

# **HB 182, HD1**

Measure Title: RELATING TO JUVENILES.

Report Title: Juveniles; Restorative Justice

Description: Permits a court to dispose of a juvenile case by referring a child offender to a restorative justice program when the court deems it would be in the best interest of the child and the child admits guilt. Clarifies and provides examples of restorative justice programs. (HB182 HD1)

Companion:

Package: None

Current Referral: HMS, JDL

Introducer(s): CARROLL



**HB182 HD1**  
**RELATING TO JUVENILES**  
Senate Committee on Human Services

March 14, 2013

1:20 p.m.

Room 016

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB182 HD1, which adds restorative justice participation as an option for juveniles.

In 2010, OHA produced a comprehensive report detailing the disparate treatment of Native Hawaiians in the criminal justice system. Since then, OHA has administered the Native Hawaiian Justice Task Force (NHJTF), which was tasked by the Legislature to address this multi-faceted issue. The NHJTF 2012 legislative report is available at: [www.oha.org/nativehawaiianjusticetaskforce](http://www.oha.org/nativehawaiianjusticetaskforce).

The NHJTF recognizes the importance of intervening at the youth stage, noting in recommendation C.1. of the report that:

The Task Force is aware that an individual's contact with the criminal justice system, regardless of race, often begins at youth. This Report has emphasized the impact of the criminal justice system on Native Hawaiian adults in order to comply with what the Task Force understood to be the focus of Act 170. The study Disproportionate Minority Contact in the Hawai'i Juvenile Justice System, prepared for the Juvenile Justice State Advisory Council and the State of Hawai'i, Office of Youth Services (May, 2012) provides guidance regarding effective prospective policy directives regarding juveniles.

OHA urges the committee to **PASS** HB182 HD1. Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR**  
**SENATE COMMITTEE ON HUMAN SERVICES**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai'i**

March 14, 2013

**RE: H.B. 182, H.D. 1; RELATING TO JUVENILES.**

Chair Rhoads, Vice-Chair Har and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to H.B. 182, H.D. 1.

This bill permits a court to dispose of a juvenile case by referring the defendant to a restorative justice program when the court deems it would be in the best interest of the child and the child admits guilt.

First, we want to clarify on what the definition of “dispose” is as used in the bill. We have strong concerns if the intent is to simply divert cases and expunge the records.

Second, there is no definition of “restorative justice program” and no process for this program codified in the Hawaii Revised Statutes (HRS), which is of concern to the department. A true restorative justice program focuses on restoring the direct victim of the offender, such as benefitting the victim financially, psychologically, and emotionally. It also requires both parties - the offender and the victim to participate voluntarily with the objective that there is some type of concrete benefit for the victim, with the offender only receiving benefits as a by-product of the process. Nothing in this bill will ensure the true integrity of a restorative justice program. Further, there have been other programs that label themselves as restorative justice programs but have nothing to do with a true restorative justice program.

Third, the department has concerns on restorative justice programs because when the victim faces his or her offender, there is always the potential for an uncomfortable or even unsafe environment for the victim. Also, if there is no follow-up support on the offender, there will be a higher risk that the offender will re-offend.

Lastly, the court has the power to authorize informal adjustments for law violators pursuant to section 571-31.4, HRS, status offenders pursuant to section 571-31.5, HRS, and both law violators and status offenders pursuant to section 571-31.6, HRS to include other suitable methods, programs, and procedures as listed in section 571-31.4, HRS. It is not clear why it is necessary to insert an undefined “restorative justice program” in section 571-21, HRS.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 182, H.D. 1. Thank you for the opportunity to testify on this matter.

