them to figure out how to look at loopholes that they can get around us because it's not healthy for either of us. So my thought is that, you know, parents who are responsible for their children will be a responsible parent, and they'll continue to do that throughout the child's entire life. Even after the kid's old and gray, they're still going to be doing the same parenting. So I'm trying to think about well, who...who are we talking to? Who are we talking to? What...what segment of our population are we trying to talk to? And if we're trying to talk to them, are we reaching them? And that's my thought. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. Okay. No one else has any other questions, I'll go back to Committee Vice-Chair Rawlins-Fernandez for questions for our resource personnel. Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I...I agree with everything that Member Kama just said. So if there's an answer to her question, I would like to hear that. Who...who is it that we're trying to speak to or...

CHAIR MOLINA: Maybe that's a good question for our Coalition representatives. We'll start with them first. Ms. Klemperer?

MS. KLEMPERER: Yes. Thank you so much, Member Fernandez, for the question. Really, we're...we're trying to reach our families where our youth are struggling. When we were investigating what underage drinking looks like throughout our community, we...we surveyed over 400 students from all three of our islands. We held focus groups. We talked to police. We talked to parents. We talked to adults without children. We talked to grandparents. We talked to medical professionals. We talked to all of you. And we found that our young people are experiencing really severe trauma and consequences. And we were able to link all of those traumas and consequences to large house parties where there's a lot of alcohol, no supervision, and our young people are getting hurt. And when we researched what other communities that had similar problems as we do, what did they do to try and solve the problem. That was how we discovered the enactment of local social host ordinances. And so we started to investigate by holding town halls and talking to community members and asking questions if they thought that holding adults accountable was a good idea. And from the...the people that we talked to, many of them...the mass majority of them said that yes, they do think it's a good idea. I really do appreciate the in-depth

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discussions and questions that have been raised. Our hope is really to create an ordinance that really targets these issues. We want to make sure that...that these large parties where these consequences are happening are really what this ordinance is able to...to address. We don't want celebration to be impacted. We don't want parents to feel like we're telling them how they should be. We do believe that...that parents have the right to parent how they...based off of their own beliefs. Our hope is that with this discussion, maybe there are some amendments that we can do to clarify some of that language. I know there was some questions around the complaint driven, and I...I thank Sergeant Phillips for his clarification. That from...from our communication with MPD from the very beginning, they said that that's...that's how they do things. That...that these...these instances are driven by calls for service. And so they said that in other policies related to this, it...it wasn't specifically outlined in the ordinance. But perhaps that's something that...that, you know, with further discussion and investigation, maybe that would strengthen the ordinance. So I...I'm...I'm really grateful for the...the time and attention that...that all of you have put towards this. You can...I...it's very, very apparent, the...the depth and...of attention that has been put towards it, and I...I really do appreciate the prioritization of that. So hopefully we can...we can come to...to an agreement and...and find that...that middle ground, which is really what we hope...hope for.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chapman. So what I understood that you said was that your studies show that this bill would address the need for enforcement of large parties that are not supervised. Two things; one, what Member Kama was saying is that if a parent is responsible and, you know, they're allowing their underage, so you know, just under 21 and it's not necessarily under 10, it could be 20, it could be 19, you know, but their offspring to...to drink alcohol to be safe and allow, you know, their friends to drink under their supervision, that it's...it's not...this bill isn't really targeted to them. What I've seen in our community is, you know, the parents who have to work multiple jobs, and they...they can't be at the...at the home. So if...if that's the...the families that we're targeting by, you know, kicking them while they're down, just adding more financial burden to their already struggling, you know, plate that, you know, they already...if they're not even home because they're working multiple jobs because one job isn't enough, and they're not at home, and that's why these parties are happening. And they can't even, you know, afford their rent, and now they're going to get slapped with, you know, a fine. So that's concerning to me who...who this bill, you know, could be impacting, you know, the community that already can't afford that kind of financial burden. And if it's targeting large parties, this bill says a gathering of two or more. So if it's large, then why not a larger number, you know, like 20 or more or something? So your...your...you can comment on that if you would like.

MS. KLEMPERER: Sure. Thank you so much, Member Fernandez. As the...as the coalition started to develop, you know, the...the specifics of this...of this ordinance, we worked in partnership with...with MPD, with Chair Molina's office, with Corporation Counsel, and we're so grateful for everyone's diligence and hard work. And what we utilized were some model ordinance languages from other communities that saw really good outcomes. And we also utilized best practice recommendations that had been put



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forward by a leading...a researcher in alcohol policy. And so most of the details from our ordinance came from...from those model pieces. And so we understand that as a community process, which is what we value so deeply, is that it's supposed to be a negotiation. And so we are...we are open to...to certain amendments in some key areas. We do believe that if we can maintain the strength of the strict liability, that that really is the core of the intent of the ordinance. But there is still so much that can be adjusted to best meet the needs of our community. And I would actually like to thank Chair Molina for your...for your question around the administrative process of the...the Police Commission and the...the adjudication, and just wondering if...what we can do potentially to...to look at the prices of...of the appeals and...and things like that. So we know that there...there are still many places where we can make adjustments that would better target the ordinance, and...and still maintain, really, the integrity and purpose of what we hope it to achieve.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chapman. I...I...I guess that's one of, you know, like the issues that I have with this bill is that it's attacking a symptom of a societal problem, which is that our community members are not being paid livable wages. You know, and that...that's at the core of some of the problems. That if, you know, we address these social problems of allowing, you know, parents to...or encouraging parents to have livable wages, then they would be home and, you know, could be with their children and, you know, be there to supervise and ensure that parties are not, you know, becoming too large and creating unsafe situations for teenagers or underage people, and then getting in their car and driving. And I...and I know that that's what the intention is, and...and I fully support that. I'm just trying to figure out how to...how to do that in this meeting. I see that Member King had...has a question, so I'll...I'll yield the floor, and then I have more questions and possible amendment if we get to that point. Mahalo, Chair.

CHAIR MOLINA: Okay, thank you, Committee Vice-Chair Rawlins-Fernandez. Member King?

COUNCILMEMBER KING: Thank you, Chair. Thank you, Keani. I appreciate the...the discussion. My...my take on this is it's a responsibility bill, and I don't see it as a particular demographic because I've seen this kind of behavior happen in higher income levels as well. In fact, when my daughter was at Seabury, you know, there were these kinds of parties happening all the time, and there was actually a list that was put out that parents were asked to sign if you agree to not have alcohol at your kid's parties, to not allow alcohol or drugs. And I thought, why would you need to sign a list? It's illegal. You know, you shouldn't be doing that. But I did call...I called a parent the first time my daughter wanted to go to a party, just to make sure there was not going to be drugs and alcohol. And what I was told by the parent was well, if you don't want them to be on...around drugs and alcohol, don't let them come to the party. So I know that this is a prevalent problem across all demographics. And you know, I'm not sure...I think there's still a lot of concerns with this bill, so maybe we're not ready to pass it right now. But I think the idea is...the core of the idea is to hold responsible people who are allowing these kinds of parties in their house, whether it's...whether it's a parent who's there or not there because they're responsible...that's

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their...the residence is their responsibility, whether they own the place or they have a lease on it, you know, they've signed a lease on it. So it's their space. And you know, I feel like there's a lot of people who are finding ways...trying to find ways to get around that, you know, we heard some of the testifiers' concerns. And so if we're not going to make this a responsibility bill, I think that kind of kills the whole intent of it, of...and we heard from the students as well that, you know, they were...they were concerned about this as well. So I'm just...I'm just really not sure. I mean for me...and, you know, I...I've been a fairly strict parent myself so, you know, I would...I would be horrified if something like this happened, whether I was there or not, in my own house. But I don't know...I don't know if we can get past...you know, I'm just uncomfortable with trying to find ways to allow people to get out of the responsibility if this is a responsibility bill. So if we're not going to make it a responsibility bill, then why are we doing this? And that's where I think we're trying to reconcile everybody's concerns. So I just wanted to say that, you know, I support the intent of this bill, and I support what the police are telling us and the Prosecutor's Office are telling us, that they...and maybe there's a way we need to put this into the bill where they don't see...they don't see it being used...I mean, the police aren't going to go door to door trying to find the party, they're going to respond to a complaint or a call. But then you have the situation that Member Paltin brought up about what if there's, you know, somebody that complains unduly, and then they have to make judgment calls, so. But I...I have seen this at just, you know, various demographics throughout the County. So I don't think it's...it's targeting one or another, I think it's targeting the problems that are happening in some of these...in these social gatherings. And we've seen...we've heard from students who have witnessed it. We have heard from parents who have witnessed it. And we've heard from this Coalition that's been doing all this research. And I really appreciate all the research. And I appreciate everybody trying to work together to solve all the potential unintended consequences. But it...it feels like...you know, I don't want to...I don't want to water it down so that it's not effective, otherwise why are we doing this? You know that's kind of my take on where this discussion is going. And I saw...I'll yield the floor, I see Member Lee with her hand up.

CHAIR MOLINA: Okay. Well, thank you very much, Member King. Chair Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair and Ms. King. I am not sure if this question was asked before, but my concern...I mean, one of the reasons why I would support this is mainly to...for this to serve as a deterrent to, you know, to deter problems and discourage parents from, you know, allowing alcohol. And...and even though they're not going to like it because it's like another government intrusion, that's what it kind of is. But I'm wondering, and I'd like to ask Corp. Counsel, you know, if...if let's say a...parents are found guilty of...of this...of this law, this ordinance, whereby they didn't know but, you know, their friends...their children brought in somebody and they're drinking alcohol in the patio and they didn't even know it. But then the kid jumps in his car, friend, and gets into a major accident. The fact that we are making them responsible with this ordinance, does it compound their guilt with the accident that's caused by someone who's...who had a drink at their house? I'm wondering if, you know...now, the people who got hurt or the...the kids who was in the accident's parents now have even more reason, justification, to sue the people who allowed the

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drinking in the first place, even though they didn't even know it was going on. So I'm...I'm just wondering about that situation, Corp. Counsel.

MS. CHEN: Thank you, Member Lee. So...so the question is, would this ordinance help...what is the overall effect in helping to deter drinking and driving?

COUNCILMEMBER LEE: Oh no, no, no. What is the overall effect, compounding somebody's justification to sue you?

MS. CHEN: Okay.

COUNCILMEMBER LEE: Yeah.

MS. CHEN: You know, you can always bring up as evidence that this person was also cited under a certain, you know, County ordinance for the event that led to the accident. It would be hard to...since the ordinance is written such that there must be drinking...underage drinking has to occur on the resident...at the residence or other private property, right? And once you're found to be a responsible person, once you meet that...that criteria for the definition, then you are strictly liable for that. So perhaps MPD can speak more to, you know, what the enforcement would look like, where you're trying to tie the drinking back to a specific private property. But I don't believe that that's what the intent of this particular ordinance is. You know, it doesn't...it doesn't apply to say drinking in the car or...unless that car is in your driveway or on your...at your private property. But to your question of adding to a person's...sort of the evidence that a person can present in court for a court claim, you know, it certainly...it certainly could be included as evidence if...if that person...the responsible person were to have also been cited under this ordinance. There...as you correctly point out, there are already...the...the State of Hawai'i and circuit courts have...have held third parties liable for...under the tort...tort theories of law where as you say a child or a minor consumes alcohol, underage person consumes alcohol and then drives and, you know, unfortunately gets into a horrible accident, someone dies. There are...there's case law where the tort liability has been extended to those third...those third parties that provided the...the alcohol. And then, of course, there are dram shop laws that extend liability to...to liquor shops and places that sell liquor, where those...those stores provided alcohol to underage persons. But I think that would be on a very case-by-case basis and circumstantial, you know, and as far as what...what a person...what a claimant would use and what a defendant would use in their own civil lawsuit.

COUNCILMEMBER LEE: I was just thinking, you know, this...the first violation would be something like \$100 or \$200. Okay. But then now, they're liable for tens of thousands of dollars and maybe losing their home because now they have...the other people suing them will have a stronger case because they violated something at the very beginning by serving alcohol...well, their kids serving alcohol, they didn't know...and then jumping in the car and driving away and gets into an accident. So those are the kinds of things that...I...I like the idea of it being a deterrent, but not

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causing more liability, you know, if...in case of something happens beyond their control after the person leaves their property. Thank you.

CHAIR MOLINA: All right. Thank you, Chair Lee. Members, any other questions for our resource personnel? Mr. Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Members, for the discussion. Yeah, I...just from listening to the Councilmembers' responses, I...I too see what we're trying to do and...and where to get...at...at what point we want to get to. And I...I too think it's...it's...it's good as a deterrent and more of a civil matter than a criminal matter, I guess, from listening to the resource persons. At what point...and then listening to Member Kama's...Kama's infinite wisdom about social, you know, social behavior and...and...and kids. You know, we're looking at...at...and Member Rawlins-Fernandez, just the social issues that we face with single-parent homes. So we've got families that...that are...that are responsible, and then there's families that are, I guess, broken family...families that...that some of the...the kids are...are in...in the system. And so I'm looking at how to...how does...you know, and I get it. I don't condone teenage, underage drinking, but what point are they...I guess it's a social...those social behaviors are learnt behaviors first. When eventually they get to 21 and they get to drink, you know, what kind of behaviors are they going to be extolling at...at that point. So I'm just listening and considering and...and it is a difficult, but a...but a necessary discussion. Thank you, Chair.

CHAIR MOLINA: Thank you, Mr. Sinenci. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Great discussion. As I'm listening to us, one of the things that was said with the resource person that Ashlee has talked about, their social media reach. And when this...when this item first came up, one of my questions was could we have a public hearing or could we network with, you know, those that may be interested just to know about this discussion. And by hearing the answers from Ashlee and...and that group where they said they have their social media with Facebook, Instagram, and they're talking to Maui Family Support Services, Boys and Girls Clubs, the PCNCs with all the schools. And if they have that kind of reach, Chair, I wonder if there's an opportunity to talk about this issue that it's something that the Council is...is bringing up. And I'm hearing loud and clear what Tasha Kama has said, Keani Rawlins-Fernandez is...is saying about the social justice that exists, as well as responsibility. So I wonder if, before taking it forward we could have...whether you or them, but to do the outreach so that we could hear from parents. And I think who really spoke loud and clear about this at the last meeting was Kai Nishiki, and her example, it still sticks in my head. You know, you're having a party and does that mean that everybody who comes, you have to test them for alcohol and drug as...when they come to the party and then when they leave, right? So you know that they're not going to abuse this law. So I mean, those are the kind of things that are...are sticking with me, and I just wonder if there's a way of doing some community outreach so that we can hear, especially if they have their networks in place, and hear what the parents are saying. I have gone to their...the Youth Council's meetings, and the attendees are...are a lot of the kids that testified, but I want to hear from the broader...broader

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community also. Because I think that a lot of...a lot of the families that belong to that or a lot of the kids belong to that are like what Member Kama was saying. And those are like, you know, the families that have strict rules in their household and may not necessarily, you know, reach the...the...the others. And I just want to hear from the others based upon all the discussion that we're hearing from the Members. Or maybe, you know, if you want to ask Ashlee to make a comment about that, I'd appreciate it.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Now, my understanding from the last meeting, the Coalition has been doing some education about this matter in the community. At this point, I don't see how much more the Council can do as far as having public hearings now. I would be amenable...now, let's say if this passed out of Committee, then prior to going to Council, then potentially a public hearing on that. But let's just hear from Ms. Klemperer Chapman first to see what the Coalition has already been doing, the outreach. Because there's been, my...as to my understanding, a lot of education out there about this proposed bill. Ms. Klemperer Chapman?

