



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Thursday, April 20, 2023 at 10:00 a.m.
Conference Room 225 & Videoconference

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Resolution No. and Title: House Concurrent Resolution No. 72. H.D.1 - Urging the Office of Youth Services and Family Court of the First Judicial Circuit to Collaborate in Identifying Processes, Procedures, and Strategies for Partnering with Community Organizations to Maximize Rehabilitation and Minimize Recidivism for Juvenile Offenders.

Judiciary's Position:

The Judiciary supports the intent of House Concurrent Resolution No. 72, H.D. 1.

The resolution's recognition of the over-representation of Native Hawaiian and other Pacific Islander youth in the juvenile justice system is an important one. It has been an enduring challenge that the community and the juvenile justice system have not yet been able to address effectively. The resolution also correctly points to the need for both the community and the juvenile justice system to learn from and collaborate with community organizations and other nations and jurisdictions that have developed or are developing programs based on the wisdom of indigenous peoples, including Native Hawaiians and other Pacific Islander cultures.

The Office of Youth Services (OYS) and the Judiciary have been close collaborators over the years, seeking to implement effective rehabilitation services and programs for our youth.



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While we have not been successful at “cracking” the problem of over-representation, we have been successful at dramatically decreasing the number of youth committed and detained. We look forward to further collaborating with OYS as requested by this resolution.

Thank you for the opportunity to submit testimony on this resolution.



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

April 18, 2023

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Leanne Gillespie, Executive Director

SUBJECT: **HCR 72 HD1 – URGING THE OFFICE OF YOUTH SERVICES AND DISTRICT FAMILY COURT OF THE FIRST JUDICIAL CIRCUIT TO COLLABORATE IN IDENTIFYING PROCESSES, PROCEDURES, AND STRATEGIES FOR PARTNERING WITH COMMUNITY ORGANIZATIONS TO MAXIMIZE REHABILITATION AND MINIMIZE RECIDIVISM FOR JUVENILE OFFENDERS.**

Hearing: April 20, 2023, 10:00 a.m.
Conference Room 225 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Office of Youth Services (OYS) supports the intent of these house resolutions and offers comments.

PURPOSE: The purpose of these resolutions is to urge the Office of Youth Services and First Judicial Circuit Family Court to collaborate on strategies to increase rehabilitation and reduce recidivism of juvenile offenders and consider best practices and lessons from other nations and United States jurisdictions that have successful programs.

The OYS appreciates the Legislature's commitment to providing resources for Hawaii's youth at risk and recognizing the over-representation of Pacific Islander youth in our juvenile justice and child welfare systems.

The OYS and Family Court have collaborated for many years to facilitate juvenile justice reform strategies and implement programs and services that reduce the over-representation of Pacific Islander and other marginalized youth within our juvenile justice system. One of these successful collaborative efforts includes the establishment of the Kawaihoa Youth and Family

Wellness Center (HRS 352D-7.5, SLH 2018), with a vision to create a pu'uhonua and support at risk youth through Native Hawaiian cultural practices.

The OYS annually [reports](#) to the Legislature on the programs it currently provides and agency collaboration projects it currently participates in. The OYS will continue to collaborate with the Family Court on how to best meet the needs of our youth to prevent juvenile justice system involvement.

Thank you for the opportunity to provide comments.



HAWAI`I YOUTH SERVICES NETWORK

677 Ala Moana Blvd., Suite 904

Honolulu, Hawai`i 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Vonnell Ramos, President
Cyd Hoffeld, Vice President
Sione Ford Naeata, Treasurer
Jefferson Gourley, Secretary

Judith F. Clark, Executive
Director

Network Membership

Bay Clinic
Big Brothers Big Sisters Hawai`i
Big Island Substance Abuse
Council
Bobby Benson Center
Child and Family Service
Coalition for a Drug-Free Hawai`i
Collins Consulting, LLC
Domestic Violence Action Center
EPIC `Ohana, Inc.
Family Programs Hawai`i
Family Support Hawai`i
Friends of the Children's Justice
Center of Maui
Get Ready Hawai`i
Hale Kipa, Inc.
Hale `Opio Kaua`i, Inc.
Hawai`i Children's Action
Network
Hawai`i Health & Harm
Reduction Center
Ho`ola Na Pua
Ho`okele Coalition of Kaua`i
Ka Hale Pomaika`i
Kahi Mohala
Kokua Kalihi Valley
Kaua`i Planning and Action
Alliance
Maui Youth and Family Services
Na Pu`uwai Molokai Native
Hawaiian Health Care
Systems
P.A.R.E.N.T.S., Inc.
Parents and Children Together
PHOCUSED
PFLAG – Kona, Big Island
Planned Parenthood of the
Great Northwest, Hawaii
Alaska, Kentucky, Indiana
Residential Youth Services
& Empowerment (RYSE)
Salvation Army Family
Intervention Services
Sex Abuse Treatment Center
Susannah Wesley Community
Center
The Catalyst Group

