

HB2116

HD2

LATE

TESTIMONY

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE CLAYTON HEE, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai'i

March 19, 2014

RE: H.B. 2116, H.D. 2; RELATING TO SENTENCING FOR JUVENILE OFFENDERS.

Chair Hee, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following comments regarding House Bill 2116, H.D. 2.

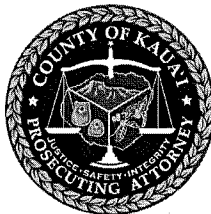
The Department is very grateful for the amendments made to this bill by the House Committee on Judiciary, which recognize the gravity of Family Court's decision to waive jurisdiction over an offender who was under 18 years old at the time of offense, on the rare occasion that this is done. Such amendments also acknowledged the value of special accommodations that already exist within the adult court system—specifically for young offenders—and other safeguards that are currently in place to ensure fairness to young offenders (and all offenders).

We do note that the current version of this bill still raises the question of inequity between sentencing for someone who committed Murder in the first degree just before reaching age 18—over whom Family Court has waived jurisdiction—and someone who committed Murder in the first degree just after reaching age 18. While the latter would be sentenced to life imprisonment without possibility of parole, but with the opportunity for commutation after 20 years (as are all defendants with this type of conviction), the former would be sentenced to life imprisonment with possibility of parole, and immediately receive a minimum sentence hearing with the Paroling Authority.

Thank you for the opportunity to testify on this measure.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White, LCSW
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY
County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

TESTIMONY IN SUPPORT OF
H.B. NO. 2116, HD 2
A BILL FOR AN ACT RELATING TO SENTENCING FOR JUVENILE
OFFENDERS

Justin F. Kollar, Prosecuting Attorney
County of Kauai

A handwritten signature in black ink, appearing to read "Justin F. Kollar".

Senate Committee on Judiciary and Labor

Wednesday, March 18, 2014
10:00 a.m., Room 016

Honorable Chair Hee, Vice-Chair Shimabukuro, and Committee Members:

The Office of the Prosecuting Attorney, County of Kauai submits the following testimony in **SUPPORT** of H.B. 2116, HD2, Relating to Sentencing for Juvenile Offenders. Hawaii is one of very few states to still allow for sentences of life without parole for juvenile offenders, and the United States is the only nation in the world that allows for juveniles to be sentenced to life without the possibility of parole. It is time for our criminal justice system to acknowledge that children and adults are constitutionally different and those differences should be taken into account at sentencing.

Although it seems potentially inequitable that two defendants born weeks apart could receive dramatically different sentences for committing the same offense, this bill is a step in the correct direction and correctly accounts for the developmental differences that differentiate the conduct of juveniles and adults.

For these reasons, we submit these comments pertaining to H.B. 2116, HD2. Thank you for the opportunity to testify on this matter.



HB2116 HD2
RELATING TO SENTENCING FOR JUVENILE OFFENDERS
Senate Committee on Judiciary and Labor

March 19, 2014

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB2116 HD2, which eliminates life without parole as a sentencing option for juvenile offenders. **This bill would ensure that youth offenders have a greater chance of rehabilitating their lives after committing crimes early in their lives, reducing the long-term costs of criminal behavior both for our juvenile offenders and for our communities at large.**

In 2010, OHA produced a comprehensive report detailing the overrepresentation and disparate treatment of Native Hawaiians in the criminal justice system. This report found that Native Hawaiian youth are disproportionately represented in the juvenile justice system, and are also most frequently arrested in all offense categories.¹ Accordingly, addressing the prevalence of Native Hawaiian youth offenders in the criminal justice system, and providing them with adequate and effective rehabilitation opportunities, are key concerns within the Native Hawaiian community.

Research has shown that life without parole is usually an ill-suited punishment for juvenile offenders. It is well-established that juvenile offenders are not as capable of socially responsible executive decision-making as adults, bringing into question the appropriateness of subjecting them to penalties as severe as life imprisonment.² Mounting research also indicates that young offenders—even those who commit violent crimes—have a much greater capacity for rehabilitation and development of more positive, prosocial behavior later in life than adults do.³ When measured against the mental culpability of a child, a life-without-parole sentence will nearly always be more severe than necessary, discouraging offenders from reforming their behavior and effectively barring any meaningful opportunity for rehabilitation. Notably, the United States remains the only country in the world

¹ THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 68 (2010), http://www.oha.org/sites/default/files/ir_final_web_rev.pdf.

² AMNESTY INTERNATIONAL & HUMAN RIGHTS WATCH, THE REST OF THEIR LIVES: LIFE WITHOUT PAROLE FOR CHILD OFFENDERS IN THE UNITED STATES 45-49 (2005), available at http://www.amnestyusa.org/sites/default/files/pdfs/threstoftheirlives_report.pdf.

³ Juvenile Law Center, Juvenile Life Without Parole, (Nov. 26, 2013), <http://www.jlc.org/current-initiatives/promoting-fairness-courts/juvenile-life-without-parole-jlwop>.

that still sentences juveniles to life without the possibility of parole.⁴ Accordingly, by eliminating life without parole sentences for juvenile offenders, this measure will do away with a largely inappropriate and ineffective criminal penalty approach for our juvenile offenders.

Therefore, OHA urges the Committee to **PASS** HB2116 HD2. Mahalo for the opportunity to testify on this important measure.

⁴ Juvenile Law Center, Juvenile Life Without Parole, (Nov. 26, 2013), <http://www.jlc.org/current-initiatives/promoting-fairness-courts/juvenile-life-without-parole-jlwop>.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: paulakomarajr@yahoo.com
Subject: *Submitted testimony for HB2116 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 9:41:34 PM

HB2116

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. komara, Jr.	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov