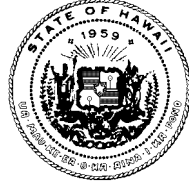


DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 15, 2022

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 2309 HD1 – RELATING TO INCARCERATION.**

Hearing: February 16, 2022, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure, offers comments, and defers to the Department of Public Safety, the Judiciary, and the Hawaii Paroling Authority. The Department respectfully requests that any appropriation not replace or reduce priorities identified in the executive budget.

PURPOSE: The purpose of this bill is to appropriate moneys for the development and maintenance of diversion, reentry, and rehabilitation services and programs by non-profit organizations in the State. Effective 7/1/3000. (HD1)

The HD1 amends the measure by:

- (1) Adding appropriations to the Judiciary and Hawaii Paroling Authority for the development and maintenance of diversion, reentry, and rehabilitation programs and services for offenders falling under their respective jurisdictions;
- (2) Increasing flexibility by including rehabilitation as a type of program or service for which the appropriations under this Act may be used;
- (3) Changing the effective date to July 1, 3000, to encourage further discussion; and

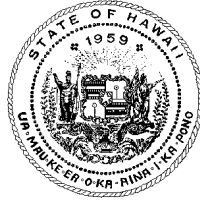
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Reentry and transition support programs are needed to help individuals be successful upon release from prison. Increasing opportunities while incarcerated to obtain substance abuse or behavioral health treatment, assistance with obtaining government-issued identification, general education degrees, employment training, whole-family-focused activities, and programming to maintain relationships can be transformative experiences. Individuals preparing to reenter the community need to begin establishing relationships with community- and peer-support programs prior to release, so that upon release, recently released individuals will have more confidence, a support network, and the minimum qualifications to return to their community, their families, and the workforce.

Successful diversion, re-entry, and rehabilitation services need collaboration with community-based organizations to support both the returning individual as well as their families. The Department will continue to work with the Department of Public Safety, the Judiciary, and community organizations to assist individuals with accessing available public benefits prior to or as soon as they are released.

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

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
11177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2309, HOUSE DRAFT 1
RELATING TO INCARCERATION.

by
Max N. Otani, Director
Department of Public Safety

House Committee on Judiciary & Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair,

Wednesday, February 16, 2022; 2:00 p.m.
State Capitol, Via Video Conference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed House Bill 2309, HD 1 which proposes to appropriate funds for the development and maintenance of the diversion and reentry services and programs. The Department respectfully provides comments for the Committee's consideration and welcomes any assistance in enhancing offender diversion programs and strengthening reentry and community-based programs.

PSD notes the Department's jurisdiction ends upon an offender's release on parole or end of sentence and differs from jail diversion as they are two separate and distinct categories of offenders. Once the Department's jurisdiction ends, PSD has no authority to order ex-offenders to participate in community-based programs nor should the department be responsible for administering contracts and/or services for this population. In addition, offenders sentenced to 1-year or less of incarceration are sentenced to jail and jail sentences falls under the sole jurisdiction of the courts. Offenders sentenced to serve 5 years or more of incarceration are sentenced to prison terms that fall under the jurisdiction of the Hawaii Paroling

Testimony on HB 2309, HD 1
House Committee on Judiciary and Hawaiian Affairs
February 16, 2022
Page 2

Authority (HPA) following conviction, and it is the HPA that sets the minimum terms of imprisonment and can also reduce previously set minimum terms, including to decide to grant or deny release on parole.

Thank you for the opportunity to provide comments regarding HB 2309, HD 1.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 2309, H.D. 1

February 16, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO INCARCERATION

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 2309, H.D. 1.

H.B. No. 2309, H.D. 1, appropriates an unspecified amount of general funds to the Department of Public Safety, Judiciary and Hawai'i Paroling Authority for FY 23 for the development and maintenance of diversion and reentry services and programs by non-profit organizations within the State, provided that these appropriations shall not lapse at the end of the fiscal biennium for which the appropriations are made, but no later than June 30, 2024. This bill is intended to reduce recidivism rates in the State and increase productivity in affected communities through various reentry programs.