MS. KLEMPERER: Yes. Thank you so much, Chair. And thank you, Member Sugimura. Absolutely, it is extremely important for us...to us that all community members are aware of...of these important issues. And...and we want all voices to be heard, no matter what, if you're in support or...or in opposition. So we have been sharing meeting announcements with all of our list serves and all of our...our partners, asking for them to...to share it, to make sure everyone is informed when these discussions are going to be happening. We have also shared and disseminated information as to how...and instructions as to how to utilize the new eComment system to encourage people to submit written comments as well. We've shared templates and instructions on how to create your account, access agendas, and also to...to add your comment. So we have been doing everything we can to make sure that...that our...our networks and...and everyone that they're connected to are aware of when these meetings are happening, when they should...when...when they can be submitting comments and giving testimony, and how to do so.

COUNCILMEMBER SUGIMURA: So for today's meeting then, you sent something out?

MS. KLEMPERER: Yes, we did.

COUNCILMEMBER SUGIMURA: Under what address? Curious.

MS. KLEMPERER: Under...under mine. It's ashlee@hiphi.org.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

MS. KLEMPERER: So if you're connected to our list serve, you would have received it.

CHAIR MOLINA: Okay. Thank you, Ms. Klemperer Chapman. And Member Sugimura, I know you have a very extensive following on Facebook, so I think it'd certainly be helpful if you could have your followers look at what the Coalition is doing. So anyway, just my thoughts on that. Members, any other questions for our resource

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personnel prior to the Chair making a recommendation? Okay, we'll go back to Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So I have two...two questions. First, I...and I think they're going to both be for Deputy Corporation Counsel Chen. What happens if an underage person arrives at someone's house already intoxicated? Does the property owner...is the property owner now responsible?

MS. CHEN: Thank you for that question. No, I don't believe so since the...in order...you first have to find that the person is a responsible person, and that's really the crux of...of this ordinance, is the definition of "responsible person." So that person would have to...the underage person would have to possess or consume the intoxicating substance at the gathering, at...on...at the residence or other private property. So you know, allowing an intoxicated underage person into your house, you could be liable under other criminal laws perhaps and/or through tort liability, but I don't believe under this proposed ordinance as written that without that person possessing or consuming the alcohol on the premises that you would be considered a responsible person.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, mahalo. And then how many violations would the responsible person be issued?

MS. CHEN: Thank you. How many notices of violation?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah. So for the...so there's a large gathering, and there are more than one underage person possessing or consuming an intoxicating substance. Would it be one, like, citation because the...it...there's one violation or because there's multiple underage persons, there would be multiple citations?

MS. CHEN: Thank you. That...that's a really good question. I...I believe it would be one notice of violation listing all of the...all of the facts that the enforcing agency could be...would be relying on. I may punt that question to MPD if they have anything further to add, but my understanding would be that, you know, one responsible person receives one notice of violation, and that would include all the...all the evidence, you know, you have to include per Section 9.40.040. The notice of violation and order must include at least the following information, which would also include the nature of the violation, which would specify all the different allegations, I believe. And thank you for bringing this up because this section was also added based on the Committee's comments at the last meeting. And it...based on the procedural concerns, this section was added to specify the process for administrative enforcement. And the language is based on Section 19.530.030 of the Maui County Code. And that is, you know...as you all know Title 19 is the County zoning section of the Code. And this 19.530.030 is...pertains to enforcement. So we decided rather than referring to that, that it would be more clear for a...an alleged violator, and also for the enforcing agency, to have it spelled out here in this section...and also, since we're changing the appeal venue from BVA to the Police Commission. So...but the basis is it...it mirrors almost exactly 19.530.030 for procedural consistency and clarity.

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. So I guess would you be able to point to where in the bill that it would make clear that it would just be one notice of violation?

MS. CHEN: Okay. Thank you. So 9.40.040, administrative enforcement. If the Chief determines that a responsible person violated any provision of this chapter, the Chief must serve the responsible person by mail with proof of mailing or personal delivery with a notice of violation and order pursuant to this chapter, and such administrative rules as the Chief may adopt. So...and then Subsection B specifies what information must at least be included. So I read that to mean, you know, one notice of violation and order. And you know, but again, if MPD has additional clarification on that, or they're saying that differently since administrative rules are authorized under this proposed ordinance, that is something that could be fleshed out as well.

VICE-CHAIR RAWLINS-FERNANDEZ: So in 9.40.040, the word "a," with a notice of violation, is where it would instruct one?

MS. CHEN: Correct. I mean, I don't think there's anything wrong with issuing several, but your concern is...is receiving a separate fine for each notice of violation, is...am I hearing that correctly?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, it's...it's not a concern about what actually happens, I just wanted it to be clear what...what will happen.

MS. CHEN: Okay. Yeah, so I do think that it's with a notice of violation, as you say, indicates one. And then, you know, items one through nine that have to be included. I believe that, you know, if there are multiple underage persons who are found to have possessed or consumed an intoxicating substance at their residence or other private property, that...that all of those facts would be included ideally on that one notice of...of violation and order. But you know, say the police get called back a second time to the same party after they've already issued the notice of violation and order, you know, then...then you would be...you would receive another one, and the civil fine...the penalty demanded would be the \$500 and then the \$1,000 for the third violation. But for each infraction, you would receive a separate notice of violation and order.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So it would be one notice of violation, but when the police come, there would...there could be a citation. And then if they leave and return that same night, there could be a second one, and then, you know, again. So there...there could potentially be multiple in one night?

MS. CHEN: I believe so. If...if you would like to ask MPD how they would interpret that, you know, that could be helpful as well.

VICE-CHAIR RAWLINS-FERNANDEZ: Sure.

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MR. PHILLIPS: Councilmember Rawlins-Fernandez, I...I could add in on that question as well. I would agree with Ms. Chen, that's each separate incident, if you will. Different times of the...the evening or different days will be treated as a separate violation each. If it was the same night, say, hours apart or whatever have you with the case, they might be, you know, linked up because it's the same responsible person, the same address, but it's a separate violation. And I believe if I was interpreting your question correctly, if there was, say, ten minors consuming alcohol all at the same time, in our discussions internally about how to do the enforcement, we would not treat each of those ten as a separate violation, you know, each of the ten different minors that were present. That would be included in...in one officer's incident report, and then we'd take our administrative action from there by sending out the notice of violation via the mail as the ordinance spells out now.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay. And then, Ms. Chen, in 9.40.040(a), what is the purpose of the language "in addition to any enforcement by criminal prosecution?" What would be the impact A, if that language was deleted and it started with "if the Chief determines that a responsible person violated any provision?"

MS. CHEN: Thank you. Excellent question. So the...the purpose of that language is to really drive home that this is a civil...this is a civil penalty, right? It does not take the place of...of a criminal...of criminal penalization for what may be considered the same behavior. So a person who...a responsible person who hosts a gathering may be criminally liable under the criminal statute, and also may be civilly liable. So that just specifies that this is civil, and criminal prosecution is also a possibility. So it doesn't...this...application of this chapter or this proposed ordinance wouldn't negate criminal prosecution.

VICE-CHAIR RAWLINS-FERNANDEZ: So are you saying that that language is necessary in order to not preclude criminal prosecution?

MS. CHEN: I think it's...it's not necessarily, you know, required, but I do think it makes it more clear that, you know, especially when we're talking about civil versus criminal penalties and, you know, for constitutional purposes, the double jeopardy clause. I think it's very helpful to specify wherever possible that this is strictly civil, and that the imposition of criminal penalties is a separate matter that can be concurrent but separate. For...for example, with the Animal Control Board, if you...if you get into...have an issue with a dangerous dog, you know, there...there's oftentimes concurrent criminal prosecution, as well as civil fines that are imposed.

VICE-CHAIR RAWLINS-FERNANDEZ: So in the last...in the first meeting where we discussed this bill, Ms. Chen, we talked about creating a special fund for education and services with the fines that would be collected from violation of this if it becomes ordinance. Was that something that you did research on or explored to see how that could be incorporated? I don't...I don't know if it would...the language would go into this bill? Yeah, I guess it would have to. In 9.04...I mean 9.40.040, directing any fines collected to...to go to a special fund for this purpose.



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MS. CHEN: Thank you for that question. I...we did consider that, and the consensus was that that would be better done through a separate bill creating a special fund.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. Chen. So this bill wouldn't need to also direct fines collected to the special fund? The bill...what you're saying is a separate bill that creates the special fund would direct the fines to go to that special fund?

MS. CHEN: Correct. And...and I'm happy to draft that up if that's something, you know, that the...the Committee or the Council wants to consider right away. I think it's procedurally a little...a little more clear. And this...the language of this bill, I don't believe...I don't believe that it would have to be changed it all. We would just establish the special fund to funnel any fines collected into what Council deems appropriate.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. Okay, and then the last...my last two questions. One is regarding inserting language that specifically includes HRS 712-1250.5, which is the exemptions to the criminal law. In Section 1 on the first page, after it's saying "is illegal for an adult to provide or allow consumption of intoxicating liquor to a person under 21 years of age with the exemptions outlined in HRS 712-1250.5." And under 9.40.3...030(c)(3), "possession or consumption of an intoxicating substance by an underage person as allowed by law," including or citing to the exemptions in HRS 712-1250.5. So if that was included in this bill, I guess the discussion that you were having with Member Paltin was that it would kind of...it would make...it would take away the purpose of the bill. So is...is...is that understanding correct if language like that were added?

MS. CHEN: Thank you for the question. So the question is if the language in Subsection 2(e) were added, would that significantly undermine...yeah. And I do think the intent, you know, based on the...the comments and suggestions that...and feedback I...that I've received from the Committee at, you know, these now three meetings where...where you've discussed this proposed legislation, I do think that adding that language in or similar language would significantly change the effect and the intent of the proposed ordinance. That's certainly a policy decision, of course. So...but as I...as I understood the Committee's comments and suggestions, I...I don't believe that that would add greatly to holding responsible persons strictly liable for gatherings where underage persons possess or consume intoxicating substances.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chen. And then my last question is under 9.40.020, definitions. Under HRS 329-1, Schedule I(d)(20) does include marijuana in controlled substance. Is there a reason that it was singled out as one of the substances, and not just included under 1? So you know, striking number 3 and just allowing it to remain under 1? I see that HRS 712-1240 is included, which I understand may be the difference. So I looked that up too, and...and so that includes marijuana concentrates. But my understanding of HRS 329-1 is marijuana concentrates are included. So I...I guess I don't see number 3 as being necessary and in fact, being redundant.

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MS. CHEN: Thanks. And thank you again for correcting that previous error. That...that was a really good correction, very helpful at the last meeting. We...you know, it...it's helpful, I believe, for the public to realize, you know, have it spelled out what is exactly included in the definition of intoxicating substance. I can certainly look at...at adjusting that section to seem less redundant, but my concern is...is that I think people really should know if intoxicating substance includes controlled substances, intoxicating liquor, and marijuana, that...that that be explicitly stated. But I can certainly look at streamlining that section if you would like.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chen. It's just it...I guess singling out marijuana makes it seem like it's that much more dangerous of a drug than heroin. Why not single out heroin? Why not single out meth? Why not single out those hard drugs instead of, you know, just singling out marijuana from controlled substance? So that...that was just something that was, you know...

MS. CHEN: Yeah, that's a good point. And you know, a lot of social host ordinances, the...the model ones that we looked at and the ones that have been enacted in other jurisdictions, they're really concerned with...with liquor or intoxicating liquor. So this...the one...the draft you have in front of you is more expansive in including controlled substances and marijuana. And so that is a very good point. And again, I think that's really a policy decision for the Committee and Council to make. What...you know, to what extent do...does...does the County want to legislate, you know, on...on these various substances. So I'm happy to take direction from the Committee on that.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Chen. Mahalo, Chair.

MS. CHEN: Thank you.

CHAIR MOLINA: Okay. Thank you, Committee Vice-Chair Rawlins-Fernandez. Member King?

COUNCILMEMBER KING: Yeah, just a quick question. Thank you, Chair. For Ms. Chen, is tobacco considered a controlled substance?

MS. CHEN: Thank you for that. You know, I will have to look that up. I am not 100 percent sure. I know there is other legislation and even criminal...there's criminal statute prohibiting persons under 18 from...from obtaining cigarettes and smoking them, but I would have to check on that.

COUNCILMEMBER KING: Okay. Yeah, I...that's kind of curious about, you know, if we're putting that in the same category as alcohol and...and marijuana.

MS. CHEN: Yes. And that's a very good point. I...that controlled substance means a drug, substance, or immediate precursor in Schedules I through V of Part 2, standards and schedules of HRS. It's quite extensive including, you know, tons of different names of controlled substances that I really don't...I'm not sure if tobacco could, you know,

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once you break down the molecular structure of it, if any of those...the definitions would apply there, but I'm happy to look into that.

COUNCILMEMBER KING: Okay. Just because it is one of the things that's illegal for minors...well, under 18. Chair, that was...

MS. CHEN: Thank you.

COUNCILMEMBER KING: Oh, it looks like maybe Mr. Segal has an answer to that.

MR. SEGAL: Yes. Tobacco is not on a...the schedule drug lists.

COUNCILMEMBER KING: Okay. All right, thank you.

CHAIR MOLINA: Okay. Thank you very much, Member King. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. I just have one question, more of curiosity, and this is for our Coalition members. The studies and the research that was done, what communities were they done in?

MS. KLEMPERER: Thank you so much, Member Kama, for your question. Our local surveys were done all throughout Maui County. So we...we partnered with...with all of our major high schools and some of our...our private schools to disseminate youth surveys. And then we utilized social media and other community partners to disseminate our community surveys. This was pre-COVID, so we were also attending a lot of community events and health fairs at all different parts of the island conducting surveys. So we were able to...to have respondents from...from all...all parts of the County, including Lānaʻi and Molokaʻi.

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair.

MS. KLEMPERER: Yes.

CHAIR MOLINA: All right. Thank you, Member Kama. Okay. Members, at this point, Chair's going to make the call to halt and decess [sic] any further Q&A. At this point, I'd like to offer a recommendation so we can consider any amendments or changes to the revised bill. At this point, I'd like to ask for a motion to pass the revised bill. First a motion, of course, a second to put it in play so we can consider any amendments. And depending on how far we get, then we can take a vote, and we'll see what happens to this bill, the fate of the bill. So that is your Chair's recommendation. I'll entertain a motion to pass and a second so we can put this into play and consider any amendments along the way.

