



*THE JUDICIARY, STATE OF HAWAII*

**Testimony to the House Committee on Human Services**

The Honorable John M. Mizuno, Chair

The Honorable Jo Jordan, Vice Chair

Thursday, February 3, 2011, 9:00 a.m.  
State Capitol, Conference Room 329

by

Sabrina S. McKenna

Deputy Chief Judge/Senior Family Court Judge

Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** House Bill No. 1476, Relating to Crime

**Purpose:** Mandates that minors, aged 15-17, be tried as adults in cases of first degree murder when no other offenses are charged. Provides for discretionary remand of the minor to the family court in specified cases. Effective 1/1/12.

**Judiciary's Position:**

The Judiciary takes no position on House Bill No. 1476, which provides for the mandatory waiver of Family Court jurisdiction over minors, aged 15 to 17, who are charged with murder in the 1st degree, when no other offenses are charged.

This bill is similar to House Bill No. 819, which was introduced in 2009 in response to the perceived unreasonable delays in a previous waiver-of-Family-Court-jurisdiction case which was reported by the media to have taken over a year to complete. The length of time in that case does not reflect the normal timetable for waiver cases. Excluding that case, all other closed waiver cases filed during the calendar years 2007 and 2008 were completed between 1-9 months, with 3.67 months being the average length of time from the filing of the petition to completion.

In this context, it becomes clear that the reported waiver case dealt with complexities that required more than the usual time for waivers. In any case involving criminal offenses, there are



House Bill No. 1476, Relating to Crime  
House Committee on Human Services  
February 3, 2011  
Page 2

critical tasks which both the State and the defense must undertake whether the offender is to be treated as a juvenile or an adult. These tasks must be performed at the beginning of the case. If the case is complex, there are more tasks and more time expended. To pass a bill based on the public perception of one very tragic case may have unintended consequences with negative results for the community in the long run.

Nearly all of the petitions for the waiver of Family Court jurisdiction regarding minors charged with the offenses included in this bill have been granted. The existing statutory language has not resulted in inconsistent outcomes or in outcomes which would be to the detriment of public safety. The existing statute allows for judicial discretion without compromising public safety.

Last, if such waiver is mandated, it is inadvisable to require the Office of Youth Services/Hawaii Youth Correctional Facility to house both waived and non-waived juveniles. We strongly suggest deletion of the phrase "and order the minor to be held in a youth correctional facility for criminal proceedings if . . ." from subsection (e) on page 4, lines 17-19. The proposed amendment to subsection (e) on page 4, lines 17-19, would therefore read, as follows:

**"(e) The Court shall waive jurisdiction [ and order the minor to be held in a youth correctional facility for criminal proceedings if,] and order the minor held for criminal proceedings if, after a full investigation and hearing, the court finds that: ...**

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