B&F notes that, with respect to the general fund appropriations in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

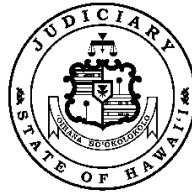
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



LATE

The Judiciary, State of Hawaii

Testimony to the Thirty-First Legislature, Regular Session of 2022

House Committee on Judiciary & Hawaiian Affairs

Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Wednesday, February 16, 2022 at 2:00 p.m.
VIA VIDEOCONFERENCE

by
Dwight S. Sakai
Deputy Chief Court Administrator
First Circuit

Bill No. and Title: House Bill No. 2309, HD1, Relating to Incarceration

Purpose: Appropriates moneys for the development and maintenance of diversion, reentry, and rehabilitation services and programs by non-profit organizations in the State.

Judiciary's Position:

The Judiciary supports House Bill No. 2309 as it will provide much needed resources and funding to non-profit programs that provide direct services to offenders under the jurisdiction of the Judiciary.

Currently, non-profit organizations provide vital services and programs that include substance abuse treatment, mental health treatment, and domestic violence intervention. Providing additional funding to non-profit organizations will allow for an increase in the number of offenders served and provide opportunity for the programs to expand their services to meet the needs of offenders.

Offenders face many challenges in rehabilitating their lives. Non-profit community programs and the Judiciary have a long history in working together to help them. The impact is significant not only for the offenders, but for their families and the community. Providing this needed funding will ensure that their work continues.

For clarification purposes, the Judiciary contracts for services and will follow the 103F procurement process for which these services would fall under.

Thank you for the opportunity to testify on House Bill No. 2309.



Hawai'i

Committee: House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: Wednesday, February 16, 2022, 2:00 P.M.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of HB 2309 HD1
Relating to Incarceration With Amendments

Dear Chair Nakashima, Vice Chair Matayoshi and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of HB 2309 HD1** which appropriates funding for the development and maintenance of diversion and reentry services and programs by non-profit organizations in the State.

The ACLU advocates for the State to shift spending priorities away from mass criminalization and incarceration towards rehabilitation, education, housing, health and human services, and restorative justice in the community. This systems-change approach makes fiscal sense, and builds safe and healthy communities.

Prioritizing reentry planning and comprehensive treatment, education and support services should start at day one of incarceration, not at the tail end of a person's incarceration.¹ This reentry principle and best practice is not only humane – it makes our communities safer, and is essential now more than ever during the COVID pandemic.

Reentry programs that help people secure jobs, treatment, housing² and education³, have proven effective in facilitating the successful transition of formerly incarcerated people out of jails and prisons, and back to their families and communities. Moreover, comprehensive support services have been shown to reduce recidivism.

¹ Interagency Council on Intermediate Sanctions, *State of Hawaii, FY 2016 Cohort, 2019 Recidivism Update*. Recidivism rates are highest for persons with maximum term releases compared to persons under probation or parole supervision. Recidivism is defined as a new arrest, or the revocation of probation or parole, within three years of the start of supervision. The total recidivism rate in 2015 was 53.8%, 54.6% for Probationers, 50.1% for Parolees and 57.1% for people with Maximum Term releases.

² Nathan James, Offender Reentry: *Correctional Statistics, Reintegration into the Community and Recidivism*, Congressional Research Service (2015). <https://sgp.fas.org/crs/misc/RL34287.pdf>

³ Patrick Oakford, Cara Brumfield, Casey Goldvale, Laura Tatum, Margaret diZerega and Fred Patrick, *Investing in Futures: Economic and Fiscal Benefits of Postsecondary Education in Prison*. New York: Vera Institute of Justice, 2019, <https://www.vera.org/publications/investing-in-futures-education-in-prison>

Given that ninety-five percent of people incarcerated in our state jails and prisons will eventually be released and return home, we should invest in comprehensive reentry programs and services from day one of their incarceration.⁴

This bill specifically names some of the community-based health care and reentry providers throughout Hawai'i. These non-profit organizations typically search for funding to sustain their community-based services year after year. Meanwhile, taxpayers foot the bill for mass incarceration – paying \$217 a day or over \$70,000 a year to incarcerate an adult in our jails and prisons. This bill provides an opportunity to invest in community solutions.

The ACLU recommends the following amendment to ensure that the funding is used for its intended purpose:

1. Require the State Agencies who receive appropriations under this measure to submit a Report to the State Legislature outlining how the funds have been expended, how many people have been served, and outcomes.