April 19, 2023

To: Senator Karl Rhoads Chair
And members of the Committee on Judiciary

TESTIMONY IN SUPPORT OF HCR 72 HD 1 URGING THE OFFICE OF YOUTH SERVICES AND DISTRICT FAMILY COURT OF THE FIRST JUDICIAL CIRCUIT TO COLLABORATE IN IDENTIFYING PROCESSES, PROCEDURES, AND STRATEGIES FOR PARTNERING WITH COMMUNITY ORGANIZATIONS TO MAXIMIZE REHABILITATION AND MINIMIZE RECIDIVISM FOR JUVENILE OFFENDERS

Hawaii Youth Services Network, a statewide coalition of youth-serving organizations supports HCR 71 HD 1 Urging the Office of Youth Services and District Family Court of the First Judicial Circuit to Collaborate in Identifying Processes, Procedures, and Strategies for Partnering With Community Organizations to Maximize Rehabilitation and Minimize Recidivism for Juvenile Offenders.

It takes a village to raise a child. The only way we can effectively address the issues that lead to disproportionate engagement with the juvenile justice system is to involve stakeholders at all levels within the government, non-profit, faith-based and business sectors and members of the affected communities and populations.

There are multiple existing initiatives that have already reduced the number of incarcerated youth by 82% since 2010. A local multi-agency partnership has recently received a \$10 million dollar Kellogg Foundation grant to continue efforts to create culturally appropriate prevention and early intervention programs. Hawaii Youth Services Network is currently working with Office of Youth Services and multiple organizations statewide on the start-up of the Safe Spaces for Youth Pilot Project, established by the legislature in 2022.

We hope that the Hawaii Legislature will continue to provide financial and other support for these important and effective efforts.

Thank you for this opportunity to testify.

Sincerely,

Judith F. Clark, MPH
Executive Director

**THE HONORABLE KARL RHOADS, CHAIR
THE HONORABLE MIKE GABBARD, VICE CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Second State Legislature
Regular Session of 2023
State of Hawai‘i**

April 20, 2023

RE: H.C.R. No. 72: URGING THE OFFICE OF YOUTH SERVICES AND FAMILY COURT OF THE FIRST JUDICIAL CIRCUIT TO COLLABORATE IN IDENTIFYING PROCESSES, PROCEDURES, AND STRATEGIES FOR PARTNERING WITH COMMUNITY ORGANIZATIONS TO MAXIMIZE REHABILITATION AND MINIMIZE RECIDIVISM FOR JUVENILE OFFENDERS

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Policy Advocacy Clinic at Berkeley Law, as a member of the national Debt Free Justice campaign,¹ submits the following testimony to express our support for H.C.R. 72.

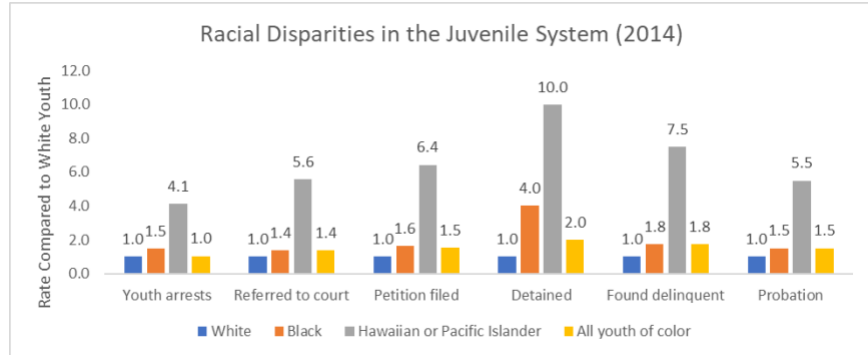
We strongly support efforts by the Office of Youth Services and Family Court of the First Judicial Circuit to collaborate with community organizations to maximize rehabilitation and minimize recidivism for young people in the juvenile system. An important piece of understanding opportunities to further youth reentry and success is gathering data on youth in the system and outcomes. We encourage the Committee to urge the collection of data, particularly relating to fees, court costs, fines, and restitution (hereafter, “monetary sanctions”), in order to better understand disparities and to develop evidence-based solutions and practices that will further youth rehabilitation.

