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Caldwell says he is likely to support the measure as he signs bills to clean up problems in Waikiki

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Moments before signing into law a bill making it illegal for people to sit or lie on Wai-kiki sidewalks, Honolulu Mayor Kirk Caldwell said Tuesday he is leaning toward supporting a separate proposal that would apply the same ban in business districts of six other Oahu neighborhoods.

In addition to Bill 42, the so-called "sit-lie" bill for Wai-kiki, Caldwell on Tuesday signed Bill 43, prohibiting urinating and defecating in public places in Wai-kiki. He also signed Bill 46, which bans urinating and defecating in public in all other parts of Oahu except the downtown-Chinatown area, which is covered by a state law.

All three bills were given final approval by the City Council on Sept. 10. Because the violations are petty misdemeanors, offenders could be hit by a fine of up to \$1,000 and/or up to one month in jail.

Debate at Honolulu Hale over the sit-lie and urination-defecation bills over recent months exposed a clear split in community views of how government should approach the homeless issue. Caldwell and Council members who have championed the Wai-kiki bills note that sidewalks have grown progressively more crowded and impassable in recent years, discouraging visitors from returning.

But opponents of the bill have raised constitutional and moral questions about the bills, arguing that the measures don't accomplish anything more than making it criminal to be homeless, while the resources used to enforce the laws could be better served by building more housing and providing more services for those most in need.

The Waikiki sit-lie ordinance will be in effect 24 hours a day.

Caldwell had been expected to sign the three bills, and he stated intent to sign Bill 48, which is to be heard by the Council's Zoning and Planning Committee on Thursday. It still would need a final vote of the full Council.

Bill 48 would ban sitting and lying from 5 a.m. to 11 p.m. in specific areas of six neighborhoods: Chinatown, downtown, McCully-Moilili, Wai-pahu, Kalihi and Kai-lua. Introduced by Councilman Ron Menor, supporters have described the bill as most similar to the original "sit-lie" law adopted by the city of Seattle in 1993, which bans sitting and lying from 7 a.m. to 9 p.m. in certain parts of the downtown district.

Caldwell, at Tuesday's news conference, made it a point to say that Bill 48 is still alive at the Council. "I believe that will bring great relief to areas like Chinatown ... Kai-muki," the mayor said. "I'm open to that, so long we can define it specifically and there's a lot of people walking (in those areas). And if we can do that, I would support this bill."

City attorneys have told him that the current version of Bill 48 is legally defensible, the mayor said. Assuming it passes out of Council, "we'll have to see what the final version looks like, and then it will go through a thorough review before it comes to me for signature," Caldwell said.

Opponents of the sit-lie and urination-defecation bills said they question not just the constitutionality of Bill 48, but also whether it is morally justified and can be applied sensibly.

Jenny Lee, staff attorney for the nonprofit Hawaii Appleseed Center for Law and Economic Justice, said in a telephone interview she views the proposal as confusing and counterintuitive.

"Just the fact that they need to provide maps to certain zones," Lee said. The proposal "expects people who are experiencing homelessness to manage to know exactly where they are during certain hours."

Back at City Hall on Tuesday, supporters of the urination-defecation bills noted that Wai-kiki business interests contributed \$36,000 to help keep a bathroom facility next to the Wai-kiki police substation open 24 hours a day beginning Monday night. From 10:30 p.m. Monday to 6:30 a.m. Tuesday, 76 people used the facility. They consisted of visitors and residents, including the homeless.

Waikiki Improvement Association President Rick Egged described homelessness as "the No. 1 problem for the visitor industry association today." The new bills "will enable us to gain back control of the sidewalks, make sure that they stay clean, stay sanitary ... and (allow) our visitors to stay comfortable and safe."

Waikiki patrol district acting Maj. Lisa Mann said officers do not want to arrest anyone under the new ordinances. Hono-lulu police will begin an education program explaining the new laws to potential violators and distributing fliers with the telephone numbers of homeless services providers.

Caldwell said police will first educate people about the law, cite them if they ignore the warning and then arrest them only if they continue to violate the ordinances.

Ken Lawson, a University of Hawaii Richardson School of Law criminal law professor, said in a telephone interview he thinks a legal case can be made that the homeless are a protected class whose civil rights are being violated by the new laws. If not legally wrong, they are morally wrong, he said.

Attorney Brian Brazier, who has challenged the city's stored property and sidewalk nuisance ordinances that allow officials to seize items left on public property, said he wants to see how the city applies the new sit-lie law before determining whether it, too, should be challenged.

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