COUNCILMEMBER KING: Okay. So I'll move.

CHAIR MOLINA: Okay. Moved by Member King, is there a second? Second by Member Kama. Okay. I guess the bill has been put into play right now for any

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considerations for amendments. Members, would you like to...now, we have one Member that has to leave at 12:00. I don't know how many amendments...I know we've heard from Member Rawlins-Fernandez, she has amendments, if Members have any others. I'd like to ensure that we have Member King here for whatever action we take prior to her leaving. So...well, let's try and power through this and see how far we get. Okay, the floor is now open for any amendments for consideration. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, I'll go with some...some easy ones first. Okay. I move to...under 9.40.020, insert the definition of "property owner" under 19.40.040 of the Code, adding language, means "the person owning the fee title or the person in whose name the legal title to the property appears by deed duly recorded in the Office of the Bureau of Conveyances, or assistant registrar of the Land Court, or Tax Office of the County, and the person in possession of the property or building under claim of or exercising actions of ownership over the same for himself or as the executor, administrator, trustee, or guardian of the property."

CHAIR MOLINA: Is there...is there a second to the proposed amendment?

COUNCILMEMBER SUGIMURA: Chair, can she...well, repeat it...or I...I guess my question is what about if it's leased?

VICE-CHAIR RAWLINS-FERNANDEZ: So I'm just reading our existing Code. I think it's burdensome to cite to a Code somewhere else that someone has to go and look up the definition. So I'm just putting in definition as it already exists, I'm not proposing new language.

CHAIR MOLINA: Okay. We need a second for the proposed amendment. Okay, seconded by Member Paltin. Okay. Member Rawlins-Fernandez, I guess you've given your rationale for it. Any other comments to the proposed amendment? I'd like to see comment from Corporation Counsel. This is already...I guess as you mentioned, it's already in the Code. It's...it's more of a matter of convenience for those who are seeking clarification; am I correct? Ms. Thomson?

MS. THOMSON: And just for the Members' information, Deputy Chen has to go to another meeting. So yes, it is fine, you know, whether you want to do it by reference to another Code section or go ahead and substitute the language for clarity, so either is fine.

CHAIR MOLINA: Okay. Members, you've heard from Corporation Counsel Thomson. Any other comments on the amendment? Okay, seeing none. Chair will call for the vote on the amendment. Sorry, Member King?

COUNCILMEMBER KING: Yeah, quick question. Just could you read that amendment again? Not the...you don't have to read the whole thing, but what...what definition are we putting in there?

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VICE-CHAIR RAWLINS-FERNANDEZ: Property owner.

COUNCILMEMBER KING: Oh, property owner. Okay. So that doesn't...that doesn't affect the definition of responsible party? It's just property owner as...as it says in our Code?

VICE-CHAIR RAWLINS-FERNANDEZ: It...it...the bill says, property owner means "the same as the term is defined in Section 19.04.040 of this Code." So I don't...I don't know who else looked it up, but then I had to like go flip around to find out what...what is the definition of property owner under 19.04.040. And I don't see why...

COUNCILMEMBER KING: So we're just...yeah, so we're putting it in there so no one has to look it up. Okay. That sounds reasonable.

CHAIR MOLINA: Okay. Thank you, Member King. Chair Lee?

COUNCILMEMBER LEE: Well, I'm glad it's coming up because I thought this bill also would pertain to those renting a house. So is...so are we saying that this doesn't pertain to renters? Okay.

CHAIR MOLINA: Ms. Thomson?

COUNCILMEMBER LEE: Corp. Counsel?

MS. THOMSON: Thank you. So property owner is one of the definitions, but it's also included in the list of the types of people that are responsible persons. So property owner is one of those class of people. It also does include tenants and lessees with rights of possession to the premises. That's kind of the kicker, is right of possession to the premises.

COUNCILMEMBER LEE: Okay. So Corp. Counsel, if I'm renting a house and I...by accident, my child, who's underage, brings his friend over and they have a beer, is the person I'm renting from, the fee owner, also responsible?

MS. THOMSON: Not under the current definition in the bill that you're considering. So that...the property owner who leases to someone else, that property owner doesn't have a right of possession, of immediate possession and occupancy.

COUNCILMEMBER LEE: Okay.

MS. THOMSON: That's really what we're...what it's currently tailored to.

CHAIR MOLINA: Okay. Thank you, Chair Lee. Members, any other questions or comments about the proposed amendment from Member Rawlins-Fernandez? Okay, seeing none. Chair will call for the vote on the amendment. All those in favor signify by saying "aye" and raising your right hand.

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COUNCILMEMBERS VOICED AYE.

**VOTE:**      **AYES:**    Chair    Molina,    Vice-Chair    Rawlins-Fernandez,  
                 Councilmembers Kama, King, Lee, Paltin, Sinenci,  
                 and Sugimura.

**NOES:   None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION: AMEND REVISED BILL.**

COUNCILMEMBER KING: Oops, right hand.

CHAIR MOLINA: Or left. Okay, Chair will mark it eight “ayes” with one excusal, Member Hokama, for the proposed amendment. Okay. I believe, Committee Vice-Chair Rawlins-Fernandez, you have another proposed amendment. Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. It's another easy one. So I guess I shouldn't preface with that. I...I understand that the definitions are in alphabetical order, but I think it would be easier to understand to have underage...the definition of "underage person" after minor. So my motion is to move underage person means "any person under 21 years of age" to Page 2 of the bill under minor, means "any person under age"... "under 18 years of age."

COUNCILMEMBER KING: Second.

CHAIR MOLINA: Okay. Motion to amend has been made by Member Rawlins-Fernandez, second by Member King. Discussion? Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Convenience. Yeah, it's just for convenience.

CHAIR MOLINA: Okay, enough said. Any other comments on the proposed amendment? Okay, if not, Chair will call for the vote on the amendment. All those in favor signify by saying “aye” and raising your hand, left or right.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

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**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez, Councilmembers Kama, King, Lee, Paltin, Sinenci, and Sugimura.**

**NOES:** None.

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION: AMEND REVISED BILL.**

CHAIR MOLINA: Okay, thank you. Chair will mark it eight “ayes” and one excusal, Member Hokama. The amendment passes. Okay, continuing on with other amendments. Committee Vice-Chair Rawlins-Fernandez? Unless someone else has an amendment. Okay, Chair will...oh, I’m sorry, Member King?

COUNCILMEMBER KING: I do, but I...let's go through Member Rawlins-Fernandez's amendments.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. I'll do the easy...I'll do the easy ones and then I'll yield the floor. Okay.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: So the...

CHAIR MOLINA: Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Section...Section 4 in 9.40.060, Administration, at the end, Section 4, “this ordinance takes effect upon its approval.” I move to strike “upon its approval” and replace it with “on July 1st, 2021,” and I can explain.

COUNCILMEMBER KING: Second.

CHAIR MOLINA: Okay. Motion to amend made by Committee Chair Rawlins-Fernandez, second by Member King. Committee Chair [sic] Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Committee Vice-Chair. So on...in my discussion with the Coalition, we talked about the need for...or the plan to do training and education on this bill prior to its enactment. And as we, you know, briefly

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discussed about setting up a special fund for penalties, that'll also take time. So that...oh and the...like we discussed in our first meeting on this bill, we talked about tracking a violation. So in order for the Police Department to set all of that up, you know, time would be helpful to get that all (*audio interference*). Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you. Good rationale. Any other comments on the proposed amendment, which is to...I guess to implement...should this bill pass the implementation date would be July 1st, 2021. Okay, seeing none. All those in favor signify with either hand "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: Okay. All those opposed?

**VOTE:**      **AYES:**    Chair    Molina,    Vice-Chair    Rawlins-Fernandez,  
                 Councilmembers Kama, King, Lee, Paltin, Sinenci,  
                 and Sugimura.

**NOES:**     **None.**

**ABSTAIN:** None.

**ABSENT: None.**

**EXC.: Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION: AMEND REVISED BILL.**

CHAIR MOLINA: Okay, seeing none. Chair will mark it eight “ayes” with one excusal, Member Hokama. Continuing on with additional amendments, easy ones, Committee Vice-Chair Rawlins-Fernandez, if you have any?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think the other ones would likely induce more discussion, so I'll...I'll yield the floor to Member King. Mahalo, Chair.

CHAIR MOLINA: So noted. Member King?

COUNCILMEMBER KING: Okay. Mahalo, Member Rawlins-Fernandez. So I wanted to make a motion to amend it...amend the “responsible person” definition per the Prosecuting Attorney’s suggestion. But I...I’m still a little bit...I guess I still...I...can I ask him a question first, Chair? Okay. Mr. Segal...

CHAIR MOLINA: Proceed, Member King. Yes.



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COUNCILMEMBER KING: Thank you. On the...on your suggestion, you struck out “where an underage person possesses or consumes an intoxicating substance.” So was there a reason why you struck that out? Because right now, it reads just “anyone who facilitates a gathering,” and then it ends right there.

MR. SEGAL: Yes.

COUNCILMEMBER KING: Can you explain?

MR. SEGAL: Two reasons...certainly, yeah. The first reason is that it’s duplicitous because if you read that definition into Subsection B of .030, it would read “a responsible person will be strictly liable and subject to this penalties where an underage person possesses or consumes a substance.” So essentially, you’ve already...if you leave it the way it is you’ve already defined “responsible person” as including the element of underage possession. So it kind of...that doesn’t make sense to word it in both of those paragraphs because you’re saying it twice. And secondly, and more importantly, is that I...in my opinion, I think that cuts against the intent of the statute, which is strict liability. But I think the way it’s worded now would require some sort of evidence that not only did they permit the gathering, but they also permitted the drinking.

COUNCILMEMBER KING: Okay. Thank you for that clarification. Okay. So Chair, I just want to move that...see if this gets traction...to amend the paragraph on “responsible person” to add in after “property owner” the words “on which a gathering occurs,”...well, let me just read it as...as it was proposed. Responsible person means “a person with a right of possession to the residence or other private property on which a gathering occurs, such as a property owner, tenant, or lessee, or a person who conducts, aids, allows, permits, or facilitates a gathering.”

CHAIR MOLINA: Okay. Motion to amend made by Member King, seconded by Member Sugimura. Okay. Additional discussion? Member King...or I guess maybe Mr. Segal, I guess specifically, that would come under subsection...is that 9.40.030, that amendment?

MR. SEGAL: That’s in the definition section --

CHAIR MOLINA: Oh, just definition.

MR. SEGAL: -- which is .02.

CHAIR MOLINA: Zero two. Okay, thank you for that clarification. Okay. Any additional discussion on the proposed amendment? Chair Lee?

COUNCILMEMBER LEE: Member King, why did you add that last sentence?

COUNCILMEMBER KING: I didn’t. I...I...I just read it exactly how the Prosecuting Attorney had presented it in his letter, which it strikes the sentence...the last part that says “where an underage person possesses or consumes an intoxicating substance.” So

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that was actually in the bill, and he struck it out because it's in...it's in a later section of the bill.

COUNCILMEMBER LEE: Yeah, okay. I got that part. But when you read the rest of it and you talked about an owner, a renter, a lessee, or a person...can you repeat that one?

COUNCILMEMBER KING: Okay. So or a person...

COUNCILMEMBER LEE: Who organizes the event.

COUNCILMEMBER KING: Or a person who conducts, aids, allows, permits, or facilitates a gathering.

COUNCILMEMBER LEE: Who would that be?

COUNCILMEMBER KING: You mean other than the property owner, tenant, or lessee?

COUNCILMEMBER LEE: Yeah, yeah.

COUNCILMEMBER KING: Mr. Segal, can you answer that?

MR. SEGAL: Yeah. So that would be if the person doesn't own the property, but is still hosting the party on that private property, that person would be responsible. And I would just note that this...the way I worded it patterns the model social host law that was developed by Ventura County Behavioral Health.

COUNCILMEMBER LEE: So you're assuming that person had permission of the renter or the owner or the lessee, right?

MR. SEGAL: The assumption would be there, but it would be either/or. The property owner could be liable, or if there's a person there...there who's hosting the party, that...that person could be liable as well.

COUNCILMEMBER LEE: Thank you.

CHAIR MOLINA: Thank you, Chair Lee. Committee Vice-Chair Rawlins-Fernandez, comments or...in response to the motion made by Member King?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I speak against the motion. The Prosecutor's--.. *(clears throat)*.. sorry--suggestion would change that to "or" so the owner does not need to know or otherwise be involved in the gathering for the liability to attach. So an owner could be absent, and their teenager hosts a gathering, and the adult owner could still be liable. And the...the definition does not require the responsible person to permit the gathering, only that they have a right of possession to the premises. So I...I...I don't think that that was what this Committee had discussed when we had the first meeting on this, and it goes further than what this Committee had intended. It goes further than I would support. Mahalo, Chair.

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CHAIR MOLINA: Okay. Mahalo, Committee Vice-Chair Rawlins-Fernandez. Member King, as the maker of the motion?

COUNCILMEMBER KING: Yeah, so I just wondered if we could...if we took that...that phrase "or a person" out of it. That kind of puts it back to the...the original intent. Would that satisfy your concern?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. May I call on Deputy Corporation Counsel Thomson?

CHAIR MOLINA: Proceed. Ms. Thomson?

MS. THOMSON: Thank you. I think that that...it basically takes it back closer to what the current definition is in the ordinance if you remove "or a person." Because that means that you...it's not either/or, a...an owner with a right of possession or some other person. I'm a little troubled about the...removing "where an underage person possesses or consumes an intoxicating substance" because I think that, you know, should be made clear that those...those are specifically the gatherings that are intended to be prohibited. So we may need to look...if that is removed, we may need to look at just clarifying it so that, you know, the intent tracks through the ordinance.

COUNCILMEMBER KING: Okay. So you don't feel that the intent tracks right now? Because I thought that's what I heard from Mr. Segal, that the intent is in there later on in the bill.

MS. THOMSON: I think we're reading it a little bit differently. You know neither is...is incorrect, it's just how far down the road in strict liability the Council wishes to go. It's really a choice in, you know, how far everyone, you know, feels comfortable with *(audio interference)*

COUNCILMEMBER KING: Okay. Well...yeah, I just I had heard that from Mr. Segal that it...it...there's complications in enforcing it by...by putting that language in the definition. And that's...that's kind of my interpretation of...is that correct, Mr. Segal?

MR. SEGAL: Yeah, the...the way it's written now, in my opinion, we'd run into the same issues we would *(audio interference)* criminal. I'm not sure of Ms. Thomson's concern, but I think if you look at Section 30, the reason why it's...doesn't...it's not needed there is because a responsible party, the person is only liable if the gathering has underage drinking as defined in section *(audio interference)* But I...I see what you're saying about Ms. Thomson's other concern is that yes, my...my amendment or my proposed amendment also would expand the scope of liability by removing...

COUNCILMEMBER KING: Yeah. So...

MR. SEGAL: Yeah.

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COUNCILMEMBER KING: Okay. So...anyway. So Chair, just can I amend my motion to just take out the phrase "or a person?" Because I...I do think that that kind of goes beyond what we were originally were talking about. Now you have to go find out if there's somebody hosting that's different from the owner.