For these reasons, we urge the Committee to support HB2309 HD1. Thank you.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

cshirota@acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

American Civil Liberties Union of Hawai'i
P.O. Box 3410 Honolulu,
Hawai'i 96801T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.orgwww.acluhawaii.org

⁴ Timothy Hughes and Doris James Wilson, Reentry Trends in the United States, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (last revised Dec. 29, 2020), <https://bjs.ojp.gov/content/pub/pdf/reentry.pdf>



LATE

HB2309 Diversion and Reentry for Offenders

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Wednesday, Feb 16 2022: 2:00 pm : Videoconference

Hawaii Substance Abuse Coalition Strongly Supports HB2309:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

A comprehensive program that includes diversion to treatment and reentry to community services produces better outcomes and is more cost-effective.

There are various levels of mild to chronic forms of substance use disorders, mental health disorders and even criminality. HSAC understands this very well since we treat all these issues for those who have chronic to severe levels.

Comprehensive services can address the various levels of mild to moderate to chronic for multiple reentry issues that can include specialized treatment for substance abuse and/or mental health disorders, harm reduction for lower use of substances, housing, case management, vocational training and employment, education, family integration, restorative practices and more.

- 1. For offenders with lower substance use** and either low or high functioning, it is preferable to start with housing plans, case management, education, vocational training and employment with wrap around harm reduction practices. If substance abuse continues without controlled use and especially if there are other behavioral health issues then counseling, medications, or outpatient treatment can be considered especially as for co-occurring substance misuse along with mental health disorders. Any needed substance use disorder or co-occurring disorder outpatient or counseling treatments would be best to include programming that addresses criminality issues. Medication management would be considered.
- 2. For offenders with heavy use substance use** and either low or high functionality, abstinence-based treatment is essential for what works according to research from the American Society of Addiction Medicine (ASAM), the definitive body of science for levels of care. The more chronic substance abuse, especially for addiction, would be best to start at residential or if less severe, start at

outpatient treatment. Treatments would also address criminality and include medications if needed.

- a. If residential, start first and then move to housing.
 - i. Key to residential is to have complex patient capability.
 - ii. Key is to have case management after treatment that focuses on helping offenders “pursue abstinence” knowing that chronic illnesses tend to have relapses.
- b. If outpatient, then start at housing and include outpatient.
 - i. Education would be beneficial before, during and after treatment.
 - ii. Vocational training and employment can occur simultaneously with outpatient.
 - iii. Case management and medication management are key as part of and following treatment.

3. Using nationally standardized screening and assessment tools are essential to develop appropriate reentry plans to determine an integrated approach for reentry:

- a. that incorporates residential or outpatient treatment as part of housing or
- b. if substance abuse treatment is not needed, then integrate recovery-oriented services as part of housing, such as case management or medication management.
- c. Vocational is key for long-term rehabilitation.
- d. It is important that parole and probation are involved in every step with service providers.

4. HSAC Treatment Providers that provide treatment and/or prevention for substance use disorders:

Action with Aloha	Aloha House/Maui Youth & Family/Malama Family Recovery Center	Big Island Substance Abuse Council (BISAC)
Bobby Benson Center	Coalition for Drug Free Hawaii	Hawaii Health and Harm Reduction Center (HHRC)
Hina Mauka	Ka Hale Pomaika'i	Queens Day Treatment
The Salvation Army ATS	The Salvation Army FTS	

We appreciate the opportunity to provide testimony and are available for further questions.



LATE

TESTIMONY IN SUPPORT OF HB 2309, HD 1

TO: Chair Nakashima, Vice Chair Matayoshi, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 16, 2022 (2:00 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** HB 2309, HD 1, which appropriates funds for the development and maintenance of diversion, reentry, and rehabilitation services and programs by non-profit organizations across the state.

Ideally, the Department of Public Safety would engage in a range of pre-release planning to facilitate the procurement of identity documents and provide linkage to post-release housing opportunities, medical care, and other available government support. However, current practice is to leave those released without adequate support. This dramatically increases the likelihood of joining the ranks of the unsheltered homeless. Many of those we serve struggle with obtaining identity documents, including those who have been released from carceral facilities. Pre-arrest diversion programs can also help with linking persons with available government services than can improve their health and well-being while also limiting the number of persons in local jails.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

HHRC Executive Director Heather Lusk currently serves as Board Chair of [Partners in Care O'ahu](#), a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's continuum of care for homeless persons. HHRC provides homeless outreach and housing placement navigation services in urban Honolulu and the Upper Windward Coast, including North Shore.

Thank you for the opportunity to testify on this measure.