



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony COMMENTING on HB 2147 HD 2  
RELATING TO HEALTH**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 23, 2018

Room Number: 308

1 **Fiscal Implications:** Possible duplication of existing state resources and funding.

2 **Department Testimony:** The Department of Health (DOH) very much appreciates the intent of  
3 the legislature to promote and support Pre-arrest Diversion efforts, but respectfully offers the  
4 following comments and recommendations:

5 Comments:

- 6 1. A pre-arrest diversion project known as Law Enforcement Assisted Diversion  
7 (LEAD) that duplicates the pilot outlined in this measure has already been established  
8 by the Legislature; the DOH, Alcohol and Drug Abuse Division (ADAD) in  
9 cooperation with the Governor's Coordinator on Homelessness (Coordinator); the  
10 Department of Public Safety; local law enforcement; and the community.
- 11 2. The LEAD pilot is already supported by funds appropriated by the 2017 Legislature  
12 for this purpose and a contract with a community provider to provide services and  
13 evaluation of the pilot has been executed by ADAD that contains virtually the same  
14 activities, goals and processes outlined in this measure.
- 15 3. The LEAD pilot is widely supported on the community, county and state level as a  
16 public safety/public health approach toward effectively addressing substance abuse,  
17 homelessness and mental health.
- 18 4. The data from other states and counties that have implemented LEAD projects is  
19 compelling and there is general consensus that statewide pre-arrest diversion services

1 would greatly reduce the burden currently faced in Hawaii by both the law  
2 enforcement and public health systems due to chronic substance abuse, mental health  
3 and homelessness. However, we also recognize that many counties have adjusted the  
4 model to suit the needs of the particular county. Focusing our efforts on developing,  
5 implementing and refining LEAD through a manageable pilot project increases the  
6 potential for seamless expansion and replication across the state.

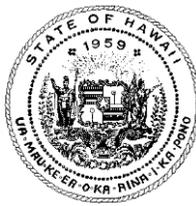
- 7 5. We do not believe that it is the intent of the Legislature to create a separate but  
8 mirrored pilot that duplicates current efforts and resources; and potentially puts the  
9 two efforts in competition with each other.

10 Recommendations:

- 11 1. The Legislature is encouraged to support the current LEAD pilot that is designed to  
12 achieve the goals and objectives set out in this measure, and which already has a  
13 framework and infrastructure in place, by considering approval of the Governors  
14 Executive Budget which includes appropriations to the DHS and DOH for \$3 million  
15 for Housing First, \$3 million for Rapid Rehousing, \$1.75 million for homeless  
16 outreach, and \$800,000 to continue outreach and counseling services for chronically  
17 homeless persons with severe substance use disorders, including year two of the  
18 LEAD pilot program.
- 19 2. The Legislature is encouraged to first review the LEAD pilot evaluation report  
20 scheduled to be completed in December 2019 before determining how best to expand  
21 and support ongoing efforts.

22 Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2147, HOUSE DRAFT 1  
RELATING TO HEALTH

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Friday, February 23, 2018; 11:00 a.m.  
State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) offers comments regarding House Bill (HB) 2147, House Draft (HD) 1, which would establish a pre-arrest diversion pilot project for individuals with mental health or substance abuse challenges, who allegedly commit nonviolent, non-felony offense on state property.

First, PSD is aware that the Department of Health (DOH) is finalizing a contract with the Community Health Outreach Work (CHOW Project) to implement a pilot project with the Honolulu Police Department. Although a LEAD pilot project has not been formalized for PSD, the Sheriff Division, as first responders, has been included in DOH's contract. As part of the project, deputy sheriffs will be able to contact the service provider in circumstances where the deputy sheriff believes mental health or substance abuse outreach and/or services are appropriate. Rather than initiate a separate pilot project, it would be more effective and efficient to focus on the pilot project already being implemented by DOH, and to evaluate and assess this project before expanding it.

Second, while PSD welcomes and appreciates the opportunity to be able to contact a service provider made available by DOH, PSD would note that HB 2147, HD 1 requires deputy sheriffs to preliminarily determine if the alleged violator has been convicted within the past three years of an offense involving violence against a person. This determination may require time to do a criminal history check. If the person has not been convicted within the past three years, the deputy sheriff is mandated to refer the alleged violator to DOH for assessment and is statutorily prohibited from citing or arresting that person. The law enforcement decision to cite or arrest must be evaluated on a case-by-case basis, specific to the facts and circumstances surrounding the incident. It would not be reasonable to eliminate any law enforcement officer's discretion to determine whether a citation or arrest is warranted. Further, law enforcement cannot detain a person for longer than is appropriate while any mental health or substance abuse assessments are completed.

