

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO RESTORATIVE JUSTICE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that restorative justice  
2 programs aim to address unresolved issues confronting victims,  
3 offenders, and their families. These programs bring offenders,  
4 victims, and their respective personal supporters together in a  
5 carefully managed, safe environment. Many victims feel that the  
6 criminal justice system does not give them a chance to get  
7 involved. Restorative justice puts victims at the heart of the  
8 justice process - it gives them a chance to ask the offender  
9 questions and explain the impact the crime has had on them.

10       The legislature further finds that the restorative justice  
11 process is a powerful healing tool and a way to empower victims,  
12 allowing them to play a greater role in defining the narrative  
13 around justice in their specific case. This paradigm focuses on  
14 victims and the harms done to them, the obligations those harms  
15 create for offenders and the community, and then, through the  
16 restorative process, how to put things right as much as  
17 possible. Restorative justice also builds a sense of empathy



1 among the parties involved and can lead to creative, sustainable  
2 resolutions outside the scope of a more traditional court  
3 system.

4 Participation in a restorative justice program is available  
5 only to those victims who choose to participate. Because  
6 participation is voluntary, victims can stop the process at any  
7 time.

8 The legislature also finds that for restorative justice to  
9 take place, the offender must admit to the crime, and both the  
10 victim and offender must be willing to participate. The  
11 restorative justice program should be housed within the  
12 judiciary, but may be part of other state, county, or community  
13 agencies. To begin the process, victims can approach the state  
14 crime prevention and justice assistance division, the judiciary,  
15 or any of the counties' criminal justice programs. An  
16 impartial, trained, and experienced facilitator then meets with  
17 the parties involved to discuss the program's goals and plans a  
18 restorative justice process. After adequate preparation, the  
19 parties then meet with the facilitators and the resulting  
20 agreements may become the resolution of the case.



1        If successful, restorative justice can lead to the  
2 transformation of people, relationships, and communities.  
3 Restorative justice can also reduce crime, reduce repeat  
4 offenses, divert individuals from the criminal justice system,  
5 reduce the costs of criminal justice, increase crime victims'  
6 healing and well-being, reduce the backlog of court cases, and  
7 provide victims and offenders with greater satisfaction than  
8 traditional criminal justice often allows. Restorative justice  
9 may occur at any level of the criminal justice process,  
10 including when police first encounter a crime, during the  
11 screening process, before a hearing is scheduled, before  
12 sentencing, or following conviction.

13        The legislature additionally finds that pilot projects such  
14 as pono kaulike on Oahu or the Hawaii county restorative justice  
15 program have been offered in Hawaii with positive results.  
16 Restorative justice pilot programs have been highlighted by the  
17 Federal Probation Journal, Honolulu Magazine, and KITV News.

18        Adequate funding must be made available for programs to  
19 work and to support at least one full-time equivalent (1.0 FTE)  
20 position in each county. Over time, the State will realize



1 savings in terms of lower costs to process criminal cases and  
2 decreased crime.

3 The purpose of this Act is to require the establishment of  
4 restorative justice programs in each county.

5 SECTION 2. (a) The judiciary or supporting agencies shall  
6 establish and support a restorative justice program in each  
7 county to allow victims and offenders an opportunity to  
8 participate in restorative justice.

9 (b) The judiciary or supporting agencies may contract with  
10 a credible and financially stable nonprofit organization to  
11 conduct restorative justice work in each county and to ensure  
12 that victims are notified of restorative justice opportunities  
13 available to them.

14 (c) Notwithstanding any other law to the contrary and upon  
15 successful completion of any restorative justice process with an  
16 agreement, approval of the victim, and approval of the  
17 prosecuting attorney, charges may be declined during the  
18 screening process or the case may be dismissed if charges have  
19 been filed.



(d) The judiciary or supporting agencies shall inform the following individuals in writing of the existence of the restorative justice program:

(1) The attorney general;

(2) The prosecuting attorney of each county;

(3) The public defender;

(4) The registered members of the criminal justice and corrections section of the Hawaii State Bar Association; and

(5) A representative of the community policing programs of each county.

(e) The judiciary or supporting agencies may request Victims of Crime Act grant funds for the purposes of this Act.

(f) For the purposes of this section, "restorative justice" includes restorative dialogues, restorative conferences, restorative justice circles, restorative sessions, Native Hawaiian reconciliation practices such as ho'oponopono, or other types of restorative justice group processes.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and



1 the same sum or so much thereof as may be necessary for fiscal  
2 year 2022-2023 for funding restorative justice programs and one  
3 full-time equivalent (1.0 FTE) position in each county,  
4 including any matching funds required to receive Victims of  
5 Crime Act grant funds for the purposes of this Act.

6 The sums appropriated shall be expended by the judiciary  
7 for the purposes of this Act.

8 SECTION 4. This Act shall take effect on July 1, 2021.

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INTRODUCED BY: \_\_\_\_\_

*For Amis*



# S.B. NO. 1414

**Report Title:**

Restorative Justice Programs; Judiciary; Counties; Appropriation

**Description:**

Requires the judiciary or supporting agencies to establish and support a program for restorative justice in each county and inform various criminal justice representatives of the existence of the program. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

