

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

Testimony of the Office of the Public Defender, State of
Hawai‘i to the House Committee on Judiciary & Hawaiian Affairs

February 8, 2024

H.B. 2722 HD1: RELATING TO YOUTH FEES AND FINES.

Chair Tarnas, Vice-Chair Takayama, and Members of the Committee:

The Office of the Public Defender strongly supports H.B. 2722 HD1:

The Office of the Public Defender represents indigent juveniles in the criminal justice system. Most of our juvenile clients come from families with limited incomes and live in poverty. Many of our clients are not only entangled in the criminal justice system but may also be in foster care and have limited access to resources that many in our community take for granted. We strongly support the purpose of H.B. 2722 and join in the call for the prohibition of fines, fees, and court costs against any person adjudicated for an offense committed during the person’s minority, or against the person’s parent or guardian.

The core principles and goals espoused in HRS § 571-1, which established the Family Courts, read in part as follows:

This chapter shall be liberally construed to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected, and secured in those rights through action by the court; that the court may formulate a plan adapted to the requirements of the child and the child’s family and the necessary protection of the community, and may utilize all state and community resources to the extent possible in its implementation.

This chapter created within the State a system of family courts and *it shall be a policy and purpose of said courts to promote the reconciliation of distressed juveniles with their families, foster the rehabilitation of juveniles in difficulty, render appropriate punishment to offenders, and reduce juvenile delinquency.*

Many of our juveniles involved in the court system are struggling with everything – from access to food and basic amenities, access to a safe place to live, access to transportation, access to a computer and internet access, and access to a working phone. Juveniles in distress include children who are victims of physical and sexual abuse, children who have experienced traumas and face mental health challenges resulting from those traumas. They include children in our foster care system who do not have a loving responsible parent to care and provide for them.

H.B. 2722 HD1 will help juveniles and their families concentrate their financial resources on accessing other services more in line with rehabilitation: providing basic needs, maintaining housing, accessing counseling services, educational services, mental health services, and reducing some of the daily pressures on families living in poverty by eliminating court-imposed debt that does nothing to promote rehabilitation, education, or the personal growth of youth in the criminal justice system.

Thank you for the opportunity to comment on this measure.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2024 Regular Session

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Thursday, February 8, 2024 at 2:00 p.m.
State Capitol, Conference Room 325 & Videoconference

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2722, H.D. 1 – Relating to Youth Fees and Fines.

Purpose: Prohibits the assessment of any fines, fees, or court costs against a person who was adjudicated for an offense committed during the person's minority, or against the person's parent or guardian, and discharges all related debt obligations assessed prior to the effective date of the Act.

Judiciary's Position:

The Judiciary takes no specific position on House Bill No. 2722, H.D. 1, which prohibits the assessment of fines, fees, or court costs against adjudicated minors. We note, however, that the intent and purpose of this bill are admirable and the strategies employed are evidence-based. Further, as noted in the bill's Preamble, family courts across the state already rarely impose fines, fees, or costs on youths and their parents.

We thank you for the opportunity to offer testimony on this bill.



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Thursday, February 8, 2024 at 2:00pm
Place: Conference Room 325 & via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB2722 HD1 Relating to Youth Fees and Fines**

Dear Chair Tarnas, Vice Chair Gabbard and Committee Members:

The American Civil Liberties Union of Hawai'i **SUPPORTS HB2722 HD1** which prohibits the assessment of any fines, fees, or court costs against a person who was adjudicated for an offense committed during the person's minority, or against the person's parent or guardian, and discharges all related debt obligations assessed prior to the effective date of the Act.

The ACLU of Hawai'i is committed to working collectively with governmental and community stakeholders to Reimage Public Safety. We advocate for the State to shift spending priorities away from mass criminalization and incarceration towards evidence-based investments in housing, education, employment, violence prevention, restorative justice and culturally appropriate health and human services in our communities.

National research shows fees and fines imposed on young people are ineffective and do not support rehabilitation.