Lastly, HB 2147, HD 1 would require a "deputy sheriff who is appropriately trained" to determine if an alleged violator is a potential participant in this program. This measure does not address how the deputy sheriffs will be trained. PSD notes that Section 11 provides for an appropriation. PSD would request sufficient monies to "appropriately train" deputy sheriffs in this pilot program, to include not only the training costs but also all costs to be incurred from overtime to attend training while fulfilling the daily operational needs of the division.

Thank you for the opportunity to testify on this measure.



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen Vice Chair  
Members, Committee on Finance

From: Paula Yoshioka, Vice President, The Queen's Health Systems

Date: February 22, 2018

Hrg: House Committee on Finance Hearing; Friday, February 23, 2018 at 11:00 AM in Room 308

Re: Support for HB2147, HD2, Relating to Health

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My name is Paula Yoshioka and I am a Vice President at The Queen's Health Systems (Queen's). I appreciate the opportunity to provide support for the intent of HB2147, HD2, relating to homelessness. This bill would establish a pre-arrest diversion pilot program for individuals with mental health or substance abuse challenges.

The mission of Queen's is to provide quality health care services to improve the well-being of Native Hawaiians and all the people of Hawai'i, which includes our most vulnerable and underserved patient populations like the homeless. Hawaii has the highest per capita rate of homelessness in the nation, with roughly 5,000 homeless individuals heavily distributed on Oahu and concentrated in Honolulu and on the Waianae Coast. Queen's provides the majority of medical care to our homeless population in Hawai'i. In 2015, Queen's had 10,126 homeless encounters, up from 6,958 in 2013. This represents 64% of the state's homeless hospital encounters. Many of our homeless patients suffer from mental health and/or substance abuse issues.

The costs to the entire continuum of care—from hospitals to long-term care facilities to home-based services—of treating the homeless population are large and growing. There are still unmet needs for our homeless patients and while Queen's has been a leader in care coordination, we know that much more needs to be done within the community to close the gaps in services and supports for our homeless population. Thank you for the opportunity to testify on this measure.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

**HB-2147-HD-2**

Submitted on: 2/22/2018 10:46:24 AM

Testimony for FIN on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

Chair Sylvia Luke

House Committee on Finance

HB2147 HD 2

February 23, 2018 @ 11:00 A.M. – House Conference Room 308

Aloha, Chair Woman Sylvia Luke and committee members. Thank you for including House Bill 2147 HD 2 in today's agenda. My name is Jayden-Rose Almeida and I am a student at the University of Hawaii Myron B. Thompson School of Social Work. Today, I am testifying in support of House Bill 2147 HD 2. My father has had a substance abuse problem since I was 10 years old. In the last four years, my father has been arrested four times for non-violent and non-felony offenses. After the serving of each sentence, he is released right back into society. He is then forced to deal with not only becoming a productive member of society, but he is also forced to deal with his worsening substance abuse issue. He continues to fail at both tasks every single time and the cycle begins again. He is now in jail serving a one-year sentence. Each time my father is released from jail, his drug addiction worsens and it is apparent that no amount of time spent in jail will be enough to cure his addiction, he needs more than just a cement cell and bars. In the last four years, my father has completely self-destructed into a man I no longer recognize. This could have been avoided. If this bill passes, I have hope that those suffering from substance use disorders or mental illness can finally get the assistance they desperately need, and that we will be closer to a society where no child's heart will ever be broken at the hands of drug abuse again. This is why I strongly support House Bill 2147 HD 2. Thank you for the opportunity to provide my testimony today.

