

The Judiciary, State of Hawai‘i

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

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

Monday, February 28, 2022, 12:30 P.M.
Via Videoconference

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2312, H.D. 1, Relating to Prison Reform.

Purpose: Establishes the Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the final report from the House Concurrent Resolution No. 85 (2016) task force, to develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system. Requires the commission to consider model programs including residential, in-person and community-based rehabilitation programs, supportive and subsidized housing, restorative justice, and educational programs. Effective 7/1/3000.

Judiciary's Position:

The Judiciary writes in support of this measure that is consistent with a collaborative and gender-specific approach to rehabilitating women in the criminal justice system. The commission this measure proposes would be a helpful forum for ongoing improvements in this area. To this end, the Judiciary also endeavors to establish in the First Circuit a Women's Court pilot, which will apply a gender-specific and trauma-informed approach to those in need; this pilot is proposed in House Bill 2421 and Senate Bill 3207.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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

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

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 FINANCE
ON
HOUSE BILL NO. 2312, H.D. 1

February 28, 2022
12:30 p.m.
Room 308 and Videoconference

RELATING TO PRISON REFORM

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2312, H.D. 1, proposes the following:

- Establishes the Women's Corrections Implementation Commission (Commission) under the Judiciary, for administrative purposes, to implement the recommendations from the final report from the House Concurrent Resolution No. 85 (2016) task force. The purpose of the seven-member Commission consisting of all women is to develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system.
- Makes an unspecified general fund appropriation in FY 23 to the Judiciary to establish the Commission.

B&F notes that, with respect to the general fund appropriation 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.

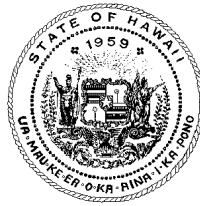
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- 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.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
1177 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 2312, HOUSE DRAFT 1
RELATING TO PRISON REFORM.

By

Max N. Otani, Director
Department of Public Safety

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

February 28, 2022; 12:30 p.m.
Via Videoconference

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 2312, House Draft (HD) 1, which seeks to establish a Women's Corrections Implementation Commission within the Judiciary to ensure implementation of the recommendations from the final report of the HCR 85 (2016) Task Force and address other issues related to the work of the task force.

The Department supports efforts to divert offenders from incarceration and notes that the statewide data on female risks and needs assessments collected by the Interagency Council on Intermediate Sanctions (ICIS) that is spearheaded by the Judiciary, would greatly assist the measure's Women's Corrections Implementation Commission, also proposed to be located within the Judiciary. PSD supports the continued funding for the efforts of the ICIS to help fulfill the purposes of this bill.

Thank you for the opportunity to provide comments on HB 2312, HD 1.



TESTIMONY IN SUPPORT OF HB 2312, HD 2

TO: Chair Luke, Vice Chair Yamashita, & Finance Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 28, 2022 (12:30 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 2312, HD 2, which establishes a Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the [final report of the HCR 85 Task Force on Prison Reform](#). The Commission would develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal legal system.

As the HCR 85 Task Force Report notes, “female offenders tend to have a history of physical and/or sexual abuse, and they are the primary caretakers of young children at the time of arrest. Their involvement in criminal activity is often motivated by poverty and/or substance abuse, and they are less likely than men to have been convicted of a violent crime.” The report further provides that “programs for justice-involved women should be holistic and support the entire woman.”

Prevailing prosecutorial practices, along with the continued absence of substantive bail reform, sentencing reform, and probation reform, set the stage for perennially overcrowded carceral facilities. The continued criminalization of personal drug use and possession significantly perpetuates lasting social, medical, and legal stigma. Criminalization subjects persons from under-resourced communities to prolonged periods of criminal legal supervision. [The enforcement of drug laws pertaining to personal use and possession of drugs has disproportionately impacted Native Hawaiians](#). In this regard, the criminal legal system's enforcement of punitive drug laws embodies the structural [racism that this Legislature declared a public health crisis via HCR 112](#) just last year.

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 of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse. Criminalization compounds their suffering and further jeopardizes their health and well-being.

Thank you for the opportunity to testify on this measure.

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

HEARING DATE: Monday, February 28, 2022

TIME: 12:30 PM, Via Videoconference

SUPPORT FOR HB2312 RELATING TO PRISON REFORM

The Women's Prison Project **STRONGLY SUPPORTS** HB2312 which establishes the Women's Corrections Implementation Commission in the Judiciary.

The language and content of HB2312 are very specific and carefully chosen. It is a bill about justice involved women—their gender-specific pathways to prison and their minor children. As a small minority in a large system, women's needs are easily overlooked. The Women's Implementation Commission will ensure that women are not lost in the shuffle, as they so often have been.

The first item under the powers and duties sections of the proposed commission states, "The commission shall develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system."

The second item under the powers and duties section states, "Ensure that the recommendations made in Chapter 10 of the final report of the House Concurrent Resolution No. 85 (2016) task force on prison reform to the legislature during the regular session of 2019 are implemented." That chapter specifically relates to women in the state Correctional system.

We highlight the exact language of HB2312 because Department of Public Safety (DPS) Director Max Otani and Hawaii Correctional System Oversight Commission (HCSOC) Chair Mark Patterson testified with "comments" when a bill similar to HB2312 was heard in the senate.

Director Otani's testimony stated, DPS notes the "close similarity of the bill's requirements to the duties and responsibilities of the current Hawaii Correctional Systems Oversight Commission. It appears to be duplicative of that entity."

Chair Patterson's testimony stated, "The Commission's statutory responsibilities include all of the duties and responsibilities that would be assigned to the Women's Correctional Implementation Commission...." Both of these statements are inaccurate and reflect a lack of understanding of the proposed Women's Implementation Commission. There is no language in the HCSOC duties and responsibilities that mentions "gender-responsive plans," or "non-violent women offenders," or the "minor children" of justice involved women.

In fact, the words “woman, women, or female do not appear one single time in the law that created the HCSOC. In the Women’s Corrections Implementation Commission, the word “women” is mention 10 times and “female” one time.

A significant difference between the HCSOC and the Women’s Corrections Implementation Commission is the makeup of the membership. The membership of the HCSOC, while requiring that its five members have knowledge of criminal justice or correctional systems, Native Hawaiian cultural practices or crime victims, is mainly characterized by who does the appointing—one member appointed by the governor, one by the senate president, one by the house speaker, one by the chief justice and one by the Office of Hawaiian Affairs.

The membership of the Women’s Corrections Implementation Commission is starkly different. First, it requires that all seven members be women. It includes: a community-based advocate, a former prison inmate, the leader of a private foundation that assists women in rehabilitation after release from prison, a social worker who assists in the rehabilitation and attainment of housing for female inmates, as well as the prosecuting attorney or their designee, the chief justice or their designee, and the Director of the Department of Public Safety or his designee. Their sole focus is on assuring the implementation of reforms related to justice involved women.

While the Women’s Prison Project respects and supports DPS Director Otani’s efforts to improve our state’s corrections system, and respects and admires the work of Chair Patterson throughout his career, including his time as the warden at the Women’s Community Correctional Center, we respectfully but emphatically disagree with assertions that the two commissions mentioned are duplicative and that the Women’s Corrections Implementation Commission does not need to exist as a standalone commission.

We ask the members of the Finance Committee to support SB2312, and appropriate sufficient funds to carry out the important and unique mission of the Women’s Corrections Implementation Commission.

Linda Rich
On behalf of the Women’s Prison Project