Given our research on monetary sanctions, we offer comments on the importance of understanding the range of costs assessed against youth in the juvenile system. These monetary sanctions exacerbate existing economic inequality by disproportionately harming low-income communities, specifically Native Hawaiian and Pacific Islander families. Requiring the collection of data would provide insight into how many youth in the state are impacted by monetary sanctions and help inform policymakers about areas of the law that may warrant future legislation.

Evidence from other jurisdictions suggest that monetary sanctions are ineffective, criminogenic, and unaffordable for the youth and families who make up Hawai‘i’s juvenile legal system.

We are encouraged by the resolution’s call to engage with research and data from other court systems in the United States. As a member of the national Debt Free Justice campaign, we remain available to support the Office of Youth Services and the Family Court of the First Judicial Circuit with research on successful strategies in other jurisdictions to reduce recidivism and maximize rehabilitation.

Research shows that monetary sanctions are ineffective at supporting youth rehabilitation and may instead increase the likelihood that youth reoffend in the future. In 2017, researchers examining over 1,000 juvenile court cases in Pennsylvania found that monetary sanctions “significantly increased the odds of a youth recidivating . . . even after controlling for relevant youth demographics and case characteristics variables.”² Earlier this year, a study of over 12,000 juvenile court cases in Florida revealed that youth who are assessed monetary sanctions are more likely to recidivate than youth who receive no monetary sanctions.³



Because Native Hawaiian and Pacific Islander youth are disproportionately represented in the juvenile legal system, this burden tends to fall more heavily on those families.⁴ According to data from the Office of Juvenile Justice and Delinquency Prevention, Native Hawaiian and Pacific Islander youth are 4.1 times more likely to be arrested, 5.6 times more likely to be referred to court, 10 times more likely to be detained, and 7.5 times more likely to be found delinquent than White youth.⁵ With Native Hawaiian and Pacific Islander youth both more likely to be impacted by the juvenile system and poverty, youth monetary sanctions create a perfect storm of monetary extraction from families least likely to be able to afford it.

Data on youth monetary sanctions is not being comprehensively collected.

Over the last two years, we have conducted legal and legislative research, requested data from the family courts, and engaged with a variety of stakeholders including community leaders, advocacy groups, attorneys, judges, and court staff in Hawai‘i.

In our conversations with family courts across the state, we learned that no court is actively tracking information on fees and fines. Only the First Circuit, which also operates an Accountability Program that allows youth to do community service to pay off their debt,⁶ was able to provide data on restitution. From 2017 to 2022, the First Circuit ordered over \$152,000 in restitution against 230 youth and collected approximately \$53,000.⁷ Nearly 100 of those youth have paid less than 25% of the total amount ordered.⁸ Collecting data over time will not only allow family courts to identify juvenile case trends but also to understand the effectiveness of existing programs like the Accountability Program.

It is necessary to understand the current landscape of youth monetary sanctions as Hawai‘i begins to make substantive juvenile legal system reforms.

Local organizations dedicated to juvenile legal system change were recently awarded the Kellogg Grant for their trauma-informed and innovative reforms.⁹ As these organizations prepare for implementation, collecting data and documenting the status quo will be necessary to understand needs and ultimately evaluate progress.

Kaua‘i County has already taken bold action to end the imposition of monetary sanctions on youth.¹⁰ The Judiciary affirmed that “family courts across the state already rarely impose fines,

fees, or costs on youth and their parents.”¹¹ Collecting further data on the assessment—or lack thereof—of monetary sanctions will help identify evidence-based alternatives that promote accountability and rehabilitation and inform future reforms to the juvenile system in Hawai‘i.

Collecting data on youth in the system and outcomes, including around the assessment and collection of monetary sanctions, will lead to more informed and comprehensive reform of Hawai‘i’s juvenile legal system.

Thank you for the opportunity to share our research and feedback on this measure.

¹ Debt Free Justice is a national campaign dedicated to ending the harmful and unjust fees and fines imposed on youth in the justice system and their families. See more at <https://debtfreejustice.org/>.

² Alex R. Piquero & Wesley G. Jennings, *Justice System—Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE AND JUVENILE JUSTICE 325, 334 (2017).