Jayden-Rose Almeida



## **HB2147 HD2 Pre-arrest Diversion for Crimes on State Property**

### **COMMITTEE ON FINANCE:**

- Representative Sylvia Luke, Chair; Representative Ty Cullen, Vice Chair
- Friday, February 23<sup>rd</sup>, 2018: 11:00 am
- Conference Room 308

## **Hawaii Substance Abuse Coalition (HSAC) COMMENTS on LEAD and RECOMMENDS changes to HB2147 HD2:**

*GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of almost 40 alcohol and drug treatment and prevention agencies.*

### **COMMENTS:**

*HSAC Wholeheartedly supports the existing start-up of the LEAD (Law Enforcement Assisted Diversion) program, a most popular and huge community effort that is collaborating with government to address pre-arrest diversion efforts. We hope that the LEAD program, which is well organized and planned, would continue as priority.*

### **RECOMMENDATIONS:**

While the bill focuses on mental health and/or substance use disorders diagnosis, the language requires treatment by a community mental health agency. HSAC recommends to add language for substance use disorder treatment services through the existing contracts with the Department of Health.

SECTION 5. 5(B) Refer the individual with mental health or substance abuse challenges to appropriate community mental health services or substance use disorder treatment services;

SECTION 6. Community mental health services of department of health. The department of health shall provide the community mental health services or substance use disorder treatment services of the pilot project under the authority of chapter 334, Hawaii Revised Statutes, and any other applicable law. The department of health may contract with any qualified person to provide the community mental health services or substance use disorder treatment services.

We appreciate the opportunity to provide testimony and are available for questions.

**HB-2147-HD-2**

Submitted on: 2/21/2018 11:36:23 PM

Testimony for FIN on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Samuel John	Individual	Support	No

Comments:

I, a licensed RN in Hawaii specializing in behavioral/mental health, strongly support the establishment of a pre-arrest diversion pilot project for individuals with mental health or substance abuse challenges who allegedly commit nonviolent, nonfelony offenses on state property. Numerous studies show that those who commit such offenses and who are suffering from mental health and/or substance abuse challenges (very often the two are co-morbidities) need and benefit from rehabilitation and care/treatment, not incarceration. A pilot program will help provide the data and establish the evidence necessary to substantiate these claims.



**LATE**

**HB2147 HD2**  
RELATING TO HEALTH  
House Committee on Finance

February 23, 2018

11:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2147 HD2, which would establish a pilot program to divert low-level, nonviolent offenders with mental health or substance abuse issues away from the criminal justice system and toward services. **OHA believes that the pilot program proposed by this measure can demonstrate the effectiveness, cost-efficiency, and revolutionary approach of Law Enforcement Assisted Diversion (LEAD) programs in reducing the costly and growing impacts of the criminal justice system on our society.**

The War on Drugs and decades of a traditional criminal justice approach have led to the highest prison population in Hawai'i's history. Between 1977 and 2008, the number of people incarcerated in Hawai'i increased by more than 900 percent; between 1977 and today, our incarcerated population has increased by 1,400 percent.<sup>1</sup> The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our prison population today.<sup>2</sup>

OHA notes that Native Hawaiians are disproportionately penalized with imprisonment for drug-related offenses.<sup>3</sup> In addition, since Native Hawaiians may be at particular risk of being or becoming homeless,<sup>4</sup> they are at a greater risk of being among

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<sup>1</sup>THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), available at [http://www.oha.org/wp-content/uploads/2014/12/ir\\_final\\_web\\_rev.pdf](http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf).

<sup>2</sup> In contrast, Native Hawaiians only represent 24% of the general public in Hawai'i. *Id.* at 36. OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." *Id.* at 10. Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

<sup>3</sup> *Id.* at 45.

<sup>4</sup> Native Hawaiians account for almost one-third of those utilizing homeless services. See HOMELESS SERVICE UTILIZATION REPORT (2017) University of Hawai'i Center on the Family, available at [http://uhfamily.hawaii.edu/publications/brochures/b761f\\_HomelessServiceUtilization2016.pdf](http://uhfamily.hawaii.edu/publications/brochures/b761f_HomelessServiceUtilization2016.pdf) 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. See SMS, HAWAII HOUSING PLANNING STUDY, at 70 (2016), available at [https://dbedt.hawaii.gov/hhfdc/files/2017/03/State\\_HHPS2016\\_Report\\_031317\\_final.pdf](https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf)

the nearly half (43%) of those held in HPD cell block who are homeless. Proactive efforts to reduce the number of non-violent inmates,<sup>5</sup> including those who are arrested for non-violent offenses such as drug possession or trespassing, must continue to be prioritized to address the record-high and growing pa‘ahao population in Hawai‘i, as well as the disproportionate impact of the criminal justice system on Native Hawaiians.<sup>6</sup>