CHAIR MOLINA: Okay. So noted. So you're going to amend your amendment at this point by removing the language where "or a person?"

COUNCILMEMBER KING: Or a person. Yeah. If that's...if...if Ms. Kama is good with that, the second.

CHAIR MOLINA: Okay. Anyone want to second the proposed amendment to the amendment made by Member King? Okay, seconded by Chair Lee. Okay. Any further discussion on the amendment to the amendment? Okay, seeing none. Chair will call for the vote. All those in favor, signify by saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

VICE-CHAIR RAWLINS-FERNANDEZ: No.

**VOTE:       AYES:   Chair Molina and Councilmembers Kama, King, Lee, Paltin, Sinenci, and Sugimura.**

**NOES:   Vice-Chair Rawlins-Fernandez.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION:   AMEND REVISED BILL.**

CHAIR MOLINA: Okay. We have seven "ayes" with one opposed, Committee Vice-Chair Rawlins-Fernandez. The amendment passes. Okay. Any other proposed amendments to the bill at this point? Other considerations? Committee Vice-Chair Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Only if the other Members don't have any amendments.

COUNCILMEMBER KING: I'm done.

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CHAIR MOLINA: Yeah. Okay. You...you got the floor, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I move to insert language...I guess I'll...I'll do them one at a time. In Section 1, where it states, it is illegal for an adult to provide or allow consumption of intoxicating liquor to a person under 21 years of age, excluding the exemptions outlined in...or including the exemptions outlined in HRS 712-1250.5(2). Do...do you want me to read that?

CHAIR MOLINA: That is your...

COUNCILMEMBER LEE: Second.

CHAIR MOLINA: That is your amendment?

COUNCILMEMBER LEE: Second for discussion.

CHAIR MOLINA: Okay. The motion has been made by Member Rawlins-Fernandez to amend, and you can provide that in more detail, and seconded by Chair Lee. Member Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So I'm pulling up the language right now to HRS 712-1250.5. Okay, here. And that is...sorry, I should have had this prepared.

CHAIR MOLINA: So just for clarification, this is under Section 1, and that...the proposed language you have would come after which...what word or sentence in Section 1?

VICE-CHAIR RAWLINS-FERNANDEZ: 21 years of age.

CHAIR MOLINA: Oh, okay. So all right, Members, the proposed amendment comes after the words "21 years of age" in Section 1. Because I see we had out there crossed out "for consumption" under the revised bill, yeah. So this...in this case, it will just refer to HRS...the language of HRS...what was that number again, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: 712-1250.5 --

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: -- (2). Okay. And so this section is promoting intoxicating liquor to a person under the age of 21. Two is, it is a defense to a prosecution for promoting intoxicating liquor to a person under the age of 21 that: the intoxicating liquor provided to a person under the age of 21 was an ingredient in a medicine prescribed by a licensed physician or a medical treatment of the person under the age of 21. B, the intoxicating liquor was provided to a person under the age

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of 21 as part of the ceremony of a recognized religion. C, defendant provided the intoxicating liquor to the person under the age of 21 with the belief, which was reasonable under the circumstances, that the person under the age of 21 had attained the age of 21. D, the defendant provided the intoxicating liquor to the person under the age of 21 with the express consent of the parent or legal guardian, and with the belief, which was reasonable under the circumstances, that the person under the age of 21 would not consume any portion of the substance. E, the defendant provided the intoxicating liquor to the person under the age of 21 with the express consent of the parent or legal guardian with the belief, which was reasonable under the circumstances, that the person under the age of 21 would consume the substance only in the presence of the parent or legal guardian. Or F, the intoxicating liquor was possessed by the person under the age of 21 to be sold or served as allowed by law. So --

CHAIR MOLINA: Okay. Oh, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: -- that's...mahalo, Chair. So this has been concerns that was brought up by Member Paltin, Member Kama, and Member Sinenci about providing your...the underage person in your legal guardianship an intoxicating liquor under State law. So this is the...the criminal law that we were talking about earlier that has the exemptions. It also recognizes ceremonial purposes, which was something that Member Hokama had brought up in the first meeting about giving, you know, people awa, for example. So that's what...that's the purpose of the proposed amendment. Mahalo, Chair.

CHAIR MOLINA: Good point. Yeah, I...I...I like that because, you know, awa ceremony or...or a religious ceremony associated with a rite of passage or, for example, if I may use the Catholic religion where there's communion and some serve wine, the actual wine. For a person that's even deemed an adult at the age of 18 but yet, you know, so as not to infringe upon their religious right to consume something that has alcohol in it. So that's something I can support. Members, any other comments on the proposed amendment from Committee Vice-Chair Rawlins-Fernandez? Councilmember King?

COUNCILMEMBER KING: Yeah, just...I just wanted to get...if we could ask the...Mr. Segal if this...you know, what this does to the ability to enforce.

CHAIR MOLINA: Mr. Segal?

COUNCILMEMBER KING: There's a lot...I mean I...I appreciate the religious ceremony thing but there were a lot of other exemptions in there that may be hard to disprove.

MR. SEGAL: It comes down to, I guess, the...the policy...the policy decision as far as how much you want to track what's allowed on the criminal side. So again, for each defense that you allow, it's going to be, you know, another defense that...that can be presented. So you know, tracking the criminal statute does work in some ways in case it changes in the future. But you know, there are...as mentioned in Subsection 8, there are some issues with regards to consent from parents and things of that

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nature. I could see it playing out at...at a hearing as, you know, someone claiming that...that they were given permission from the other parents to let the kids drink at their house. So that's my thoughts on that.

COUNCILMEMBER KING: Okay. Thank you. Yeah, I had some concerns about some of those other things too, being able to be used as a defense, you know, especially if you say well, I thought everybody was over 21 or...you know, I don't know how to reconcile that with actually being able to enforce, you know.

CHAIR MOLINA: Okay. Thank you, Member King. Members, any other thoughts on the proposed amendment? Okay, Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah, just a clarification question for Member Rawlins-Fernandez. This is just language directly from Hawai'i Revised Statutes 712-1250.5?

CHAIR MOLINA: Committee Vice-Chair Rawlins-Fernandez, go ahead, unmute.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Would it...I'll post it in the chat.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: That may help (*audio interference*) okay.

CHAIR MOLINA: Okay. All right. Thank you, Members. Any other discussion on the proposed amendments? Okay. Seeing none, all those in favor of the proposed amendment, signify by saying "aye." Any hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

**VOTE:       AYES:   Chair   Molina,   Vice-Chair   Rawlins-Fernandez,  
                  Councilmembers Kama, King, Lee, Paltin, Sinenci,  
                  and Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

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CHAIR MOLINA: Thank you. The Chair will mark it eight "ayes" with one excusal, Member Hokama. I will assume Committee Vice-Chair Rawlins-Fernandez, you have another amendment? Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So the same amendment, including that State Statute in 9.40.030(c)(3), possession or consumption of intoxicating substance by underage person as allowed by law, including HRS 712-1250.5, so it's the same statute that we just voted on.

CHAIR MOLINA: Okay. So noted. Any other amendments? Okay. Seeing none. And all right, Members, I guess if there are no other proposed amendments or discussion, then the Chair will call for the vote and...let me make it clear, I know there's some...maybe some apprehension, but again, this is not the end all. Should this matter pass out of Committee, I'm open...well, we don't know who's going to be the next Chair to hold a public hearing, whether it be this month. Now, if it goes...if a...I personally would like to see a public hearing with the new Councilmember on board, so for example, if we take action out of Committee today, and it goes to first reading at Council on December 18th, okay, it's not the end all...then come January, we could consider a public hearing prior to second and final reading. So that's one potential scenario we can consider. Also, Corp. Counsel...if Corp. Counsel is not prepared to submit a revised bill prior to posting for the Friday, December 18th meeting, the deadline is...happens to be this Friday to submit a revised bill for posting for the December 18th Council meeting. We could consider an unsigned bill for vote on Friday, December 18th as well. That's my understanding. Can I get a clarification from OCS on that? From Mr. Raatz or Mr. Mitchell or Mr. Whitaker [sic] or Mr. Forrest? Chair Lee?

COUNCILMEMBER LEE: Ms. Rawlins-Fernandez, did you have a second to your motion?

VICE-CHAIR RAWLINS-FERNANDEZ: No.

COUNCILMEMBER LEE: I'll second.

VICE-CHAIR RAWLINS-FERNANDEZ: That was a motion, we...we...yeah, we didn't vote on it. I was gonna wait --

COUNCILMEMBER LEE: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: -- until after. Mahalo.

COUNCILMEMBER LEE: And before you get...Mr. Chair, before you get clarification from Corp. Counsel, yeah, the December 18th agenda is completely full. So your idea of having a public hearing in January, separate from a Council meeting, is a great one because Council meetings are jam packed right now for the next few meetings, yeah? Thank you.



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CHAIR MOLINA: With that said, so if we were to just take action in Committee and not take action, at least one reading on Council this term, can it still move forward for two readings at the Council...or at least one reading for next term?

COUNCILMEMBER LEE: Yes.

CHAIR MOLINA: Can it still move forward? Yeah. Because it was brought to my attention that we had to have at least one reading of the bill, should it pass out of Committee, this...by the end of this year. Otherwise, it would just...no vote would be required, and it just rolls over, but I was hoping to at least take a Committee vote today. So again, could I have...so Chair Lee, so you're saying that we can take action on Committee, and then we can wait on first reading next year...next January? The Committee action can still carry over into the next term if it passes?

COUNCILMEMBER LEE: Well, I thought you said we would take the...pass it on first reading in this term and second reading in the second term...in the next term.

CHAIR MOLINA: Yeah. Right, right, right.

COUNCILMEMBER LEE: Yeah. We can do that.

CHAIR MOLINA: Okay. Maybe I'm just not understanding the . . . *(inaudible)* . . .

COUNCILMEMBER LEE: We can do that.

CHAIR MOLINA: Okay. We can do that. Okay. All right.

COUNCILMEMBER LEE: Okay.

CHAIR MOLINA: Okay. Now let's get back to Member Rawlins-Fernandez's amendment that wasn't seconded.

COUNCILMEMBER SUGIMURA: I second it.

CHAIR MOLINA: Member Rawlins-Fernandez, can you restate your amendment again? Sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Sure, Chair. Under...I move to amend, under 9.40.030(c)(3), adding the statute that we discussed earlier, "possession or consumption of intoxicating substance by an underage person as allowed by law, including HRS 712-1250.5.

CHAIR MOLINA: Okay. And then second by Member Sugimura, am I correct? I saw your hand. Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: I heard Member Sugimura and Chair Lee.

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CHAIR MOLINA: Okay. Who wants it? Okay. We'll give it to Member Sugimura as the second. Okay. Any further discussion on your amendment, Member Rawlins-Fernandez? Okay. Seeing no other discussion with the other Members, all those in favor, signify by saying "aye." Raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed? Okay. I didn't see Member Sugimura's hand go up. Well, since you seconded it, I assume you're supporting it. Okay.

COUNCILMEMBER SUGIMURA: Yes.

**VOTE:       AYES:   Chair   Molina,   Vice-Chair   Rawlins-Fernandez,  
                          Councilmembers Kama, King, Lee, Paltin, Sinenci,  
                          and Sugimura.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:    Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION:    AMEND REVISED BILL.**

CHAIR MOLINA: Okay. Eight "ayes" with one excusal, Member Hokama. The amendment passes. Okay.

COUNCILMEMBER KING: Chair, I have a question.

CHAIR MOLINA: Go ahead.

COUNCILMEMBER KING: Okay. So if we pass this out of Committee, I thought I heard Chair Lee say that there's no way to get it on a Council agenda for the rest of this year because they're all jam packed. So if we pass it out of Committee and then we're referring it to the next term, do we need to also vote on the referral...to refer the item to the full Council for next term?

CHAIR MOLINA: Chair Lee?

COUNCILMEMBER LEE: Yeah, we could. The reason why we're not trying to pass it on second reading this year is because we do need a public hearing. I think everybody agreed that we should have it . . . *(inaudible)* . . .

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COUNCILMEMBER KING: Yeah. No, no, I understand that, but I thought I heard you say...tell Chair Molina that there wouldn't be time this year to pass it on first reading out of the full Council. There's only one more meeting, right?

COUNCILMEMBER LEE: No, no, no. We can pass it on first reading, but not second reading.

COUNCILMEMBER KING: Okay. I thought you...okay. Then I misunderstood.

COUNCILMEMBER LEE: Yeah.

COUNCILMEMBER KING: So you're...you're...you're willing...so we could put it even though there's only two days to...to get it posted, and there's not enough time to do a Committee report in that time, it's...

COUNCILMEMBER LEE: We're just going to have to do a discharge.

COUNCILMEMBER KING: We're just going to discharge it? Okay.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Well, then do we need to vote on it if we're going to just discharge it, or...

COUNCILMEMBER LEE: Well, I...I think we should, you know, because really, by the next...the next time we take it up, we'll have a new member. We don't want to start all over again. I mean, you know, we've worked...what, this is...what, our third or fourth meeting on this. Plus we're going to have a first reading, public hearing, and second reading, so you know, we may as well keep going, you know, on this track.

COUNCILMEMBER KING: Yeah. I'm --

COUNCILMEMBER LEE: Rather than start all over again.

COUNCILMEMBER KING: -- I'm fine. I just wanted to make sure that we were not going...that we were following procedure, that we're not going to get stuck somewhere because there's no time to do a Committee report. Because usually, when we...when we do something at full Council, we don't vote on it in Committee, and then we just take it to full Council and discharge it.

COUNCILMEMBER LEE: Yeah --

COUNCILMEMBER KING: But...

COUNCILMEMBER LEE: -- and that's what we would have to do.

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COUNCILMEMBER KING: Okay.

COUNCILMEMBER LEE: That's what we would have to do. Discharge it.

CHAIR MOLINA: Okay. So with that said then, should I reframe the motion to...I mean, do we even need the motion then? I mean, assuming it'll be on your agenda for the 18th?

UNIDENTIFIED SPEAKER: No, we will not?

COUNCILMEMBER LEE: What would be...it would be helpful not...not to do amendments at that time. So let's do all the amendments now, so when it's sent to Council, it's...it's pretty much, you know, the full package, and doesn't require a whole lot of discussion that day. Because we're doing it now, so we may as well finish the amendments today.

CHAIR MOLINA: Okay. So noted. All righty. So now my recommendation was to pass the bill. So now I'm getting a . . . the take from you, Chair Lee, is it's better we just...or the Chair's recommendation would be discharge to the full Council, rather than just the...because I've heard procedurally, we can either discharge or defer, but I would like to ensure that this gets onto your agenda for the 18th because if we defer, and then, you know, for whatever reasons it doesn't get to your December 18th Council meeting...that's my only concern. I...whichever way, I'd like to see it get on your agenda for the 18th for a...

COUNCILMEMBER LEE: Okay. Maybe we can get a clarification from David Raatz if he's on the call.

