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## HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO COLLECT AND PUBLISH CERTAIN CRIMINAL CASE DATA FROM ALL COUNTY PROSECUTING ATTORNEY AGENCIES THAT RECEIVE STATE FUNDS.

1           WHEREAS, county prosecuting attorneys are the most powerful  
2 actors in the criminal justice system, as they essentially have  
3 the unilateral authority to determine whether accused persons  
4 will face prosecution, and the criminal charges for which  
5 accused persons are prosecuted; and  
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7           WHEREAS, county prosecuting attorneys also make influential  
8 recommendations to the courts regarding pretrial detention,  
9 bail, sentencing, and other matters regarding accused persons;  
10 and  
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12           WHEREAS, county prosecuting attorneys' decisions affect  
13 accused persons' criminal records, the contents of which can  
14 lead to significant collateral consequences for the accused; and  
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16           WHEREAS, county prosecuting attorneys' decisions also have  
17 a lasting impact on victims, families, communities, and the  
18 State's economy; and  
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20           WHEREAS, basic information and data about criminal cases,  
21 while publicly available to some extent, are exceedingly  
22 difficult to obtain from the county prosecuting agencies, and  
23 are not always easy to understand; and  
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25           WHEREAS, all individuals, including the voters who  
26 determine which prosecutors hold elective office and the  
27 taxpayers who fund prosecuting attorney agencies, deserve  
28 unfettered, comprehensible access to any prosecuting attorney  
29 agency information that is not otherwise protected from  
30 disclosure by law; and



1           WHEREAS, county prosecuting attorney agencies that receive  
2 taxpayer funding through the Legislature are subject to  
3 legislative oversight; and  
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5           WHEREAS, county prosecuting attorney agencies operate under  
6 the authority of the Attorney General; and  
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8           WHEREAS, the Department of the Attorney General can serve  
9 the public by obtaining and publishing criminal case data from  
10 the county prosecuting agencies; and  
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12          WHEREAS, the Department of the Attorney General's release  
13 of relevant criminal case data would:  
14

- 15           (1) Educate voters and the general public;
- 16
- 17           (2) Help the State, counties, and public identify the  
18 causes of mass incarceration and racial disparities in  
19 the criminal justice system;
- 20
- 21           (3) Improve accountability for agencies that violate the  
22 law or individuals' rights;
- 23
- 24           (4) Produce more equitable outcomes in individual criminal  
25 cases;
- 26
- 27           (5) Help criminal defendants and their attorneys make more  
28 informed decisions during plea deal negotiations;
- 29
- 30           (6) Hasten improvements in county prosecuting agencies,  
31 including management efficiencies and cost savings;  
32 and
- 33
- 34           (7) Deter corruption and unwarranted secrecy in law  
35 enforcement, which, when not deterred, can destroy  
36 public trust in government; now, therefore,  
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38          BE IT RESOLVED by the House of Representatives of the  
39 Thirtieth Legislature of the State of Hawaii, Regular Session of  
40 2020, the Senate concurring, that the Department of the Attorney  
41 General is requested to collect and publish certain criminal



1 case data from all county prosecuting attorney agencies that  
2 receive state funds; and

3  
4 BE IT FURTHER RESOLVED that the Department of the Attorney  
5 General is requested to include, at a minimum, data from each  
6 case on which prosecution for a penal offense has commenced  
7 after December 31, 2020:

- 8  
9 (1) The defendant's race;
- 10  
11 (2) The defendant's gender;
- 12  
13 (3) The defendant's self-reported disabilities, if any,  
14 including mental, psychiatric, developmental, and  
15 intellectual disabilities; physical and mobility  
16 disabilities; and sensory, vision, and hearing  
17 disabilities;
- 18  
19 (4) The district or neighborhood in which the defendant  
20 was arrested;
- 21  
22 (5) The charges for which the defendant was arrested;
- 23  
24 (6) The charges for which the defendant is being  
25 prosecuted by the county prosecuting agency, and any  
26 amendments to those charges;
- 27  
28 (7) The minimum and maximum penalties under law for each  
29 charge for which the defendant is being prosecuted by  
30 the county prosecuting agency;
- 31  
32 (8) An indication of whether the defendant was offered  
33 entry into a jail diversion program;
- 34  
35 (9) The prosecuting attorney's recommendations regarding  
36 bail or bond, including release conditions;
- 37  
38 (10) The date range over which the defendant was in  
39 pretrial detention;
- 40  
41 (11) The following information regarding any plea deal  
42 offer:



- 1 (A) The charges for which the prosecuting attorney
- 2 asked the defendant to plead "guilty" or "no
- 3 contest";
- 4
- 5 (B) Any charges the prosecuting attorney offered to
- 6 dismiss;
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- 8 (C) The penalties the prosecuting attorney offered to
- 9 recommend in exchange for the defendant's
- 10 acceptance of the plea deal;
- 11
- 12 (D) Whether the defendant accepted the plea deal
- 13 offer;
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- 15 (E) Whether the court approved the terms of the plea
- 16 deal, either in whole or in part; and
- 17
- 18 (F) Any other information to assist the public's
- 19 understanding of plea deal negotiations; and
- 20
- 21 (12) The penalties imposed, if any; and
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23 BE IT FURTHER RESOLVED that the Department of the Attorney  
24 General is requested to compile and publish on its website, in  
25 January of each year, data compiled from all preceding calendar  
26 years; and

27  
28 BE IT FURTHER RESOLVED that the Department of the Attorney  
29 General is requested to remove the case number and all personal  
30 identifying information from each published case and assign each  
31 published case a unique identifier; and

32  
33 BE IT FURTHER RESOLVED that if any county prosecuting  
34 attorney agency that falls within the scope of this Concurrent  
35 Resolution does not disclose the requested data, the Department  
36 of the Attorney General is requested to disclose that fact on  
37 its website in the same location where disclosed data is  
38 published and to notify the Legislature of the county  
39 prosecuting attorney agency's non-disclosure; and

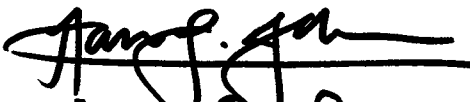
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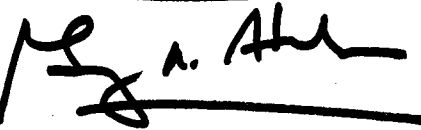


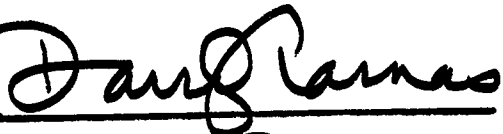
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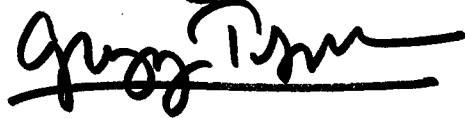
1 BE IT FURTHER RESOLVED that certified copies of this  
2 Concurrent Resolution be transmitted to the Attorney General and  
3 prosecuting attorneys of the several counties.  
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OFFERED BY: 

  
Anne E. Lowen







MAR 06 2020