³ Alex Piquero, Michael Baglivio & Kevin Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity* (2023), <https://jlc.org/resources/statewide-analysis-impact-restitution-and-fees-juvenile-recidivism-florida-across-race>.

⁴ Burns Institute, *United States of Disparities: National Map: Hawaii* (2014).

<https://usdata.burnsinstitute.org/decision-points/12/hawaii#comparison=2&placement=1&racess=2,3,4,5,6&offenses=5,2,8,1,9,11,10&odc=0&dmp=1&dmp-comparison=2&dmp-decisions=2,3,4,6,5,7,10,8,9&dmp-county=-1&dmp-races=1,2,3,4,7,5,6&dmp-year=2014>.

⁵ *Id.*

⁶ Hawai‘i State Judiciary, “Papa Hoike Kuleana: Accountability Program of the First Circuit Family Court,” https://www.courts.state.hi.us/news_and_reports/featured_news/2016/07/papa-hoike-kuleana-accountability-program-of-the-first-circuit-family-court.

⁷ Family Court of the First Circuit, Restitution Amounts 2017-2022 (on file with authors).

⁸ *Id.*

⁹ W.K. Kellogg Foundation, “Partners in Development Foundation,” <https://www.wkkf.org/grants/grant/2022/11/kawailoa-a-transformative-indigenous-model-tim-to-end-youth-incarceration-6011193> (last accessed Mar. 21, 2023).

¹⁰ Office of the Prosecuting Attorney, County of Kaua‘i, State of Hawai‘i, Memorandum to All Deputy Prosecuting Attorneys Re: Juvenile Monetary Sanctions (June 29, 2021), <https://www.law.berkeley.edu/wp-content/uploads/2021/07/FINAL-Fines-Fees-Kauai-DA-Policy.pdf>.

¹¹ *Relating Youth Fines and Fees: Hearing on H.B. 317 Before the House Comm. on Hum. Servs.*, 32nd Leg., Reg. Sess. (Haw. 2023) (statement of Andrew T. Park, Judge, Fam. Ct. of the First Cir., Haw. State Judiciary).

HCR-72-HD-1

Submitted on: 4/19/2023 9:59:29 AM

Testimony for JDC on 4/20/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carrie Ann Shirota	Testifying for ACLU of Hawaii	Support	Remotely Via Zoom

Comments:

The ACLU of Hawai'i supports H.C.R. No. 73, H.D. 1.



Committee: Senate Committee on Judiciary
Hearing Date/Time: Thursday, April 20, 2023, 10:00 A.M.
Place: Conference Room 325 & via Videoconference
Re: Testimony of the ACLU of Hawai'i in Support of H.C.R. 72, H.D. 1.

Dear Chair Rhoads, Vice Chair Gabbard and Member of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in strong support of **H.C.R. 72, H.D. 1 Urging the Office of Youth Services and Family Court of the First Judicial Circuit to Collaborate in Identifying Processes, Procedures, and Strategies to Maximize Rehabilitation and Minimize Recidivism for Youth in the Juvenile System.**

The ACLU of Hawai'i is committed to advancing Smart Justice policies in Hawai'i. First and foremost, we advocate for strategies to reduce the number of youth in our carceral system and shift spending priorities away from criminalization and incarceration that disparately impacts Native Hawaiian, Pacific Islander and Black youth towards housing, health care, education and human services within under resourced communities.

Despite reductions in youth incarceration in Hawai'i, racial disparities in our juvenile system persist. **Native Hawaiian and indigenous youth from the Micronesian Islands are 4.1 times more likely to be arrested, 5.6 times more likely to be referred to court, 10 times more likely to be detained and 7.5 times more likely to be found delinquent compared to White youth.**¹

This resolution would require the Office of Youth Services and Family Court of the First Circuit to consider best practices and lessons from other nations and United States' jurisdictions that have successful programs.

Transforming our juvenile legal system and eliminating racial disparities requires a long term commitment to collaboration between governmental and community stakeholders, as well as implementing and funding proven strategies and practices to advance rehabilitation and reduce recidivism.

¹ *United States of Disparities: National Map: Hawaii*, Burns Institute (2014).

Chair Rhoads and Members of the Committee on Judiciary

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This resolution is another step towards that transformation and the further exploration of what works – including the restorative justice practices of Native Hawaiians and other Pacific Islander cultures to address harm and opportunities for healing and restoration of relationships.

Thank you for the opportunity to submit testimony in support of **H.C.R. 72, H.D. 1.**

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

cshirota@acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i since 1965.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org