CHAIR MOLINA: Okay. Mr. Raatz?

COUNCILMEMBER LEE: Or even Corp. Counsel for that matter, but...I mean, the ideal thing to do, to me, is to pass it on first reading today, send it to the Council and have it discharged if it's possible. And then we...second reading will be next year after we have had a public hearing, et cetera.

CHAIR MOLINA: Okay.

COUNCILMEMBER LEE: So we need to clarify if that's...if that procedure is correct. Otherwise, it'll...you...we can just send this matter to Committee on December 18th and discharge it at that time. My only question is, I don't know why we can't recommend passage at first reading because we're only recommending passage at first reading. Today.

COUNCILMEMBER KING: Yeah. If...If we can do that and vote on it, you know, is that something that...is David Raatz here? Can you tell us if that's what, if we can do that?

COUNCILMEMBER LEE: David or Traci, are you on the call? Or Shelly, do you...would you know.

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MS. ESPELETA: Mr. Chair, can we take a short recess?

CHAIR MOLINA: Yeah, let's do that.

COUNCILMEMBER LEE: Okay.

CHAIR MOLINA: Okay. Members, let's take a...what, five minutes?

COUNCILMEMBER LEE: All right.

CHAIR MOLINA: Can we do that? Okay? All right the recessed GET meeting of December 1st, 2020 is now in recess. . . . *(gavel)* . . .

**RECESS: 11:41 a.m.**

**RECONVENE: 11:49 a.m.**

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET Committee meeting of December 1st has now come to order again. The date is Wednesday, December 9th. The time is 11:49 a.m. When we last left off, we had a procedural question from Chair Lee, or a suggestion as to how we want to move this bill forward if that be the case. I see Mr. Raatz from OCS to provide a response to Chair Lee's question. Mr. Raatz, you have the floor. Mr. Raatz, I think you're muted and you're turning upside down.

MR. RAATZ: Thank you, Chair.

CHAIR MOLINA: Go ahead.

MR. RAATZ: We...we...I understand there's a tight timeline, but we're fully prepared to take necessary steps if there's a recommendation for Council action today to get a Committee report issued by Friday morning...this Friday morning, in time for posting on the final Council meeting agenda of the term for December 18th. So Staff is ready to accommodate any necessary action.

CHAIR MOLINA: Okay. Thank you, Mr. Raatz. Chair Lee, any other further comments?

COUNCILMEMBER LEE: Yeah. Well, that makes it even better that...we're...we're trying to, you know, take the Staff's time into consideration and not putting added pressure on them, but all we wanted to do...well, I was hoping that we would do today is finish all amendments, yeah? So...and then...then move it forward to the...to the Council. That was our main concern, but we weren't sure about discharge, and we weren't sure that it would only pass first reading in this term, and then it will be passed second reading in the next term, et cetera. But in between first and second reading, what the Members wanted was to have a public hearing. So those are some of the issues we were dealing with, David. But I guess we're not going to have a problem because Staff is going to do the Committee report, everything will be posted correctly, and we'll move on from there. Yeah?

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CHAIR MOLINA: Thank you, Chair Lee. Councilmember King?

COUNCILMEMBER KING: Yeah. So...just...I just wanted to just request that we...if we do follow this pathway where we vote it out of Committee and put it on for first reading, that we have a full public hearing on this matter separate from the second reading. Because you know, what we're trying to do is give folks a chance to comment on it, and there may be additional changes we need to make. And so if we try to do it on the same meeting, it doesn't...just doesn't look...it looks, you know, disingenuous because, you know, here we are having a public hearing, but word got it on the agenda to pass it. So I would just request that we have a public hearing separate from the Council meeting where we're going to be doing second reading.

COUNCILMEMBER LEE: I totally agree.

CHAIR MOLINA: Yeah. Totally great. Well noted.

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER KING: Thank you.

CHAIR MOLINA: Okay, Members, I assume we'll leave the motion as if...as it's framed --

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: -- before I say anymore. Committee Vice Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I have a question for Mr. Raatz.  
Aloha, Mr. Raatz.

MR. RAATZ: Aloha.

VICE-CHAIR RAWLINS-FERNANDEZ: So we would be able to make this a referral item and it...we could take it up in the next term as well, right? It could be posted as adding to the list of referral items on Friday so that it can be referred (*audio interference*) the Committee preserving the Committee report and giving us time to do a public hearing as well. Is that a correct understanding?

MR. RAATZ: Thank you, Chair and Council Vice-Chair. Thank you. There are a variety of procedural options. Under just kind of a normal course of passing legislation, what would happen is, the bill...it passed first reading at the final Council meeting of this term on December 18th, and then the Charter provides that bills that are poised for second reading in one term automatically carry over to the second term. So at the first regular meeting in the 2021-'23 Council term, the bill would be posted for second and final reading. If there were a desire to have further Committee review, there could be a recommittal motion made at either first or second reading, but you wouldn't necessarily need a specific referral proposal.

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VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So Mr. Raatz, what...what I had said is correct? Just reiterating that it could just be a referral item for committee and then the discussion could continue in committee at the next (*audio interference*)

MR. RAATZ: If that's...if that's the will of the body, yes, that's correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Mr. Raatz. Mahalo, Chair.

MR. RAATZ: You're welcome.

CHAIR MOLINA: Mahalo, Committee Vice-Chair Rawlins-Fernandez. Okay, if there's no other discussion then, Chair will call for a motion on the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, . . .(*inaudible*). . . amendment.

CHAIR MOLINA: Oh, you have some more amendments? Okay, let me first recognize Member Sugimura, and then I'll come back to you. Member Sugimura?

COUNCILMEMBER SUGIMURA: I want to hear the rest of the amendments and that's all.

CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: I just want to make sure that we're all done.

CHAIR MOLINA: Okay. Go ahead, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I move to create a new section. It would be a new 9.40...I guess it would be 070 to read, "Review Requirement. A, the council shall review this chapter very two years. B, the Chief shall provide an annual report to the Council on the status of the Social Host Law that include the following information: 1. The number of citations and notices of violations issued. 2. The income group of tenant or family. 3. The number of appeals filed. 4. The number of appeals granted and dismissed. And 4...5. Traffic accident or traffic citation relating to alcohol consumption data for the year, including age of those involved", also.

CHAIR MOLINA: Okay. Okay, Members, you have a...is there a second to the proposed amendment from Committee Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Okay, seconded by Member Sugimura. Okay. Committee Vice-Chair Rawlins-Fernandez, just a brief discussion --

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: -- on the proposed amendment?

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VICE-CHAIR RAWLINS-FERNANDEZ: Yes. So the purpose of this amendment is what we had discussed at the first meeting on this bill, as well as again today, in the importance of tracking the information. We...the Coalition presented information on the *(audio interference)* of this...or...of this bill in other municipalities, and in that time, I had asked if the success that they'd seen was correlated to the Social Host Bill in that municipality. And at the time, the Coalition was not able to answer that question, in large part due to the lack of data tracked to...to determine whether it...there was a correlation to the bill, or if there are other factors involved that made those municipalities have a reduction in under-age drinking. And so that's the purpose of this, to help give direction to the Police Department, to put together a database, and then provide that...not just tracked for their own internal purposes but to provide that information with the count. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Committee Vice-Chair Rawlins-Fernandez. We have comments from Member Kama and Chair Lee.

COUNCILMEMBER KAMA: Chair, I just wanted to ask Member Rawlins a question regarding if she wanted the report from the police on a monthly or a quarterly or annual basis?

VICE-CHAIR RAWLINS-FERNANDEZ: It...so *(audio interference)* Chair?

CHAIR MOLINA: Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So the... in B, in my proposed B, the Chief shall provide an annual report. I'm open to, you know, Members, amending that if...if...if it...if you would like it more frequently, but the...my proposal is a annual *(audio interference)*

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Kama. Chair Lee, followed by Member King.

COUNCILMEMBER LEE: Thank you, Mr. Chair. Member Rawlins-Fernandez, did I hear you say a part of the requirement is for the person who's being charged with the violation has to provide their income information? Did I hear that?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER LEE: Did I hear wrong?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah *(audio interference)*

COUNCILMEMBER LEE: But I'm...I'm not sure that it's relevant. Isn't that something private? Anyway, that's the only thing I wouldn't be able to support. Okay. Just letting you know.



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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair Lee.

CHAIR MOLINA: Okay. Thank you, Chair Lee. Member King, followed by Member Paltin.

COUNCILMEMBER KING: Thank you, Chair. I actually had the same concern as Member Lee, that I don't think that we should be applying laws differently to people based on their income level, and so I can't support that piece of it. But everything else in the amendment, I would support if we didn't...if we didn't take that piece out to report. Thank you.

CHAIR MOLINA: Okay. Thank you, Member King. Member Paltin? I don't know if Member Paltin went off.

COUNCILMEMBER KING: I don't see her. I don't see her.

CHAIR MOLINA: Yeah, she was online earlier. Okay, in the meantime, I'll wait for Member Paltin. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So I...I understand the concerns that the Members have shared. So the information as, you know, I expressed earlier during the Q&A of our resource people is that while this bill isn't specifically targeting a socio-economic group, my concern is that it would be more heavily burdensome to those in a...that receive a lower income. So I understand that the police may not be able to force someone who receives a notice of violation to provide their income level, but it could be voluntarily provided by the person receiving the citation. And the purpose for collecting that information is because of this concern that I expressed earlier, that who will be hit hardest are those that are...that have lower incomes. And I know that Member King expressed...you know, commented about those at Seabury knowingly allowing parties, and the difference between what I shared and what Member King comments, was that in my...in the situation that I described, the parent is working multiple jobs and may not know that their, you know, underage offspring is hosting a party. And in the situation that Member King described, the parents knew. And so that's the difference and I just want to make sure that laws are...are not more burdensome for those in a specific socio-economic class. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Committee Vice-Chair Rawlins-Fernandez. I've just been informed that Member Paltin's offline right now. She's experiencing some technical difficulties as well. I think we're having an epidemic of that today, so hopefully she can come back online real soon. In the meantime, Chair recognizes Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. You know, I...I support what Member Rawlins-Fernandez is saying because we...we want the data because we need data. So we say a lot of things, but we don't know if it's so or not so. And the way to do it is to figure out (*audio interference*) to get the data. But you know, asking people their income doesn't necessarily mean I want to know that you make \$50,000 a year, it could be a range. Do you make between 0 and 20,000 a year, do you make between 20 and 50...I mean, it could be the range because that's all we want. We don't

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want...we don't really want... we don't...I don't care how much money you make. I just want to be able to get some data as to where this is going. So thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. And I believe...now, if a person refuses to disclose their income, I mean, how would that work under this proposed amendment, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So like...like I mentioned earlier, it could be voluntarily given, just like when, you know, you're...you have an application...a job application and it asks your religion, you can voluntarily give that information or not. They...they...you know, it's a privacy issue if you force someone and not, you know, hire them because they didn't provide that information. So I understand that there's protected classes, I understand privacy issues, so it could be a...a question that is voluntarily...you know, the person receiving the notice of violation can voluntarily provide that information if...and then that way, the police can track it that way in a group or a range, as Member Kama said. Mahalo, Chair.

CHAIR MOLINA: Okay. Thank you for that. Okay, we have Member Paltin back online. Member Paltin, you had a question, and I will follow up that with the Member Sugimura question. Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Oh no, Chair. No question. I was just trying to question how to get back into the meeting --

CHAIR MOLINA: Oh, okay.

COUNCILMEMBER PALTIN: (*audio interference*) of the locked, and then my...my pressure thing was locked, and so I turned it off, and then I didn't realize that I couldn't get back in. So no question pertaining to this. I just was fighting with my computer.

CHAIR MOLINA: No problem, and it looks like you're broadcasting from a different area now. You were by the beach earlier, yeah? Now it look like you're at Front Street.

COUNCILMEMBER PALTIN: Banyan Tree.

CHAIR MOLINA: Fantastic.

COUNCILMEMBER PALTIN: Thanks.

CHAIR MOLINA: Okay, Member Sugimura, questions in response to the proposed amendment?

COUNCILMEMBER SUGIMURA: I like what Ms. Rawlins-Fernandez is asking because a lot of times when we're going through the process, we...we...you know, this kind of data is reflective of the significance of this. Could we use area median income, which is something that we're familiar with with HUD and, you know, others that are pretty standard. Could we use that range?

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CHAIR MOLINA: Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Member Sugimura, for the suggestion. I'm open to that.

CHAIR MOLINA: Would you be interested in amending your amendment to include that if that's something you...you're okay with?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah. So I guess it...the amendment would be...instead of the income group of tenant or family, it would be the area median income of the tenant or family.

CHAIR MOLINA: Okay. So that's the proposed amendment to the --

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: -- to the amendment. Everybody understands...clear? Okay. Member Sinenci?

VICE-CHAIR RAWLINS-FERNANDEZ: . . . *(inaudible)*. . . it would be household.

CHAIR MOLINA: Pardon me, I'm sorry?

VICE-CHAIR RAWLINS-FERNANDEZ: It would be household.

CHAIR MOLINA: Household?

VICE-CHAIR RAWLINS-FERNANDEZ: Tenant or household, yeah.

CHAIR MOLINA: Okay. So noted. Member Sinenci?

COUNCILMEMBER SINENCI: Just clarification. I know that part of this was getting the data, was it also to show hardship as far as families needing to pay fines, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sinenci, for the question. The intent of my amendment was not to show financial hardship. I...I...I like where your comments are going and, you know, could support something like that in...are you...if you're talking about the appeals process or something.

COUNCILMEMBER SINENCI: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

COUNCILMEMBER SINENCI: Okay. Thank you.

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CHAIR MOLINA: Okay. Thank you, Member Sinenci. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. I mean, I really like this so thank you, Keani, for, you know, for thinking of it. And I wondered also, did you...of that list, could you...is it included, like, are you the property owner or are you renting, is that part of the list that you listed out that you...I wonder...

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Member Sugimura. We can...we can add that as one of the --

COUNCILMEMBER SUGIMURA: Okay, and I like the --

VICE-CHAIR RAWLINS-FERNANDEZ: -- questions.

COUNCILMEMBER SUGIMURA: -- okay. I like the idea of any fines collected and what that cost might be if Mister...if Member Sinenci's thought process goes through, and...yeah, so...that's it.

CHAIR MOLINA: Okay. Thank you, Member Sugimura. Let me just ask police representative Sergeant Phillips, just on the implementation process, to share his thoughts on this report...yearly report. Sergeant Phillips?

MR. PHILLIPS: Thank you, Committee Chair Molina. Yeah, the...the biggest issue I have with that list was the income group. I feel like a lot of people wouldn't disclose that to police on scene particularly. I believe that using the area median income, if we could...we could familiarize ourselves as officers --

COUNCILMEMBER SUGIMURA: The range.