Accordingly, OHA is proud to participate in the LEAD program hui, which has brought this revolutionary and successful program to Hawai‘i by way of a pre-arrest diversion pilot program. This LEAD program—executed on the city level in cooperation with the Honolulu Police Department, Honolulu City & County, the Office of the Governor, and community-based service providers-- is very similar to the state-level program proposed by HB2147 HD2. HB2147 HD2 conceives of an alternative public safety system that rejects incarceration as the sole solution to our community’s social problems; instead, responding officers would refer low-level, non-violent offenders with substance abuse or mental health challenges to appropriate service-providers best equipped to help them. **OHA believes that such pilot diversion programs will prove to be more effective at improving public safety – while reducing recidivism, our incarcerated population, and costs associated with the same – than the traditional criminal justice approach, potentially leading the way to greater and much-needed reform of our criminal justice system.**

Mahalo for the opportunity to testify on this measure.

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<sup>5</sup> A 2010 OHA study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage, noting that Native Hawaiians made up “24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population.” Moreover, controlling for many common factors such as type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 28-38 (2010), [http://www.oha.org/wp-content/uploads/2014/12/ir\\_final\\_web\\_rev.pdf](http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf).

<sup>6</sup> In its 2012 report, the Native Hawaiian Justice Task Force recommended several options to address systemic issues resulting in the disproportionate overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu‘uhonua, and bolstering reintegration programs and services to better prevent recidivism. OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012), [http://www.oha.org/wp-content/uploads/2012NHJTF\\_REPORT\\_FINAL\\_0.pdf](http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).



EXECUTIVE CHAMBERS  
HONOLULU

**LATE**

DAVID Y. IGE  
GOVERNOR

February 23, 2017

TO: The Honorable Representative Sylvia J. Luke, Chair  
House Committee on Finance

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: **HB 2147 HD2 – RELATING TO HEALTH**

Hearing: Friday, February 23, 2018, 11:00 a.m.  
Conference Room 308, State Capitol

**POSITION:** The Governor's Coordinator on Homelessness appreciates the intent of this measure and provides comments. The measure aims to divert homeless individuals from the criminal justice system, connect them with shelter, and other social services.

The Coordinator notes that the Governor's supplemental budget includes an appropriation to the Department of Health (DOH) to support a Law Enforcement Assisted Diversion (LEAD) pilot program, which is similar to the pre-arrest diversion pilot project, and asks for the Legislature's support of the supplemental budget request.

**PURPOSE:** The purpose of the bill is to establish a pre-arrest pilot project for individuals with mental health or substance abuse challenges who allegedly commit nonviolent, non-felony offenses on state property. The bill also appropriates an unspecified amount of funds to the Office of the Governor to implement the pilot project.

The Coordinator notes that the pre-arrest pilot project is similar to the LEAD program, which originated in Seattle, Washington in 2011. Locally, 20 community organizations – including DOH – have partnered together to form a "LEAD Hui" to develop a LEAD program in Hawaii. DOH recently conducted a Request for Information (RFI) to seek feedback in regard to a local LEAD pilot, and seeks to have a contract in place in early 2018. The local LEAD pilot will focus on the Honolulu Police Department (HPD) District 1 - including downtown Honolulu and Chinatown – and

will include a partnership between HPD, the Department of Public Safety Sheriff Division, and a contracted service provider.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness. The Coordinator notes that the proposed LEAD approach addresses the public safety component of the homeless framework.

For many homeless individuals a history of criminal convictions or outstanding bench warrants for unpaid criminal citations can be a major barrier to obtaining housing. The implementation of the LEAD approach will prevent individuals from encountering these barriers by targeting individuals cited or arrested for nonviolent offenses that often result in arrest or bench warrants, and connecting these individuals to shelter and other social services. By providing needed services as an alternative to arrest or citation, the LEAD approach will divert individuals from the criminal justice system and create pathways to permanent housing.

The LEAD approach can work together with other similar efforts, such as the Community Outreach Court pilot and DOH Jail Diversion Program, to divert homeless individuals away from the criminal justice system at different points in the process – pre-arrest, post-arrest, and after adjudication.

While the pre-arrest diversion pilot program would focus on individuals who commit offenses on state property, the LEAD program being developed by the LEAD Hui would have a potentially broader target population. Because there are currently a number of local community organizations that are working together to develop a LEAD pilot, the Coordinator respectfully requests that legislation support these existing efforts, rather than establish a new though similar program.

Thank you for the opportunity to testify on this bill.