



## *The Judiciary, State of Hawai‘i*

### **Testimony to the Thirty-First State Legislature, 2021 Session**

**Senate Committee on Human Services**  
Senator Joy A. San Buenaventura, Chair  
Senator Les Ihara Jr., Vice Chair

Thursday, February 4, 2021, 3:05 P.M.  
VIA VIDEOCONFERENCE  
State Capitol, Conference Room 225

by  
Carol Matsuoka  
Program Specialist  
Family Court of the First Circuit

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**Bill No. and Title:** Senate Bill No. 386, Relating to Detention of a Minor in an Adult Jail or Lockup.

**Purpose:** Ensures State compliance with the Juvenile Justice Reform Act of 2018 as codified under 34 U.S.C.A. Section 11133, requiring the Family Court to make findings, after a hearing and in writing, before a minor can be transferred to an adult facility.

### **Judiciary's Position:**

The Judiciary strongly supports Senate Bill No. 386, which is included in the Judiciary's 2021 legislative package.

When a youth is transferred to the adult criminal justice system, the lifelong consequences of placement in the criminal justice system has a profoundly negative effect on both the youth and our community. There is an abundance of evidence that youth are fundamentally different from adults and are more likely to experience abuse, commit suicide, and be exposed to prolonged periods of isolation. The federal Prison Rape Elimination Act of 2003 (PREA) addresses the security challenges of incarcerating youth in adult facilities, citing that youth are more likely to be victimized in an adult facility than in a juvenile facility. Adult facilities do not provide the developmentally appropriate rehabilitative services youth require as



Senate Bill No. 386, Relating to Detention of a Minor in an Adult Jail or Lockup  
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adult facilities are not designed or staffed for the rehabilitation of youth. Most youth will return to their communities as young adults.

The Family Court's determination for waiver is governed by statute and guided by the growing body of research on adolescent brain development. Once a determination is made to transfer a youth to the adult criminal justice system, the Family Court's jurisdiction is terminated. While the practice of judicial waiver of a youth is considered the most appropriate form of waiver, our current statutes do not allow for a pathway back to juvenile court.

Encouraged by PREA and the Juvenile Justice Delinquency Prevention Act, Federal Code 34 U.S.C.A. §11133 provides financial incentives to treat youth in a more developmentally appropriate system of care. The proposed amendments will ensure the State of Hawai'i is in compliance with federal law, in part by maintaining research-based necessary practices of sight and sound separation of youth from adults; and also eliminate confusion over the nature and scope of the family court's ongoing jurisdiction over the youth.

Thank you for the opportunity to testify on this measure.

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee on Human Services**

February 5, 2021

S.B. No. 386: RELATING TO THE DETENTION OF A MINOR IN AN ADULT JAIL OR LOCKUP

Chair San Buenaventura, Vice Chair Ihara, and Members of the Committee:

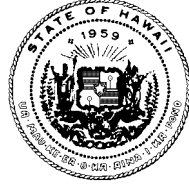
The Office of the Public Defender supports the intent of S.B. 386.

This measure provides additional guidance and restrictions concerning any detention of a juvenile in an adult detention facility. It provides rules and procedures to be followed in the event a juvenile is being held in custody and clarifies that any juvenile shall not be housed with or have contact with adults subject to very limited exceptions.

This measure also includes rules and procedures concerning juveniles who have been waived into adult courts. The Office of the Public Defender supports the proposed restrictions and procedures; however, we maintain our position that no juvenile should ever be held in an adult detention facility and that all juveniles should be held in juvenile facilities without exception.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

**LATE**

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 3, 2021

TO: The Honorable Senator Joy A. San Buenaventura, Chair  
Senate Committee on Human Services

The Honorable Senator Les Ihara Jr., Vice Chair  
Senate Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: **SB 386 – RELATING TO THE DETENTION OF A MINOR IN ADULT JAIL OR LOCKUP**

Hearing: February 4, 2021, 3:05 p.m.  
Via Videoconference, State Capitol

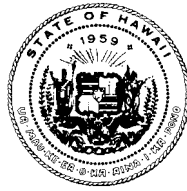
**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this Judiciary measure.

**PURPOSE:** The bill requires a family court to make findings, after a hearing and in writing, before a minor can be transferred to an adult jail or lockup or be permitted sight or sound contact with adult offenders.

Improved oversight and conditions that consider the well-being and safety of youth involved in the juvenile justice system help to reduce or prevent new trauma that may likely arise from any exposure to adult correctional settings and systems.

The Department of Human Services understands the significance of past and potential future trauma of youth involved in the juvenile system and appreciates efforts to protect and promote their well-being.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
**OFFICE OF YOUTH SERVICES**  
1010 Richards Street, Suite 314  
Honolulu, Hawaii 96813

**LATE**

February 4, 2021

TO: The Honorable Senator Joy A. San Buenaventura, Chair  
Senate Committee on Human Services

The Honorable Senator Les Ihara Jr., Vice Chair  
Senate Committee on Human Services

FROM: Bruce Shimoda, Executive Director

**SUBJECT: SB 386, RELATING TO THE DETENTION OF A MINOR IN ADULT JAIL OR LOCKUP**

Hearing: Thursday, February 4, 2021, 3:05 p.m.  
Via Videoconference, State Capitol

**OFFICE'S POSITION:** Office of Youth Services (OYS) supports this measure.

**PURPOSE:** The purpose of the measure is to align Hawaii's detention laws with U.S. Federal laws that protect youth from certain harmful conditions in the justice system.

In alignment with the core requirements set forth by the Juvenile Justice and Delinquency Prevention (JJDP) Act as amended, OYS adheres and encourages the standards of ensuring safety and equitable treatment for youth who are involved in the criminal justice system.

The consequences and life-long effects of youth placement in the criminal justice system is profound. Full brain development and maturity is proven to extend beyond teen years. Studies suggests young adults reach full maturity past age twenty-five while adults are defined as eighteen-year-old. Research legitimizes the ongoing discussion that minors should not be held to the same standard of responsibility as adults. Therefore, housing a minor in an adult jail or lock-up could lead to harmful effects.

There are detrimental consequences to the health and well-being of minors who are incarcerated in adult facilities. Studies found that minors held in adult facilities are at higher risk of sexual abuse and violence, greater risk of solitary confinement, and experience increased

odds of recidivism. Statistics have also revealed an alarming prevalence of suicidal thoughts and attempts among youth who are held in adult facilities than youth in juvenile facilities.

The Office of Youth Services (OYS) supports Senate Bill 386, relating to the detention of a minor in an adult jail or lockup. OYS supports Bill 386 for the following reasons:

- Ensures the State of Hawaii is in compliance and aligned with federal law.
- Ensures the majority of minors are housed in an age-appropriate facilities.
- If a court determines that it is in the interest of justice to permit a minor to be housed at an adult facility, there is an ongoing review process.
- Reduce the devastating consequences and life-long effects on youths mental and physical well-being.
- Reduce the risk of recidivism.

Thank you for the opportunity to present this testimony.

**SB-386**

Submitted on: 2/1/2021 6:41:33 PM

Testimony for HMS on 2/4/2021 3:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	No

Comments:

We think setting these parameters on when juveniles can be intermixed with adults is good policy .

**SB-386**

Submitted on: 2/3/2021 4:02:45 PM

Testimony for HMS on 2/4/2021 3:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in support.

**LATE**