MR. PHILLIPS: -- for where that information's available, we could utilize that in the report. And I would foresee that this information would be included in the Chief's annual report as a section of that. I think that would be the simplest way to communicate the information to Council. Also, I...I don't know if...how often we would be able to tie, you know, social host violation to traffic accidents. We would have to have knowledge of where they were exactly and everything like that. But I guess if that incident does occur, we would be able to track that as well. And the rest of the information, I don't foresee an issue with the number of citations being issued, the number of appeals going up and the appeals being granted, we just have to communicate with the Police Commission as far as the appeals process to see how many appeals were granted, in fact, in that annual basis. But those would be my concerns with that amendment.

CHAIR MOLINA: Okay. Thank you, Sergeant Phillips. All righty. I believe someone else had their hand up on the proposed amendment from Committee Vice-Chair Rawlins-Fernandez. Did I see right, or maybe I'm just seeing things. Okay, If not, then the Chair will call for the vote on the amendment from Committee Vice-Chair Rawlins-Fernandez that has been amended to again include the clarifications of median income if I'm correct, and there was one other consideration that was

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proposed by Member Sugimura too. Can you spell that out for me again, Member Rawlins-Fernandez for this amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So it would be the area median income of the...the...the responsible person, I guess...the tenant or the household, and whether the person receiving the citation is the homeowner or is renting.

CHAIR MOLINA: Okay. Thank you for that clarification. All right. With that said, the Chair will call for the vote on the amendments. All those in favor signify by saying "aye".

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

COUNCILMEMBER LEE: No.

CHAIR MOLINA: Okay, we have one "no," that is Chair Lee, and we have two excusals, Members King and Member Hokama. So we have a vote of six to one, if I'm correct. Okay. Very good.

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and  
                          Councilmembers Kama, Paltin, Sinenci, and  
                          Sugimura.**

**NOES:       Councilmember Lee.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

CHAIR MOLINA: All right, any other considerations or amendments on the motion? Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I move to amend 9.40.040(b)(6), "The order must require the person to cease and desist of the violation and pay a civil fine of 200 for the first violation, 500 for the second violation, and 1,000 for a third violation within a 12-month period. Each notice of violation and civil fine shall only be issued once per visit and on separate calendar days. So (*audio interference*) the motion.

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CHAIR MOLINA: Okay. That is the motion to amend. Is there a second?

COUNCILMEMBER SINENCI: Second.

CHAIR MOLINA: Okay. Seconded by Member Sinenci. Okay. Committee Vice-Chair Rawlins-Fernandez, you have the floor, and your rationale for the amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The purpose for this amendment is to reflect the question that I had asked Deputy Corporation Counsel Chen and Officer Phillips, in which they responded by there being one notice of violation when the officers arrive on the scene. Whether the word "visit" is the most appropriate word, it...it was...it was just (*audio interference*) Sergeant Phillips had mentioned, but I'm open to Sergeant Phillips or Ms. Chen recommendation if "visit" isn't the most appropriate word. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo, Committee Vice-Chair Rawlins-Fernandez. I guess Sergeant Phillips or Corporation Counsel, if you'd like to provide a response to the proposed amendment? Sergeant Phillips?

MR. PHILLIPS: I think...thank you, Councilmember Molina. I think the most appropriate word that we would use for that would be "incident" instead of "visit," but I don't know if, from a legal standpoint, if Corp. Counsel has a different opinion. And then the response to the actual amendment, I think the issue would be with the different once per date, as I...as I understand that being the amendment. Say if there was numerous hours that last between one incident and the other, I would recommend that that be treated as a separate violation. But that's just from my perspective for enforcement.

CHAIR MOLINA: Okay. Thank you, Sergeant Phillips. Let's ask Corporation Counsel for their thoughts. Either Ms. Thomson or Ms. Chen.

MS. THOMSON: Thank you, Chair. I...I think that the word "incident" is clearer, and would offer MPD the instruction that they need. Perhaps another way of saying it would be that...let's see...how about, "violations...a single violation shall be issued for any incidents within 24 hours," something along those lines. I think...I think the intent is that you don't end up with multiple NOV's for a 24-hour period. So just...just one citation, even if the, you know, the party died down and then kind of came back up again in a 24-hour period.

CHAIR MOLINA: Okay. Thank you, Ms. Thomson. Okay, Members, any other comments as it relates to the proposed amendment? Committee Vice-Chair Rawlins-Fernandez, are you okay with changing the wording from...as suggested by Sergeant Phillips and Corp. Counsel to "incidents" rather than "visits"? Your thoughts? So...

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: All right. So we'll take that –

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VICE-CHAIR RAWLINS-FERNANDEZ: I agree.

CHAIR MOLINA -- as a friendly amendment, I guess, or do we just call it an amendment . . . *(inaudible)* . . .

VICE-CHAIR RAWLINS-FERNANDEZ: I meant . . . *(inaudible)* . . . yeah. I amend my motion to reflect what Corporation Counsel Thomson (*audio interference*) incident.

CHAIR MOLINA: Okay. So noted. Very good. Any other considerations before we vote on the amendments? Okay, seeing none, all those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Lee, Paltin, Sinenci, and Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

CHAIR MOLINA: Thank you. Chair marked it seven "ayes" with two excusals, Members King and Hokama. Okay. Any other considerations to the bill as amended thus far? Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I move to strike from the definition, "controlled substance." So all of number 1 and 3, I guess it...I move to strike "intoxicating substance" and everything that follows after, and replace it with intoxicating liquor as defined in section 20...281-1 Hawaii Revised Statute.

CHAIR MOLINA: Okay. Is there a second to the motion to amend?

COUNCILMEMBER SINENCI: Second.

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CHAIR MOLINA: Seconded by Member Sinenci. Okay. Committee Vice-Chair Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. The original intent of this bill and other ordinances like it in other municipalities was for it to be a underage drinking bill, so liquor, and it's since expanded its reach. And I would like to bring it back to the original intent of this being about underage drinking and...so intoxicating liquor. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo. Members, any other comments to the proposed amendment? Seeing none, all those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed? Okay, I didn't see Member Paltin's hand. Member Paltin is that an "aye" to support the amendment or opposing?

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Lee, Paltin, Sinenci, and Sugimura.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION: AMEND REVISED BILL.**

CHAIR MOLINA: Okay. Chair will mark it seven "ayes" with two excusals, Members Hokama and Member King. Any other considerations? Committee Vice-Chair Rawlins-Fernandez, I think you're setting a record. Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Members, for everyone's patience. I...I...move to amend the definition of "gathering of a group of two or more persons" to "ten or more persons" to reflect large gatherings.

COUNCILMEMBER SINENCI: Second.



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CHAIR MOLINA: Okay, motion made by Committee Vice-Chair Rawlins-Fernandez, seconded by Member Sinenci. Okay. Member Rawlins-Fernandez, you have the floor for your rationale for this amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. We have heard repeatedly from the Coalition and the Police Department that the intention of this is for large house gatherings, so large...so in...in...in being consistent with the intention of large gatherings. I wouldn't consider a large gathering two or three or four...even ten is not, on Moloka'i, large. But I'm...I'm willing to compromise at ten.

CHAIR MOLINA: Okay. Thank you very much, Member Rawlins-Fernandez. Members, any comments on the proposed amendment to change it from, I believe it was, two in the bill..."two or more" to now "ten or more." Okay. This one for...I'll speak. I'm having a little bit of concern because I know five people can make a hell of a racket too. You know, I mean, excuse my language. So I just have reservations about expanding it to as much as ten in part because it takes up enforcement for underage drinking, so I'll just leave it at that. Members, any other comments to the proposed amendment from Member Rawlins-Fernandez before the Chair calls for the vote? Okay. All right. Again...go ahead, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So as everyone has discussed, this bill is about preventing underage drinking and not, you know, keeping noise...noisy neighbors from making noise. So...yeah.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Just in response to your comment, Chair. Mahalo, Chair.

CHAIR MOLINA: Okay. No. No. So noted. Let me just ask for the police perspective on this. Sergeant Phillips, just your thoughts on expanding it from two or more to ten or more.

MR. PHILLIPS: All right. Thank you, Councilmember Molina. You know, it's...I think it's whatever the Council tells is most appropriate. It will be less enforcement done, obviously, because we're...there's only going to be certain situations. The overall spirit of the bill is as, I think, all the Councilmembers touched up on for loud and unruly gatherings where there is underage drinking going on. In the end, what we want is a deterrent factor to stop this underage drinking from expanding into assaults, into drunken driving, into traffic accidents. Whatever the Councilmembers feel that is most appropriate as far as Government intrusion into private affairs with . . . *(inaudible)*. . . I think there will be less instances just by narrowing the scope from, you know, say two or more to ten, obviously.

CHAIR MOLINA: Okay. So Sergeant Phillips, in general, have you had a lot of incidents that have had less than ten people that involves underage drinking? Or has it always been larger gatherings of ten or more?

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MR. PHILLIPS: There's a variety. I mean, there's five kids that can get together at a house and as you said, make a pretty good noise, especially if the...the parents weren't present but the kid invites his friends over and has a party without them, but he only has X amount of friends that come over. They can still get into a lot of trouble.

CHAIR MOLINA: Okay. Thank you, Sergeant Phillips. Chair Lee?

COUNCILMEMBER LEE: Mr. Chair, I understand your concern, but we are going to be receiving regular annual reports, so we can make adjustments to our ordinance as...as needed. So I think we need to move this forward, start to collect the data, and then come back with some, you know, more specific numbers. Right now, it's...it's anybody's guess whether two or ten is better, yeah? Thank you.

CHAIR MOLINA: Okay. Thank you very much for that, Chair Lee. So I guess maybe I'll save my nit-picking for another time, and yeah...okay. I'll...although with some reluctance, I'll go along with the amendment. Member Kama?

COUNCILMEMBER KAMA: I just wanted to say that I like the number ten, only because you get better data. If it's too small, what are you going to get? The more people you have, the more opportunity the police will have to at least attend or be called for something...have an opportunity to get to someplace. But if you only have two, that's two people...I don't know. I just think that...but leave it at ten and let's see what the data says. That's my thought.

CHAIR MOLINA: Okay. Thank you, Member Kama. Member Sugimura?

COUNCILMEMBER SUGIMURA: You know, Chair...and this motion, I understand, but I think MPD speaks loudly in terms of they going to show up and now they going to have to count and make sure or whatever, but yet you still have this...this noise or whatever that prompted the call to be made, and I think narrower the better. Not that we're trying to catch people, but if we're trying to create a...you know, enforcement and underage drinking, that I...I think less obstruction for the police, to me, is better. So I...I like the...I'm going to...I'm speaking against the motion just because I think the group gathering as police defines is easier for them rather than having to, you know, count and make it more complicated than it already is. So...Chair. Thank you.

CHAIR MOLINA: Okay. Thank you very much for those comments, Member Sugimura. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I just was going to request a clarification of this amendment. Does it apply...I guess, you know, the...the concern I had before was if it was the parents with their own kids. And then I just was wondering if this amendment applies only if the parents are home with the kids and condoning it, or if it applies if there's no parent home. Like say, there's no parent home and there's four kids drinking, then would this bill apply to that situation, or it would have to be no parents home and 11 kids drinking for this kid...for this bill to apply?

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CHAIR MOLINA: Okay. Let me ask, I guess, Corp. Counsel or even someone from the Coalition. Well...oh, wait a minute, let me go and recognize Vice-Chair Rawlins-Fernandez. Go ahead, Committee Vice-Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo (*audio interference*) we're...we're discussing the amendment to the main motion. So the definition of "gathering" of changing from two to ten is --

COUNCILMEMBER SUGIMURA: The motion.

VICE-CHAIR RAWLINS-FERNANDEZ: -- doesn't have anything to do with who, it's just number of persons.

CHAIR MOLINA: Member Paltin?

COUNCILMEMBER PALTIN: So it doesn't matter if the parents allowed it or not? Doesn't matter?

VICE-CHAIR RAWLINS-FERNANDEZ: Well, I mean...so if...if that's not clear, there could be another amendment to make it clearer in the definition of a gathering. But right now, we're just deciding whether to make it two or ten. So if your concern is it's not clear on if there's parental consent, then that would be a separate motion. Oh...there you are.

COUNCILMEMBER PALTIN: Oh. I was...I was just wondering what your intention was. Like if...if the parents are home...are not home, does it matter how many people are drinking?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. So I'm just...for "gathering" means "a group of two or more persons at or on a residence or other private property." And so my proposed amendment is just to replace the word "two" with "ten" to reflect the intention that this Committee said that this bill is about, and what, you know, has been presented to us that is the problem. And the problem is large gatherings at house, you know, residential parties...house parties. And so if that's truly what we're trying to do, then the number of people wouldn't just be two because that's the...

COUNCILMEMBER PALTIN: And so your intention is for it to apply whether the parents are home or know about it or not? That's your intention?

VICE-CHAIR RAWLINS-FERNANDEZ: So for this amendment, I...that...that...not relevant to this amendment. It's just the number for this one. And if you would like to take that up to clarify in another amendment, then we can discuss it then.

COUNCILMEMBER PALTIN: Okay.

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CHAIR MOLINA: All right. Thank you, Member Paltin. Okay, any further need to clarify the proposed amendment from Committee Vice-Chair Rawlins-Fernandez? Otherwise, the Chair will call for the vote. Okay, all those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: Chair votes "aye" with reservations. All those opposed?

COUNCILMEMBER PALTIN: No.

COUNCILMEMBER SUGIMURA: Opposed.

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and  
                              Councilmembers Kama, Lee, and Sinenci.**

**NOES:       Councilmembers Paltin and Sugimura.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION:    AMEND REVISED BILL.**

CHAIR MOLINA: Okay. We have two noes. So that would be five "ayes," two "noes" (Member Paltin and Member Sugimura), and two excusals, Members Hokama and King. The amendment passes. Okay. Any other considerations for amendments?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, I do have another amendment, but if Member Paltin wants to make an amendment, I'll yield the floor to her.

CHAIR MOLINA: Go ahead, Member Paltin.

COUNCILMEMBER PALTIN: Oh, thank you, but I'll pass. My brain's not working that well right this minute, just following along.

CHAIR MOLINA: Okay, it's been a long morning. Chair Lee?

COUNCILMEMBER LEE: I was just wondering, how many more amendments do you have, and do you think we're going to get to the litigation item?

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CHAIR MOLINA: I've already asked for a deferral for GET item 11-48 based on the time. I'm hoping we can get to at least GET item 11-45 and the referrals by the 1:00 because I just...I want to respect all you folks' time, and I certainly don't want to lose quorum by 1:00. But I'm optimistic that we can get to at least one of the litigation.

COUNCILMEMBER LEE: Okay. I just wanted to let you know that I have to leave at five minutes to 1:00. Okay?

CHAIR MOLINA: All right. So noted. Okay. Let's see if we can get this done expeditiously. Committee Vice-Chair Rawlins-Fernandez, your next amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I have three more amendments. Okay. In definitions, "residence" or "other private property," I move to strike "hotel or motel room" or "a hall" or "a meeting room."

CHAIR MOLINA: Okay. Is there a second for the amendment?

COUNCILMEMBER SINENCI: Second.