Fees are designed to cover administrative costs associated with the system. Fines are intended to punish or deter future behavior. However, research shows that fees and fines generate little or no revenue for local government while doing real harm to youth rehabilitation. Data from other states show that jurisdictions often spend more on collection than they generate in revenue from fees and fines charged to youth.¹

Additionally, studies by criminologists found that youth who had fees and fines imposed on them had a significantly higher likelihood of recidivism, even when controlling for demographics and case characteristics.² As the amount of fees and fines increased, so did the youth's chances of recidivism.³

¹ Brennan Center for Justice, *The Steep Costs of Criminal Justice Fees and Fines* (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

² Alex Piquero, *Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE AND JUVENILE JUSTICE 325 (2017); Alex Piquero, Michael Baglivio & Kevin Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity* (forthcoming 2023) (on file with authors).

³ *Id.*

Moreover, when governments rely on fees to fund essential government functions, it creates an incentive for unnecessary laws, regulations, and enforcement. Law enforcement officers spend an extraordinary amount of time and resources on arresting and booking people for minor offenses with hefty fees attached, or for not paying those fees. Instead, those resources could be reallocated into prevention programs and other services that address pathways to involvement in the criminal legal system.

Imposing fines and fees disparately impacts Native Hawaiian and Pacific Islander youth and their families.

Financial costs for juveniles associated with fines, fees, or court costs are unnecessarily punitive and can result in long-lasting financial harm and stress for these youth and their families.

The majority of youth have no means to pay fees and fines as they have little to no income or assets of their own. As a result, the burden falls largely on their families. Because Native Hawaiian and Pacific Islander youth are disproportionately represented in the juvenile legal system, this burden tends to fall more heavily on those families.

By passing HB2722 HD1, Hawai'i will join dozens of states that have already achieved debt free justice for youth and their families.

Over 20 states and localities are acknowledging the harm created by imposing fines and fees on young people by abolishing them from their juvenile justice systems. Many more are following their lead.

We urge you to pass **HB2722 HD1** and implement debt free justice for youth aligns with Hawaii's commitment to reform its juvenile justice system. ⁴

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.

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⁴ <https://www.washingtonpost.com/nation/2022/07/25/hawaii-zero-girls-youth-correctional-facility/>

**THE HONORABLE DAVID A. TARNAS, CHAIR
THE HONORABLE GREGG TAKAYAMA, VICE CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Second State Legislature
Regular Session of 2024
State of Hawai'i**

February 8, 2024

RE: H.B. No. 2722: RELATING TO YOUTH FEES AND FINES

Dear Chair Tarnas, Vice-Chair Takayama, and Members of the Committee:

The Policy Advocacy Clinic at Berkeley Law, as a member of the national Debt Free Justice campaign,¹ submits the following testimony to express our support for H.B. No. 2722. We are grateful to the House Human Services Committee for hearing the bill and appreciate its amendments to strengthen the bill.

Fees and fines assessed in the juvenile system are punitive and impose long-lasting financial and emotional harm on youth and their families. These monetary sanctions exacerbate existing economic inequality and disproportionately harm low-income, and Native Hawaiian and Pacific Islander families. By ending this ineffective and criminogenic practice, the Legislature would bring state law in line with the existing general practice of Hawai'i's courts and join dozens of states across the country in achieving debt free justice for our youth.

Hawai'i's juvenile legal system disproportionately impacts Native Hawaiian and Pacific Islander youth and families, who are often struggling to make ends meet.

According to data from the Office of Juvenile Justice and Delinquency Prevention, Native Hawaiian and Pacific Islander youth are 4.1 times more likely to be arrested, 5.6 times more likely to be referred to court, 10 times more likely to be detained, and 7.5 times more likely to be found delinquent than White youth.²

Native Hawaiian youth are also more likely to live in low-income households with parents who cannot afford the costs associated with the system.³ Native Hawaiians face the lowest median income of all major ethnic groups throughout the state.⁴ Outside of these major ethnic groups, a 2018 report found that the Marshallese community had the lowest per capita income, although it is important to note these data left out thousands from other Micronesian Islands, such as Chuuk and Kosrae.⁵

With Native Hawaiian and Pacific Islander youth both more likely to be impacted by the juvenile system and poverty, youth fees and fines create a perfect storm of monetary extraction from families least likely to be able to afford it. For youth and their families, fees and fines can be insurmountable and often force families to choose between paying for necessities and paying the court.⁶ Monetary sanctions harm not only youth, but their families' financial and psychological well-being.⁷

Fees and fines against youth do not make Hawai‘i safer.