# HAWAII YOUTH SERVICES NETWORK

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Big Brothers Big Sisters of Honolulu  
Big Island Substance Abuse Council  
Blueprint for Change  
Bobby Benson Center  
Catholic Charities Hawaii  
Child and Family Service  
Coalition for a Drug Free Hawaii  
Domestic Violence Action Center  
EPIC, Inc.  
Family Support Hawaii  
Hale Kipa, Inc.  
Hale 'Opio Kauai, Inc.  
Hawaii Behavioral Health  
Hawaii Student Television  
Healthy Mothers Healthy Babies Coalition  
Hina Mauka Teen Care  
Hui Malama Learning Center  
Kahi Mohala Behavioral Health  
KEY (Kualoa-Heeia Ecumenical Youth)  
Project  
Kids Hurt Too  
Kokua Kalihi Valley  
Life Foundation  
Marimed Foundation  
Maui Youth and Family Services  
Palama Settlement  
P.A.R.E.N.T.S., Inc.  
Parents and Children Together (PACT)  
Planned Parenthood of Hawaii  
REAL  
Salvation Army Family Intervention Svcs.  
Salvation Army Family Treatment Svcs.  
Sex Abuse Treatment Center  
Susannah Wesley Community Center  
The Catalyst Group  
The Children's Alliance of Hawaii  
Waikiki Health Center  
Women Helping Women  
YWCA of Kauai

March 11, 2013

To: Senator Suzanne Chun Oakland, Chair,  
And members of the Committee on Human Services

## Testimony in Support of HB 182 HD1 Relating to Juveniles

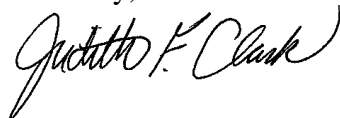
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports HB 182 HD1 Relating to Juveniles.

Restorative justice approaches have multiple benefits including:

- Preventing criminal records that could impede a young person's ability to enroll in college or join the military;
- Recognition and understanding by the offender of the effects of his/her actions on the victim;
- Decreased likelihood of future conflict between the parties because they have mutually agreed upon actions to resolve the dispute.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH  
Executive Director



Committee: Committee on Human Services  
Hearing Date/Time: Thursday, March 14, 2013, 1:20 pm  
Place: Conference Room 016  
Re: Testimony of the ACLU of Hawaii in strong support of H.B. 182, H.D.1, Relating to Juveniles

Dear Chair Chun Oakland and Members of the Committee on Human Services:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 182, H.D. 1, which seeks to establish a restorative justice program alternative for youth offenders. We support every effort to develop programs and policies that encourage rehabilitation and reduce recidivism. Every effort should be made to provide Hawaii’s youth offenders with the support and services they need to become productive and responsible community members.

Our criminal justice system’s policy of separating juvenile offenders from their families and communities has a direct effect on rehabilitation and recidivism. By promoting greater discourse between both parties and their support groups, S.B. 61, S.D.1 both aids juvenile offenders in the difficult task of reintegration into a community and offers a venue for victims to express themselves and achieve closure. Furthermore, by engaging parents, guardians, and supporters in this restorative justice process, this program encourages collaboration and understanding between all affected parties in a safe, healthy environment.

Young people need to be held accountable for their criminal actions in a way that allows them to grow and develop into successful adults. We need laws that protect public safety and reflect kids’ capacity for rehabilitation. Therefore, we urge you to support H.B. 182, H.D.1.

Thank you for this opportunity to testify.

Sincerely,  
Laurie A. Temple  
Staff Attorney and Legislative Program Director

*The American Civil Liberties Union (“ACLU”) is our nation’s guardian of liberty – working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.*

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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON HUMAN SERVICES

Sen. Suzanne Chun Oakland, Chair

Sen. Josh Green, Vice Chair

Thursday, March 14, 2013

1:20 p.m.

Room 016

## SUPPORT FOR HB 182 HD1 - RESTORATIVE JUSTICE OPTION FOR JUVENILE WRONGDOING

Aloha Chair Chun Oakland, Vice Chair Green and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 182 HD1 permits a court to dispose of a juvenile case by referring a child offender to a restorative justice program when the court deems it would be in the best interest of the child and the child admits guilt. Clarifies and provides examples of restorative justice programs. (HB182 HD1)

Community Alliance on Prisons is in strong support of this measure.

The restorative justice option not only save the court time, it actually promotes community building through understanding. There have been many studies about brain development in youth and their ability to understand the consequences of their actions. Restorative justice is a great way to promote empathy and understanding in the wrongdoer and the victim.

Community Alliance on Prisons has been working with a restorative justice practitioner since 2005 and can say from our experience that restorative justice practices can be transformative for all the participants. That is why the First Circuit's Family Court supports this process.

