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THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai'i

February 19, 2013

RE: H.B. 182; 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.

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. Thank you for the opportunity to testify on this matter.



HB182
RELATING TO JUVENILES
House Committee on Judiciary

February 19, 2013

3:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** HB182, 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.

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.

There is a possibility that "restorative justice program" could be used as a term of art and limit access to Native Hawaiian cultural practices like ho'oponopono. In that case, OHA suggests adding the following language:

"Restorative justice program" includes restorative dialogues, restorative conferences, restorative justice circles, restorative session, Native Hawaiian reconciliation practices like ho'oponopono, or any type of restorative justice group process where victims meet individually or with their loved ones, with a facilitator.

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

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Sharon Har, Vice Chair

Tuesday, February 19, 2013

3:00 p.m.

Room 325

SUPPORT FOR HB 182 - RESTORATIVE JUSTICE OPTION FOR JUVENILE WRONGDOING

Aloha Chair Rhoads, Vice Chair Har 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 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. 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.

A recent article¹ 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.

¹ **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/>

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 report² dated June 2012 supports restorative practices for youthful lawbreakers. The final report² 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)

A recent powerful story in [AlterNet](#)³ 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 and other restorative justice bills and for this opportunity to testify.

² **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)

³ **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>

LORENN WALKER, J.D., M.P.H.

COMMITTEE ON JUDICIARY

Honorable Senator Karl Rhoads, Chair
Honorable Senator Sharon Har, Vice Chair
Other Honorable Committee Members

Thursday, February 19, 2013
3:00 p.m.
Conference Room 325

STRONG SUPPORT HB182 - RELATING TO JUVENILES

Please vote yes to amend HRS §571-21(b) allowing family court judges to dispose of juvenile law violation cases by referring them to a restorative justice program when it is in the best interest of juveniles who admit guilt.

This bill is consistent with our state judiciary's policy supporting restorative justice as described by Chief Justice Ronald Moon's October 10, 2000 [Resolution Concerning Restorative Justice and the Concept of Pono Kaulike](http://www.courts.state.hi.us/services/alternative_dispute/alternative_dispute_resolution.html) http://www.courts.state.hi.us/services/alternative_dispute/alternative_dispute_resolution.html.

The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) confirms restorative justice is a *best practice* and a "model program." <http://www.ojjdp.gov/mpg/progTypesRestorative.aspx> OJJDP also cites a comprehensive report by leading juvenile justice experts on how to improve our juvenile justice system that includes restorative justice, which provides "benefits [recidivism reduction] that exceeds costs" Reforming Juvenile Justice: A Developmental Approach (p. 6-21), Bonnie, Chemers & Schuck, 2012, http://www.nap.edu/catalog.php?record_id=14685.

Restorative justice, which is consistent with Native Hawaiian conflict resolution practices (naturally restorative), works well in Hawai'i. A juvenile diversion pilot program with the Honolulu Police Department, where over 100 arrested juveniles participated in restorative conferences with people they harmed including their loved ones, other direct victims, schools, and police, showed significant benefits: "Conferencing: A New Approach for Juvenile Justice in Honolulu," *Federal Probation Journal*, Vol. 66:1, 2002. The United Nations Children's Fund (UNICEF) also provides this paper as an example available in its *Toolkit on Diversion and Alternatives to Detention*: http://www.unicef.org/tdad/index_56513.html The research showed people who participated, and were harmed by the juveniles' offenses, were highly satisfied with restorative conferences; the juveniles were more likely to fulfill restitution agreements made at the conferences compared to court ordered restitution; and juveniles who participated were less likely to advance to violent offenses compared to youth without conferences.

In addition to the HPD project, we have also conducted other restorative justice research for youth and provided the following programs in the last four years: 2012 reentry and transition planning circles for juveniles incarcerated at the Hawai'i Youth Correctional Facility; 2009 family meetings with youth charged with status offenses for the family court; and 2008 with homeless youth at the Youth Outreach Center (YOs) developed and researched a restorative group planning process that showed positive outcomes in assisting youth achieve goals including finding employment and housing ([Waikiki Youth Circles: Homeless Youth Learn Goal Setting Skills](#), Walker, *Journal of Family Psychotherapy*, Vol. 19(1) 2008. In 2007 & 2008 we also conducted community focus groups, which strongly supported restorative justice for youth.