Fines are intended to punish or deter future behavior. However, in practice, both fees and fines are ineffective at supporting youth rehabilitation. Studies by criminologists on the effect of fines and fees found that youth, specifically youth of color, who had fees and fines imposed on them had a significantly higher likelihood of recidivism, even when controlling for demographics and case characteristics.⁸ Importantly, this bill’s scope is targeted towards fees and fines and does *not* impact victim restitution.

Fees are designed to generate revenue to cover costs associated with the system. However, research shows that fees and fines generate little or no revenue for local government because most system-involved youth and their families are low-income. Data from other states show that jurisdictions often spend more on collection than they generate in revenue from fees and fines charged to youth.⁹

Hawai‘i authorizes costly and punitive monetary sanctions against youth and families but do not charge in practice.

In its written testimony on this bill, the Hawai‘i State Judiciary is clear: “family courts across the state already rarely impose fines, fees, or costs on youths and their parents.” Our research and investigation has confirmed that courts recognize the difficulty youth and families face when navigating fees and fines, and have already taken steps to create alternative accountability methods that achieve justice without the imposition of crushing debt. This bill affirms Hawai‘i’s trailblazing efforts to become a model of youth justice by codifying the courts’ existing practice of not assessing fines and fees.

In 2021, the prosecuting attorney in Kaua‘i voluntarily committed to not seek fees and fines in juvenile cases. By removing the authorizing statutes for youth monetary sanctions, this bill brings state law in line with current practice and bolsters Hawai‘i’s efforts to take meaningful steps toward reforming the juvenile system.¹⁰

There is growing bipartisan and national support for ending fees and fines for youth.

By removing the authority to assess fees and fines against system-involved youth, H.B. No. 2722 would bring Hawai‘i in-step with the national movement to abolish juvenile fees and fines. States and localities across the continent are recognizing the harms of fees and fines. Over 20 states have abolished fees and/or fines from their juvenile systems, and many more are poised to follow their lead.¹¹

National associations of judges,¹² prosecutors,¹³ correctional leaders,¹⁴ and law enforcement professionals¹⁵ support the elimination of fees and fines for young people.

Removing authorization for assessing fees and fines on youth aligns the law with Hawai‘i’s existing general practices and its dedication to reforming its justice system.

Thank you for the opportunity to share our research and express our concerns on this measure.

¹ Debt Free Justice is a national campaign dedicated to ending the harmful and unjust fees and fines imposed on youth in the justice system and their families. See more at <https://debtfreejustice.org/>.

² *Id.*

³ *Demographic, Social, Economic, and Housing Characteristics for Selected Race Groups in Hawaii*. Hawaii Department of Business, Economic Development and Tourism 12 (2018).

https://files.hawaii.gov/dbedt/economic/reports/SelectedRacesCharacteristics_HawaiiReport.pdf.

⁴ *Income Inequality and Native Hawaiian Communities in the Wake of the Great Recession: 2005 to 2013*. Office of Hawaiian Affairs Research Division 2 (2014), <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf>.

⁵ Anita Hofschneider, *Hawaii Inequality Study Overlooked Thousands of Micronesians*, HONOLULU CIVIL BEAT (May 1, 2018), <https://www.civilbeat.org/2018/05/hawaii-inequality-study-overlooked-thousands-of-micronesians/>.

⁶ Berkeley Law Policy Advocacy Clinic, *Making Families Pay* (2017), <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Making-Families-Pay.pdf>.

⁷ Leslie Paik, "Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI," 19 (2019), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>.

⁸ Alex Piquero, "Justice System—Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders." *Youth Violence and Juvenile Justice*, 15(3), 325 (2017); Alex Piquero, Michael Baglivio, Kevin Wolff, "A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity," (2022) (on file with authors).

⁹ BRENNAN CENTER FOR JUSTICE, *THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES* (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

¹⁰ Crime And Justice Institute At CRJ, *Implementing Comprehensive Juvenile Justice System Improvement In Hawaii* (2017).

¹¹ *See State Activity*, DEBT FREE JUSTICE, <https://debtfreejustice.org/state-activity>.

¹² Nat'l Council of Juv. And Fam. Ct. Judges, *Resolution Addressing Fines, Fees, and Costs in Juvenile Courts* (Mar. 2018), https://www.ncjfcj.org/wp-content/uploads/2019/10/ExXIII_FinesFeesCosts_Resolution.pdf.

¹³ Fair And Just Prosecution, *Fines, Fees, and the Poverty Penalty* (2017), https://fairandjustprosecution.org/wp-content/uploads/2017/11/FJPBrief_Fines.Fees_.pdf.