A recent article<sup>1</sup> in Civil Beat reported:

**Native Hawaiian, Pacific Islander and mixed-race youth are disproportionately represented in Hawaii's juvenile justice system, a recent study concludes.**

The statewide analysis found that Hawaiian, Samoan and Filipino youth "fare worse than Caucasians at the stages of arrest," a pattern that continues as the young people move through detention, probation and protective services. The problem seems to be related to racism and discrimination and how mixed-race people are treated in society.

The report makes a series of recommendations for improving equality in the juvenile justice system, including calling for greater collaboration among agencies, anti-bias and youth development training, and better data collection, monitoring and analysis.

Community Alliance on Prisons is a member of the Disproportionate Minority Contact Committee of the Juvenile Alternatives to Detention Initiative. The final report<sup>2</sup> dated June 2012 supports restorative practices for youthful lawbreakers. The final report<sup>2</sup> dated June 2012 states:

*Historically there have been various efforts in Hawai'i to build and strengthen restorative juvenile justice programs, but these efforts have been limited by the lack of stable and effective programs across the continuum of care that are available at each decision point in the juvenile justice system. Disproportionate minority contact and the overall number of youth can be reduced by building a comprehensive and collaborative system and by strengthening restorative approaches that focus on healing and growth in ways that are appropriate to the culture and background of especially Native Hawaiian and other Pacific Islander youth.*

*Recent research underscores the effectiveness of restorative approaches over punitive ones. For example, a meta-analysis of 548 studies published from 1958 through 2002 found that juvenile programs designed to bring about behavior change by facilitating personal healing, growth and development were effective while programs oriented towards instilling discipline through*

*regimen or fear were not. The most effective programs were restorative (e.g. restitution, victim offender mediation), skill building (e.g. cognitive behavioral techniques, social, academic, vocational skill building), counseling (e.g. group, family, individual counseling and mentoring), and multiple coordinated services (e.g. case management, wrap-around)*

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<sup>1</sup> **Why So Many Hawaiian, Samoan And Filipino Youth In Justice System?**, *Civil Beat*, By Chad Blair 10/24/2012. <http://www.civilbeat.com/articles/2012/10/24/17448-why-so-many-hawaiian-samoan-and-filipino-youthinjustice-system/>

<sup>2</sup> **Disproportionate Minority Contact in the Hawai'i Juvenile Justice System**, Juvenile Justice State Advisory Council and the State of Hawai'i Office of Youth Services, Karen Umemoto, James Spencer, Tai-an Miao, Saiful Momen, page 106, June 2012. [http://archive.jan2013.hawaii.gov/dhs/youth/jjsac/DMC%20FINAL%20REPORT%202012%20\(for%20printing\).pdf](http://archive.jan2013.hawaii.gov/dhs/youth/jjsac/DMC%20FINAL%20REPORT%202012%20(for%20printing).pdf)



A recent powerful story in AlterNet<sup>3</sup> reported:

*A storm of comments swirled around a story about teen murder in the New York Times last weekend. The parents of a young woman named Ann forgave her boyfriend, Conor, for murdering her. Andy and Kate Grosmaire had loved Conor before he killed Ann, their youngest daughter. But they said they did not so much forgive him for his sake as for their own, to free themselves from being imprisoned in hate and anger, and to follow the teachings of Christ (they are committed Catholics).*

*What shocked many readers, though, was that they sought a "restorative justice" process, in which Conor, the two sets of parents and other involved individuals met in a circle with the prosecutor and bared their souls to one another – and thereby succeeded in persuading the prosecutor to give Conor a lower sentence than he would otherwise have received.*

Hawai`i must address the issue of youthful wrongdoing by using culturally sensitive and evidence-based practices such as restorative justice that can help our youth develop to their fullest potential.

We, therefore, urge the committee to pass this bill.

Mahalo for hearing this bill and for this opportunity to testify.

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<sup>3</sup> **Radical Compassion: Restorative Justice Program Meets Needs of Both Victims and Perpetrators**

*A new program allows victims' forgiveness to play a role in prosecution.*, AlterNet, By David Belden, January 20, 2013

<http://www.alternet.org/radical-compassion-restorative-justice-program-meets-needs-both-victims-and-perpetrators?akid=9946.17368.9WqRm0&rd=1&src=newsletter779986&t=13&paging=off>