Restorative justice does not require face-to-face meetings between people harmed by crime and the people who committed the crimes. There are a variety of effective restorative processes that provide benefits without any face-to-face meetings for imprisoned people, which we conduct regularly in Hawai'i and would be useful for juveniles even in cases where the people they harmed did not want to meet with them, see: [A Gift of Listening for Hawaii's Inmates](#), Walker & Sakai, *Corrections Today*, December 2006, [Modified Restorative Circles: A Reintegration Group Planning Process That Promotes Desistance](#), Walker, *Contemporary Justice Review*, Vol. 12, No. 4, December 2009, 419-431. Also there are restorative processes for crime victims who do not know who harmed them or who do not wish to meet with offenders, see: [Restorative Justice Without Offender Participation: A Pilot Program for Victims](#), Walker, *International Institute for Restorative Practices*, February 2004, papers available at www.lorennwalker.com). Please see my website www.lorennwalker.com for more information on my work and experiences with the juvenile justice system. Mahalo for your good public service.

HB182

Submitted on: 2/17/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mariya Dones	Individual	Support	No

Comments: As an independent contractor who is a substance abuse professional and presently is contracted with the Maui Juvenile Judiciary to provide 8 hour class on substance abuse to the 13 - 18 yo population, I have the need to speak on this bill. I feel that the needs of the adolescent substance abuser are gravely underserved which poses a severe sense of hopelessness often ending in suicide. My experience working with adolescent substance abusers has also shown that they do not take responsibility for their actions and there is little accountability held within their family structure. Many of their parents are drug abusers and therefore they do not want to enforce any consequences for criminal behavior, Therefore I believe that restorative justice would provide the juvenile offender not only with consequences but also with a learned responsibility and accountability. Sincerely, Mariya L. Dones, CSAC, NCACII, SAP
Nationally Certified Substance Abuse Professional

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HB182

Submitted on: 2/18/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Support	No

Comments:

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HB182

Submitted on: 2/18/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Taufetee	Peacemakers	Support	No

Comments: I have been witnessing to youth about their choices to deter them from crime and drugs since 1996. I go into detention facility on a weekly basis and find that alot of these children don't need to be there but in a program to teach them the tools to not reoffend. Their mindset is that they like it there. When that's the message we're giving them while being locked up, guess what? They'll continue to make bad decisions and get used to it. Majority of them have a single parent, a parent who's in jail or parents addicted to drugs. That's the life they see and they'll continue to follow. There has to be another way and this bill is one of those ways.

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HB182

Submitted on: 2/15/2013

Testimony for JUD on Feb 19, 2013 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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TO: Representative Karl Rhoads, Chair, Representative Sharon E. Har, Vice Chair, and members of the House Committee on Judiciary and Labor

Tuesday, February 19, 2013
3:00 p.m.
Conference Room 325

LATE

FROM: Roxanne Cafaro, Masters of Social Work Student
The University of Hawaii at Manoa

RE: HB 182 Relating to Juveniles - **SUPPORT**

Representative Karl Rhoads, Chair, Representative Sharon E. Har, Vice Chair, and members of the House Committee on Judiciary and Labor;

Thank you for considering my testimony in support of HB 182 Relating to Juveniles. I strongly support this bill for the following reasons:

- According to the Justice Policy Institute traditional methods of juvenile justice are not highly successful in reducing rates of recidivism. Rather, they can be damaging to youth and communities.
- The federal office of Juvenile Justice and Delinquency Prevention reports that restorative justice programs are successful in reducing rates of recidivism among juvenile offenders.
- Restorative justice is based on indigenous values and reflects the traditional circle based healing practices of Hawaii; therefore it is culturally sensitive and appropriate for our community.

I urge your favorable consideration of HB 182.

Thank you for this opportunity to testify.

Roxanne Cafaro