CHAIR MOLINA: Okay, seconded by Member Sinenci. Okay, Member Rawlins-Fernandez, your explanation for the amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. As some testifiers had expressed, there seems to be some confusion about whether this would apply at a community center or when having...whether it's a community center that is owned by the County or, you know, like a community center that's like privately owned, like Binha At Na Ani [sic]. I probably said that wrong. Sorry. So those...those types of meeting rooms, halls...to be consistent with the presentation of what the problems are, which is large house parties. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo. Members, any comments on the proposed amendments? I'm going to ask Corporation Counsel...I know that Ms. Thomson mentioned earlier it wouldn't...this bill wouldn't apply to those renting out a community center, if I'm correct. Ms. Thomson, can you re-verify what you said or clear that up for me?

MS. THOMSON: Right. So as I understand it, we're looking primarily at private property and not publicly-owned property, but I think that Councilmember Rawlins-Fernandez amendment clarifies that, you know, by removing any of those commercial type properties, even the rental entities.

CHAIR MOLINA: Now, because of hotels, they're private property. So apparently, under the bill, it would apply. For example, if the teenagers wanted to have a...you know, if somebody rents out a hotel room and there's underage drinking in the hotel room, I mean...which is a possibility, which does exist. So if we remove that aspect, then you know, a parent...of course, you have to...to rent a hotel, you'd have to be an adult, and you could be 18 years old. You rent out the hotel room, bunch of kids come over, drink on hotel premises, underage drinking in the hotel room, that exists; am I correct?

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MS. THOMSON: Sorry, I clicked the wrong button there. Yes. You know, I think there are going to be other...you know, there are other laws and certainly there are other criminal laws in terms of them providing alcohol to, you know, minors wherever they consume it. I don't...I don't see a problem with removing that language if that's the Committee's preference.

CHAIR MOLINA: Okay. Thank you. Sergeant Phillips, your thoughts? I guess that would basically reduce the reach of law enforcement if there's underage drinking in a hotel room; am I correct?

MR. PHILLIPS: Yes, Councilmember. Just specifically for the social host, we'll...we'll obviously still be able to enforce any other criminal statutes we have powers to enforce. I do know that that is an issue at certain times of the year. Spring break is a big one, but the hotels are not just for the local kids, but I know a lot of tourists that come over with families, and parents will let the kids party in one room while all the other adults are having their own party in the other room, particularly with condominiums and such like that. So if...if we remove this part of the language, I think that the social host would not apply for that instance, but then we'd have to look at other criminal statutes. But obviously, that would be a little bit more difficult to enforce because then you'd have the states of mind for the parents to actually knowingly or recklessly provide the alcohol to the children.

CHAIR MOLINA: Okay. Now the hotel --

MR. PHILLIPS: It would --

CHAIR MOLINA: Go ahead.

MR. PHILLIPS: It would narrow it.

CHAIR MOLINA: Yeah. Now the Liquor Department could remove a hotel's liquor license if they allowed drinking, underage drinking, on their premises if it was discovered? So there would be some penalty for the hotels if that were to occur?

MR. PHILLIPS: I'm not specifically certain of that. If it was within the hotel room itself or if it had to be from like, the licensee, on the premises or something. I think the Liquor Commission could answer a little bit better.

CHAIR MOLINA: Yes. Unfortunately, Liquor Director Silva is not here to clarify that because if there's already existing penalties for a hotel, knowing...and they knew that there was...or there was evidence of underage drinking in the hotel that their liquor license would be at risk. So...okay, thank you, Sergeant Phillips. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I hear your concern, and it sounds like you'd prefer to leave in "hotel or motel room," and my...you know, the primary

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concern was more a hall or a meeting room. So if your preference would be to leave in hotel and motel room, I'm open to that, and just striking hall or meeting room.

CHAIR MOLINA: Okay, that's fine with me. So that's the amendment as amended now? So we're going to leave in hotel and motel as part of the Social Host Bill.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah. If it's . . . *(inaudible)*. . .

CHAIR MOLINA: Any other comments?

VICE-CHAIR RAWLINS-FERNANDEZ: If it's okay with the seconder? I think that was Member Sinenci who seconded it?

CHAIR MOLINA: Yeah. Mr. Sinenci, are you okay with Member Rawlins-Fernandez putting back in hotel and motel, and just striking out halls?

COUNCILMEMBER SINENCI: Yes, Chair. I'm supportive.

CHAIR MOLINA: Okay, thank you. Okay, seeing no other discussion, Chair will call for the vote on the motion to amend. All those in favor, signify by saying "aye" and raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

**VOTE:        AYES:    Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Lee, Paltin, Sinenci, and Sugimura.**

**NOES:        None.**

**ABSTAIN:    None.**

**ABSENT:     None.**

**EXC.:        Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

CHAIR MOLINA: Thank you. Chair marked it seven "ayes" with two excusals Members King and Hokama. Okay. Committee Vice-Chair Rawlins-Fernandez, please continue.

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Second to the last amendment, 9.40.030(b) to strike "It shall not be a defense to this section that the person..."that the responsible person believed the underage person at the gathering was 21 or more years of age."

CHAIR MOLINA: Okay. Is there a second to the amendment?

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Okay. Seconded by Member Sugimura. Okay, continue, Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. With the discussions that we've had, I think it's more consistent with what we've discussed, so that would be a reflection of what the Committee had shared. Mahalo, Chair.

CHAIR MOLINA: Okay. Mahalo. Any other discussion on the motion to amend? If not, all those in favor signify by saying "aye," raising your hand.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: And opposed?

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Lee, Paltin, Sinenci, and Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Councilmembers Hokama and King.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

CHAIR MOLINA: Okay. Thank you. Chair marked it seven "ayes" with two excusals Members King and Hokama. Okay, Committee Vice-Chair Rawlins-Fernandez, for your last proposal, I believe.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yes. Yup, I'm pretty sure this is the last one. Okay. And so this has to do with the appeal process, and I may need help from Corporation Counsel on the intention of this. So it's 9.04.050, appeal procedure



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and standards. I move to make the first sentence, A, the...to insert a second sentence, B, to add, "The commission may adopt administrative rules to carry out the provisions of this chapter," and to make the last set of sentences "C."

CHAIR MOLINA: Okay, motion made to amend by Committee Vice-Chair Rawlins-Fernandez, is there a second?

COUNCILMEMBER SINENCI: Second.

CHAIR MOLINA: Okay, Councilmember Sinenci. Proceed, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So I've...I've...I've taken the same language from 9.40.060, administration, where the Chief may adopt administrative rules to carry out the provisions of this chapter. So right now, the Police Commission does not have administrative rules to carry out an appeal process, so that's something that the Police Commission would need to adopt. And my concern...although we have delayed this bill to July 1st, 2021, I know that rule-making process takes time, and I think that it's imperative that there...there be rules in place before notice of violations under this bill is issued. So I don't know if this amendment in itself would be enough. Yeah...so I don't know if, you know, if Corporation Counsel would be able to speak on this, or anyone else on the timing of adopting administrative rules to carry out those process.

CHAIR MOLINA: Okay. Chair Lee, before I recognize Corporation Counsel.

COUNCILMEMBER LEE: I've done administrative rules before. Usually, they're...they're promulgated before --

VICE-CHAIR RAWLINS-FERNANDEZ: Promulgated?

COUNCILMEMBER LEE: -- I mean, after...after something is passed. So in this case, it'll be...it'll pass second reading, so there's nothing stopping...it's just going to take effect later. So there's not...nothing stopping the Department to establish the administrative rules...which do take time, it takes months, and you have to do a public hearing, et cetera. So they'll have like six months to work on rules. So I'm sure Ms. Thomson wouldn't object to the Council requiring that the rules be promulgated by...before...on or before the bill takes effect.

CHAIR MOLINA: Okay. Thank you, Chair Lee. Corporation Counsel Thomson, your thoughts?

MS. THOMSON: Thank you. So Chair Lee's correct, they do take months when you have sufficient lead time with the effective date being six months potentially put off. Maybe as far as an effective date for the applicants, maybe 90 days...within 90 days of the effective date?

COUNCILMEMBER KAMA: Yeah. Yeah.

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CHAIR MOLINA: Okay. Thank you Ms. Thomson.

MS. THOMSON: That's reasonable.

CHAIR MOLINA: Okay. I see Member Kama. Your thoughts? Member Kama, could you unmute?

COUNCILMEMBER KAMA: Thank you, Chair.

CHAIR MOLINA: There you go.

COUNCILMEMBER KAMA: Well, I like...I like the idea that was just mentioned a few moments ago by Corp. Counsel because I think it does take a long time to promulgate rules. And I'm getting the rules, and they're saying 12 months to 18 months. So I like the idea of doing...give me them 90 days after, so they have from now until...actually they have nine months, not six months to work on those rules. And should they come...and maybe we...they need to come to us and tell us where they're at after nine months, and then we can reassess the situation again to see if they need more time. But those are my thoughts, Chair. Thank you.

CHAIR MOLINA: Good thoughts. Okay. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So it sounds like we're all on the same page as far as, you know, the concerns of not having administrative rules in place before the Social Host Bill is enacted. And so I'm wondering if perhaps it would be more prudent for us to authorize or...or, you know, explicitly give that authority in the section of the Code under the Police Commission that...that they will...they have the duty to review appeals, and then that would be the trigger for them to start to develop an appeals process. And then that way, they'll...they'll have the adequate time and resources. So I...I...I'm guessing, you know, this kind of work would probably need, you know, support staff because the commissioners are volunteers. And so I would hate to, you know, assign more duties to the Police Commission without also providing them the resources to carry out the legislation that we passed. So that...that...that was my thoughts on that. I don't know if Corporation Counsel or someone would like to weigh in on that. I just...I just want to make sure that, you know, as a legislative arm, that we're...we're, you know, being responsible in tasking our boards and commissions with things and resourcing them appropriately.

CHAIR MOLINA: Okay. Corporation Counsel, any thoughts? Ms. Thomson?

MS. THOMSON: Thank you, Chair. That would primarily fall to our Department, so we advise both the Police Department and also Police Commission. So the Deputy assigned to those...those duties would assist with drafting and assisting with the enactment of the administrative rules. Just as an aside, the reason that I was saying...suggesting that we give 90 days (*audio interference*) the effective date or some period of time after that is so that the enabling legislation is, you know, on the books

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prior to adopting the rules. That doesn't prohibit us. We can get started, you know, now, so as Councilmember Kama said, we can be working on this so that the...the rules are in a fairly good draft form by the time that the (*audio interference*)

CHAIR MOLINA: Okay. Thank you, Corporation Counsel Thomson. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So we've made the effective date July 1st, 2021. I just needed clarification from Ms. Thomson on what it is that she is recommending. Is she recommending that this ordinance take effect 90 days after the administrative rules are promulgated? Sorry, I'm...I'm not clear.

CHAIR MOLINA: Ms. Thomson.

MS. THOMSON: (*audio interference*) and so what I'm suggesting is amending, you know, both sets of administrative rules. So currently 9.40.060(b) that says the Chief may adopt administrative rules, et cetera, so you can change that to "The Chief must adopt administrative rules within 90 days of the effective date of this chapter to carry"...or..."to carry out the provisions of this chapter," and then the same thing for the Commission.

VICE-CHAIR RAWLINS-FERNANDEZ: Ms. Thomson, so...okay. So after...I guess...so July 1st, the...the...this bill becomes...or the law becomes enacted, and 90 days...so 90 days after the second reading? Within 90 days of the second reading of this bill, the rules would need to be promulgated?

MS. THOMSON: Chair, if I may. I mean, so if the effective date would be on July 1st, you would have July, August...by the end of September, the administrative rules would need to be adopted. That's how we've done it in the past, when it's new legislation like this, that the enabling legislation needs to be in place because the administrative rules, you know, build on that actually, and flesh it out. I can have a quick conversation with David Raatz to ask about whether administrative rules could actually be adopted prior to an effective date of the enabling legislation. I...I don't believe so, that's my understanding is...is that, you know, you have to have the ordinance in effect at the time the rules are adopted, but I can check with him if you like.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson. So on July 1st, the...the...the Code would be enacted and police could then start issuing notices of violation on July 1st. And if there is an...someone who receives a notice of violation would like to appeal, there would be no process in place until 90 days after July 1st, is what you're saying. So there would be no appeals process for the person seeking relief.

MS. THOMSON: (*audio interference*) and that's precisely the reason that...that Stephanie and I included Section 050 in the present draft of the bill, so that the Police Commission would fairly understand the grounds that...under which they could grant an appeal. So this is the identical language that the BVA also uses too, for appeals of Directors'

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decisions. You have to find one of the following to approve and appeal (*audio interference*). So I would anticipate that the, you know, that the rules are practice and procedure for the Police Commission related to this chapter. It would be in...more in the nature of, you know, where do you file? You know, how many copies? More kind of the procedural parts of filing an appeal, rather than the standards of appeal that would already be set in this ordinance.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. Thomson. So as far as the filing fee, that wouldn't be established, so there would just...there would be no instruction for someone seeking an appeal to follow. They would just know to go to the Commission and request that their appeal be put on the agenda?

CHAIR MOLINA: Ms. Thomson?

MS. THOMSON: So the...I believe the fees and cost would be set in the annual budget ordinance in terms of what the filing fee would be, and the fee could be zero, you know, in order that some of the persons that may be affected would not be prohibited, you know, by having to pay a higher filing fee. So that would be set. I believe that you folks in the annual budget ordinance...but yeah, I understand the concern. And in terms of our office's response, we would try to get these administrative rules drafted and, you know, ready for public hearing as soon as possible.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Ms. Thomson. So my motion was to give the Commission or...or I guess as you recommended, Ms. Thomson, that the Commission must adopt administrative rules. So it wouldn't be the Commission, it would be the Chief. And so under 060(b), that is sufficient for the Police Commission to promulgate administrative rules.

MS. THOMSON: Chair, if I may?

CHAIR MOLINA: Go ahead.

MS. THOMSON: I believe that (*audio interference*) be important for the Police Chief to be able to adopt administrative rules because they may need, you know, the rules to...to help them understand, you know, how to apply the rest of the chapter. The Commission really only deals with appeals, so their administrative rules would only relate to appeals of the chapter, so it's basically different sets...two different sets of administrative rules.

VICE-CHAIR RAWLINS-FERNANDEZ: Last question, Ms. Thomson. So your recommendation is for...under 060(b), the Chief must adopt administrative rules to carry out the provisions of this chapter within 90 days of enactment. Can it be instead, like, within 90 days of --

COUNCILMEMBER KAMA: Passage.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah, the passage --

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COUNCILMEMBER KAMA: Passage.

VICE-CHAIR RAWLINS-FERNANDEZ: -- of this bill?

MS. THOMSON: My recommendation would be within 90 days of the effective date of this chapter, or no later than...something like that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Chair, I'm...I'm open to amending my motion with the...if there are no objections from the seconder of my motion, to instead amend 9.40.060, administration, B, the Chief must adopt administrative rules to carry out the provisions of this chapter within 90 days of the effective date of this chapter.

CHAIR MOLINA: Okay. Any objections, Mr. Sinenci or Members, on the revised amendment from Member Rawlins-Fernandez?

