



**LATE**

*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary**

Representative Chris Lee, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, February 5, 2020, 2:05 p.m.

State Capitol, Conference Room 325

by

Calvin C. Ching

Deputy Chief Court Administrator

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**Bill No. and Title:** House Bill No. 1868, Relating to Jurors.

**Purpose:** Reduces the jury duty exemption age to seventy-five years of age or older.

**Judiciary's Position:**

The Judiciary respectfully opposes this legislation.

The selection of a jury from a representative cross-section of the population is critical to our justice system and is an essential component of the constitutional right to an impartial jury. Allowing persons who are seventy years or older to claim an exemption from jury service jeopardizes this right.

During 1998, Chief Justice Ronald T.Y. Moon convened the Hawai`i Committee on Jury Innovations for the 21<sup>st</sup> Century consisting of almost 30 judges, administrators, legislators, attorneys, and former jurors. A Sub-Committee on Juror Fees (the Committee) studied, among other things, the issue of juror exemptions pursuant to House Concurrent Resolution no. 107, Session Laws of Hawai`i 1998 and recommended that 612-6, HRS, should be amended by deleting all exemptions except for jurors who have served within the last year.

In making its recommendation, the Committee found that the majority of the states have two or fewer juror exemptions. And of these states, at least 24 have no exemptions at all. In contrast, Hawai`i currently exempts elected officials; judges of the United States, State, or County; physicians; dentists; members of the armed forces or militia; active members of an emergency medical services agency; persons living more than 70 miles from the court requiring jury services; people who have served as jurors within one year; and adding in 2017, women breastfeeding a child or expressing milk for a period of two years from the birth of the child



The Committee also found that in 1993 the American Bar Association (ABA) recommended that, “The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the jurisdiction.”<sup>1</sup> To implement this, the ABA recommends that, “All automatic excuses or exemptions from jury service should be eliminated.”<sup>2</sup>

House Bill No. 1868 would add yet another exclusion to Hawai`i’s already long list of exemptions. With all due respect, the proposed amendment assumes that no one over the age of 75 would actually choose to serve as a juror or that no one over the age of 75 has the desire or physical and cognitive ability to serve as a juror. Currently, physical infirmities that might justify being excused from jury duty are considered on a case by case basis without regard to age. Moreover, including this cross-section of the community goes a long way toward making service on juries inclusionary and accessible to all segments of our population. People who have unbelievable wisdom and knowledge might not be there if they are excluded.

Our review of jury questionnaires indicates that approximately one-third of eligible jurors range from the mid-sixties to late seventies. If the 75 and over age group is exempted, a significant portion of the population would no longer be available to serve as jurors and an estimated 30% in additional juror questionnaires would need to be prepared and sent out in order to maintain a sufficient pool of jurors. **The additional cost increase for this would be more than \$40,000.**

Furthermore, in May 2012, the Judiciary was informed by the State Department of Taxation that we would no longer be able to use lists of taxpayers to create the courts’ master list of prospective jurors because Federal laws require Federal tax information to be used solely for tax purposes. The master list has been reduced significantly as a result of this decision.

This proposed exemption combined with other current exemptions would severely impact the Judiciary’s ability to maintain an adequate pool of qualified jurors. For example, the Third Circuit sends out more qualification forms per capita than other Circuits because of the “70 mile” exemption currently allowed in the statute. Summoning Kona jurors is especially difficult because the majority of eligible jurors reside on the East (Hilo) side of the island. It is estimated that sixty to seventy percent (60%-70%) of the jurors summoned to Kona might claim the “70 mile” exemption.

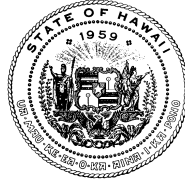
Therefore, limiting those under age 75 will further impact our selection efforts to put qualified jurors in the pool.

Thank you for the opportunity to provide comments on this measure.

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<sup>1</sup> Standards Relating to Juror Use and management, American Bar Association, Judicial Administration Division, Committee on Jury Standards, 1993, p. 3.  
<sup>2</sup> Ibid p. 48

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**Testimony COMMENTING on HB1868  
Relating to Jury Duty**

COMMITTEE ON JUDICIARY  
REPRESENTATIVE CHRIS LEE, CHAIR  
REPRESENTATIVE JOY A. SAN BUENAVENTURA, VICE CHAIR

Testimony of Caroline Cadirao  
Director, Executive Office on Aging  
Attached Agency to the Department of Health

Hearing Date: Wednesday, Feb. 5, 2020  
2:05pm

Room Number: 325

- 1 **EOA's Position:** The Executive Office on Aging (EOA), an attached agency to the Department
- 2 of Health, offers comments on HB1868.
- 3 **Fiscal Implications:** There is no direct implication to the Executive Office on Aging as a result
- 4 of this measure.
- 5 **Purpose and Justification:** The purpose of this bill is to amend Section 612-6, Hawaii Revised
- 6 Statutes, by lowering the age an individual can be exempt from jury duty from eighty years of
- 7 age or older to seventy-five years of age or older. As we age, we have more risk of disabling
- 8 conditions that could inhibit our service. According to the National Council on Aging, 80% of
- 9 older adults have a chronic condition and 77% have at least two. Hawaii's kupuna, seventy-five
- 10 years or older, may have poor health, difficulty sitting for prolonged periods of time, and
- 11 difficulty climbing stairs. Physical limitations can make jury duty an undue hardship for some
- 12 and may struggle to serve effectively and comfortably as a juror. Some kupuna may also have to
- 13 drive from the Leeward side or the North Shore and have difficulty driving the long distance.
- 14 These factors should allow them to be excused from the jury pool.
- 15 Thank you for the opportunity to testify.