¹⁴ Youth Corr. Leaders for Just., *Statement on Abolishing Youth Fines and Fees* (May 2021), <https://yclj.org/fines-and-fees>.

¹⁵ L. Enf't Leaders To Reduce Crime & Incarceration, *Ensuring Justice and Public Safety: Federal Criminal Justice Priorities for 2020 and Beyond* (Apr. 2020), https://lawenforcementleaders.org/wp-content/uploads/2020/04/2020_04_LEL_Policy_Report_Final.pdf.



COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

February 7, 2024

RE: HB2722: RELATING TO YOUTH FEES AND FINES

Dear Honorable Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary and Hawaiian Affairs:

Mahalo for your work. [Hawai'i Friends of Restorative Justice](#) began its work in 1980 with youth in the Honolulu family court, and submits the following testimony to express our strong support for HB2722.

Fees and fines assessed against youth in the juvenile system are punitive and can impose long-lasting financial and emotional harm on youth and their families. Fees and fines exacerbate existing economic inequality and disproportionately harm low-income, and Native Hawaiian and Pacific Islander families. By ending this ineffective and criminogenic practice, the Legislature would join dozens of states across the country in achieving debt free justice for our youth.

Youth and families cannot pay fees and fines

Most youth cannot pay fees and fines because they have little to no income, assets, or money of their own. As a result, the burden of fees and fines falls largely on the families of youth. Because Native Hawaiian and Pacific Islander youth are disproportionately represented in the juvenile legal system, this burden tends to fall more heavily on those families.

Native Hawaiian and Pacific Islander youth are also more likely to live in low-income households with parents who cannot afford the costs associated with the system. With Native Hawaiian and Pacific Islander youth both more likely to be impacted by the juvenile system and poverty, youth fees and fines create a perfect storm of financial and emotional harm for often already struggling families. Fees and fines be insurmountable and often force families to choose between paying for necessities and paying the court, leading to strained relationships between system-involved youth and their parents and siblings at a time when they need support most.¹

National research shows that fees and fines are ineffective and do not support youth rehabilitation.

Fees are designed to cover administrative costs associated with the system, and fines are intended to punish or deter future behavior. And yet, research shows that fees and fines

¹ Berkeley Law Policy Advocacy Clinic, *Making Families Pay* (2017), <https://www.law.berkeley.edu/wp-content/uploads/2015/12/Making-Families-Pay.pdf>.



generate little or no revenue for local government and harm youth rehabilitation. Data from other states show that jurisdictions often spend more on collection than they generate in revenue from fees and fines charged to youth.²

Additionally, studies by criminologists found that youth who had fees and fines imposed on them had a significantly higher likelihood of recidivism, even when controlling for demographics and case characteristics.³ As the amount of fees and fines increased, so did the youth's chances of recidivism.⁴

By passing this bill, Hawai'i will join the dozens of states that have achieved debt free justice for youth and families.

States and localities across the continent are recognizing the harms of fees and fines. Over 20 states have abolished fees and/or fines from their juvenile systems, and many more have since followed their lead. By removing the authority to charge fees and fines against system-involved youth, H.B. 317 would bring Hawai'i in-step with the national movement towards abolishing fees and fines.

Eliminating the assessment of juvenile fees and fines on youth aligns the law with Hawai'i's existing general practices and its dedication to reforming its juvenile justice system.

We respectfully ask for "Aye" vote, and please contact me if you need more information about our strong support lorenn@hawaiifriends.org or 808 218 3712.

Mahalo,

Lorenn Walker, JD, MPH

Director, Hawai'i Friends of Restorative Justice

² Brennan Center for Justice, *The Steep Costs of Criminal Justice Fees and Fines* (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

³ Alex Piquero, *Justice System—Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE AND JUVENILE JUSTICE 325 (2017); Alex Piquero, Michael Baglivio & Kevin Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity* (forthcoming 2023) (on file with authors).

⁴ *Id.*

HB-2722-HD-1

Submitted on: 2/8/2024 8:46:55 AM

Testimony for JHA on 2/8/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Angela Young	Cares	Support	Remotely Via Zoom

Comments:

CARES testifies in strong support of juvenile justice and to create equity & fairness in the corrections system by helping families with financial equity for juvenile crimes. Counseling & community service are more appropriate consequences of retribution.