COUNCILMEMBER KAMA: No objection.

CHAIR MOLINA: Okay. Seeing no objections. So that is now the motion on the floor, to include the suggestions from Corporation Counsel into your amendment, Committee Vice-Chair Rawlins-Fernandez. Okay. All right. So with that being said, if there are no other questions, Chair will call for the vote. All those in favor of the amendment...excuse me, Member Kama, you had a question?

COUNCILMEMBER KAMA: Yes, Chair, real quick. You know, when we do...whoever drafts these administrative rules, do they have to complete all the rules at one time before they get approved, or could you approve them as you went along?

CHAIR MOLINA: Okay, who would you like to direct that question to? Corporation Counsel, Ms. Thomson --

COUNCILMEMBER KAMA: Corp. Counsel, yes.

CHAIR MOLINA: -- you want to take a shot at it?

MS. THOMSON: We would probably look to...to do, you know, the most comprehensive rules, but we can amend them at any time.

COUNCILMEMBER KAMA: Okay.

MS. THOMSON: So we just have to follow the formalities of the State law that requires a public hearing, you know, regardless of the type of, you know, whether it's a large or small amendment or new rules. So it requires a public hearing. But we do that fairly frequently, so I won't say it's easy, but we do it frequently.

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COUNCILMEMBER KAMA: So Chair, throughout...so throughout the...the lifetime of the...the rules as they're being promulgated, is there an opportunity for us to take a look at them as they're moving along in the process?

CHAIR MOLINA: Is that for Ms. Thomson?

COUNCILMEMBER KAMA: Yeah.

CHAIR MOLINA: Ms. Thomson?

MS. THOMSON: Thank you, Chair and Councilmember Kama. Yes, there's, you know, there's public notice for the public hearing, you know, and the Councilmembers could, you know, attend the public hearing if they wished...that kind of thing. You could also ask the Chief to provide you a status update on --

COUNCILMEMBER KAMA: Okay.

MS. THOMSON: -- . . . *(inaudible)*. . . rules.

COUNCILMEMBER KAMA: Okay. Okay. Thank you. Thank you, Chair.

CHAIR MOLINA: Okay, great. Thank you, Member Kama. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair, and it's not a motion. I...it's just a request that OCS or Corporation Counsel make consistent, you know...so if I didn't catch anything and we voted to amend a section that the other sections that, you know, would...would be made consistent if...you know, like if I missed a word or something here and there to make consistent with the other amendment that we just made today. Oh, okay. I got the thumbs up from Ms. Thomson.

CHAIR MOLINA: Okay. So noted. All right, Members, Chair's going to call for the question on the motion to amend. All those in favor of Committee Vice-Chair Rawlins-Fernandez amendment to the motion, signify by saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

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**VOTE:        AYES:    Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Paltin, Sinenci, and Sugimura.**

**NOES:       None.**

**ABSTAIN:    None.**

**ABSENT:     None.**

**EXC.:        Councilmembers Hokama, King, and Lee.**

**MOTION CARRIED.**

**ACTION:     AMEND REVISED BILL.**

CHAIR MOLINA: Thank you. Chair will mark it six "ayes" with three excusals, Chair Lee, Councilmember King, and Councilmember Hokama. Okay. I believe this is the last of the amendments, Committee Vice-Chair Rawlins-Fernandez and everyone else. All right. Then the Chair will call --

VICE-CHAIR RAWLINS-FERNANDEZ: Yes . . . (*audio interference*). . .

CHAIR MOLINA: I'm sorry, what was that, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I just wanted to tell you mahalo, for...to you and all the Councilmembers for their patience in indulging all of my proposed amendments. I...I...I will...I'll support your recommendation, Chair. I...I'm a little concerned about passing it on first reading today...or sorry, not today, but this term, and then having someone new, our new Councilmember join us in the next term. But you said that we'll have like a public hearing and time to discuss, so there'll be time for our new colleague to read up on this and get acquainted with it enough to be able to make a decision on it. So that...that was just my...my last concern about passing today. But I...I'll be happy to support your recommendation, Chair.

CHAIR MOLINA: Thank you very much. And I know our new member, he's the type of person who has a lot of energy, and I'm sure he'll do his best to get up to speed on it. So we'll definitely do our best to make sure he's on task, and I know he will be. All righty, Members. Wow, this was a really...certainly a very engaging and interesting discussion on GET Item 60, so we've reached a point where Chair's going to call for the vote. Again, this is to recommend passage of the revised proposed bill as amended. So with that being said, we're down to six members, we do need five for this matter to advance. I see Member Sugimura with a question before the Chair calls for the vote. Oh, no...

COUNCILMEMBER SUGIMURA: I just want to...

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CHAIR MOLINA: You just had your hand up.

COUNCILMEMBER SUGIMURA: Yeah, I just want to thank Keani for all the work that she's put in. You can tell, you know, she went HRS, back to us, and you know, back and forth. So thank you very much, Keani, and I think we're going to end up with a more comprehensive look at this brand new ordinance, which I think is important for the community. And Chair, thank you very much for allowing a public hearing to happen before this gets finalized, and if I could ask the...the...Ashlee and her group to put me on their list-serve. I was before, and I checked during the break, and I'm not receiving their...their...their shout-outs to the community. I think this is super important, so thanks a lot. Thank you.

CHAIR MOLINA: Thank you, Member Sugimura. Okay, with all that being said, the Chair will now call for the vote. All those in favor of passing GET 60, signify by saying "aye" as amended.

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: And those opposed?

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and  
                          Councilmembers Kama, Paltin, Sinenci, and  
                          Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Councilmembers Hokama, King, and Lee.**

**MOTION CARRIED.**

**ACTION:     FIRST READING OF REVISED BILL AND FILING OF  
                          COMMUNICATION.**

CHAIR MOLINA: Okay, then. The Chair will mark it six "ayes" with three excusals, Chair Lee, Chair Hokama [sic], and Chair King [sic]. Thank you very much, Members, for all of your hard work on this matter.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

CHAIR MOLINA: Thank you. All right, Members...



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VICE-CHAIR RAWLINS-FERNANDEZ: Good job, Chair.

**GET-11(48) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: MALUHIA MAUI SCOTT; CLAIM 4066910) (CC 19-29)**

CHAIR MOLINA: As I...thank you. Thank you. As I mentioned earlier, we have two other agenda items left. I did state we...if there are no objections, to defer GET item 11(48).

COUNCILMEMBER SUGIMURA: No objection.

CHAIR MOLINA: So that is the Maluhia Maui Scott Claim, so no objections on that deferral.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused RH, KK, AL)

**ACTION: DEFER.**

**GET-11(45) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: MAUI ELECTRIC COMPANY, LIMITED; CLAIM 4067061) (CC 19-29)**

CHAIR MOLINA: Members, are you okay to go and deal with GET Item 11(45), which is the matter related to Maui Electric? I've been told that it does not require executive session, or am I going to lose quorum at this point? Any Members have to leave like in the next five minutes? Member Paltin?

COUNCILMEMBER PALTIN: I have a previous commitment at 1:30 but, you know, if we're still going on to this and then we take maybe lunch at 1:30, I'll be willing to come back after.

CHAIR MOLINA: Okay. Well, thank you for that. I hope we don't have to come back because I know I've got some commitments too. But hey, what is the pleasure of the body? Yeah, I think...I believe we have the option to defer if need be, 11(45). Ms. Espeleta, is there...or excuse me, let me ask Mr. Rowe from Corporation Counsel. Is this matter time sensitive? I mean, if the Committee chose to defer this until, say, January, would that be a problem, or is it something we need to address ASAP?

MR. ROWE: Hi, Chair. This isn't particularly time sensitive. There was a suit filed in this matter just to preserve the statute because the incident happened, at this point, a little bit over two years ago. So there is pending litigation on it, but I don't believe we've even been served with the complaint yet. Like I said, they just served us with it for the purpose of preserving the two-year statute of limitations. So I'm...I...I'll defer to the body, but there's no upcoming deadlines or anything like that.

CHAIR MOLINA: Okay. Thank you, Mr. Rowe, and thank you for your patience. So Members, if there are no objections, I guess I would guess at least another month wouldn't hurt. I'll go ahead and make a recommendation to defer. Any objections?

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**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused RH, KK, AL)

**ACTION:     DEFER.**

CHAIR MOLINA: Defer GET Item 11(45). Okay. Thank you. And thank you, Mr. Rowe. Thank you for your patience on this and for the update on this matter. So...so this will be addressed the next Council term. Ms. Espeleta, do we need to officially include this in the...have this referred over to the next Council? You know what, I think it already would because...well, maybe it wouldn't, I don't know. If we had made a decision on this today, then it goes to Council on the 18th. Any procedural...

MS. ESPELETA: Mr. Chair?

CHAIR MOLINA: Yes, Ms. Espeleta?

MS. ESPELETA: Mr. Chair, I believe Rule 23 of the Rules of the Council provides for sentiment authorizations pending before the Committee to be automatically referred to the next term.

CHAIR MOLINA: Okay. That would also apply to 11(48) which we just deferred as well too, yeah?

MS. ESPELETA: Yes, it would.

CHAIR MOLINA: Okay, very good. Okay, Members, you understand that this will just be automatically referred...be referred to the next Council for discussion and decision making.

**GET ITEMS     COMMUNICATIONS FOR REFERRAL TO THE COUNCIL CHAIR FOR THE  
2021-2023 COUNCIL TERM**

CHAIR MOLINA: Okay. So this brings us to our last item, which I don't anticipate a ton of discussion, at least I hope not...which has to do with the...ironically, the referral of all the items to the next Council from the GET Committee. Of course, I don't think we have enough time for me to go through every single item. Is there any consideration to make changes or consider other matters for referral as it relates to GET? Yes, Member Paltin?

COUNCILMEMBER PALTIN: Shoot, I had one. I can't remember what the number was, but it was something introduced by Keani about...and it seemed like a transparency item. I can try look real quick for the number. 59? 59. GET-59.

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CHAIR MOLINA: Okay. So you would have to make a PAF, I guess, to OCS to have this referred. Okay? GET Item 59. Can you just tell us what exactly it dealt with specifically?

COUNCILMEMBER PALTIN: Okay. Let me get in there.

CHAIR MOLINA: You know what, Member Paltin? That's okay. If you're not able to get the...the specifics of it, at least we know the number, so...GET-59, unless Ms. Espeleta is available to look that up.

COUNCILMEMBER PALTIN: It was amending Chapter 1.16, Maui County Code, relating to public inspection of administrative rules. And it kind of relates to our last item because you know, if we're going to make some administrative rules...like the public to know about it.

CHAIR MOLINA: Good point.

MS. ESPELETA: Mr. Chair?

CHAIR MOLINA: Yes, Ms. Espeleta?

MS. ESPELETA: So Chair, Item...GET-59 is on page 7 of the agenda to be referred to the Council Chair for the next term.

COUNCILMEMBER PALTIN: Oh, it's already on?

CHAIR MOLINA: Yeah, page 7 of our agenda, GET-59...

COUNCILMEMBER PALTIN: Oh, thanks. My bad, I didn't read all the way to the bottom.

CHAIR MOLINA: Yeah, Maui County Code relating to public inspection of admin rules. GET...yeah, it's already on there. So it...it's on its way.

COUNCILMEMBER PALTIN: Okay, good. Thank you. Less work.

CHAIR MOLINA: That's right. That's right. Thank you. But always good to double check though. Okay. Any other considerations, Members, before the Chair's recommendation of this last particular item?

VICE-CHAIR RAWLINS-FERNANDEZ: Recommendation.

CHAIR MOLINA: Okay. Thank you. Trying to get my stuff together here. But...okay, recommendation is to refer to Council Chair for the term beginning January 2nd, 2021 in accordance to Rule 23 of the Rules of the Council to refer these items as noted on the agenda. Is there a...I entertain a motion for that.

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

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COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Motion made by Committee Vice-Chair Rawlins-Fernandez, seconded by Member Kama. Any discussion? Seeing none, all those in favor, signify by raising your hand and saying “aye.”

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

**VOTE:       AYES:   Chair Molina, Vice-Chair Rawlins-Fernandez, and Councilmembers Kama, Paltin, Sinenci, and Sugimura.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmembers Hokama, King, and Lee.**

**MOTION CARRIED.**

**ACTION:     REFERRAL of communications to the Council Chair for the term beginning January 2, 2021.**

CHAIR MOLINA: Thank you. Chair marked it six “ayes” with three excusals, Chair Lee, Councilmembers Hokama and King. Wow. Okay. I believe this concludes our agenda for today. Members, I cannot thank all of you enough for all of your hard work, and I do have one major announcement to make. This is our last GET meeting for the term. I want to thank you. So I don't have a meeting scheduled for next week, Tuesday, December 15th. I hope there's no objections to that.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR MOLINA: All right, thank you. We’ve worked extremely hard. We've had a lot of off week meetings, and my God, I owe you guys so much virtual lunches, I've lost count already. But I just want to thank you all for your professionalism, as well as our hardworking Committee Staff, my own Staff, and of course, Administration, thank you for being there to respond to our questions, and everyone else for participating in the GET matters this term. It certainly was interesting and exciting, to say the least. So with that said, like wow, I'm sure glad we've made it to this point. So again, no formal GET meeting next week, December 15th, so free to do whatever you want to do

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between the hours of 9:00 to 12:00, and after that, I believe...Mr. Sinenci, will there be an EACP meeting scheduled for December 15th that you're looking at?

COUNCILMEMBER SINENCI: Yes. Thank you, Chair. We just have one 7B item on December 15th, that afternoon.

CHAIR MOLINA: Okay. Thank you for that update. Okay. Thank you. All right, Ms. Espeleta, before we adjourn, is there anything the Chair needs to be made aware of?

MS. ESPELETA: No, Mr. Chair, nothing further.

CHAIR MOLINA: Okay, thank you very much for that. All right. With that being said, the recessed GET committee meeting of Tuesday, December 1st, 2020, the time is now 1:07, the date is December 9th, Wednesday. This recessed meeting is adjourned. . .  
*(gavel)*. . .

**ADJOURN: 1:07 p.m.**

APPROVED BY:

**Mike Molina**

Digitally signed by Mike Molina  
DN: cn=Mike Molina, o, ou,  
email=mike.molina@mauicounty.us,  
c=US  
Date: 2021.02.01 16:45:01 -10'00'

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MICHAEL J. MOLINA, Chair  
Governance, Ethics, and Transparency  
Committee

get:min:201209

Transcribed by: Daniel Schoenbeck &  
Jaylene K. Hamilton

**GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**  
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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 46 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 28th day of January 2021, in Kula, Hawai'i

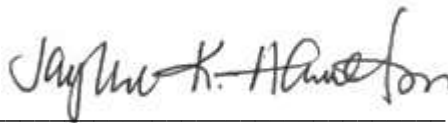


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Daniel Schoenbeck

I, Jaylene K. Hamilton, hereby certify that pages 46 through 85 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 28th day of January 2021, in Wailuku, Hawai'i



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Jaylene K. Hamilton