

*The Judiciary, State of Hawai'i*

**Testimony to the Senate Committee on Judiciary**

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Friday, February 04, 2022 at 9:30 a.m.

Via Videoconference

by

Brook M. Mamizuka

Probation Administrator, First Circuit Court

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2641, Relating to the Judiciary.

**Purpose:** Appropriates moneys for residential programs that allow minor children to remain with their mothers, to reduce the risk of trauma and multigenerational incarceration, including community—based furlough programs, residential drug treatment programs, therapeutic community programs, and mental health programs.

**Judiciary's Position:**

The Judiciary supports this bill as it would appropriate monies to support mothers who are engaged in treatment. Although the number of programs that allow minors to remain with their mothers while in treatment is limited, there is a need for these programs. These programs have limited bed space which results in wait lists for mothers seeking treatment. Funding of these programs will provide a resource for these programs to increase operations and bed space, which will in turn result in a greater number of mothers that can be served.

Additionally, the availability of funding may encourage existing programs who do not allow minors to remain with their mothers in treatment, to expand and include this component to their program.

Thank you for the opportunity to testify on Senate Bill No. 2641.

COMMITTEE ON THE JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

HEARING DATE: February 4, 2022  
TIME: 9:30 AM, Via Videoconference

**SUPPORT FOR SB2641 RELATING TO THE JUDICIARY**

The Women's Prison Project **STRONGLY SUPPORTS SB2641** which would appropriate moneys for residential programs that allow minor children to remain with their mothers while participating in the program. This is in keeping with the recommendations from the HCR Task Force report to the Legislature in 2019 to transition to a more effective and sustainable correctional system that focuses on rehabilitation and to expand community-based treatment programs as an alternative to incarceration.

In a recent review of women in the state's prisons and jails, the Judiciary's Criminal Justice Research Institute (CJRI) found that women comprise a higher percentage of the state's incarcerated population than in any other state. Also, approximately 75% of women in Hawaii's correctional facilities are mothers, and approximately 60% had minor children living with them prior to incarceration.

Incarceration of mothers that results in separation from their children has been well-documented to have negative developmental and emotional effects on children. Early and secure attachment to a primary caregiver is the foundation of infant mental health and is

essential for the development of the capacity to form healthy relationships. Children of incarcerated mothers often enter the foster care system, which is costly to the State and often traumatic for children. Research indicates that children of incarcerated mothers are at high risk for increased health problems, developmental delays, attention deficit disorder and for problem behaviors. Incarcerated mothers may suffer depression and anxiety due to the trauma of separation from their children, making them less able to benefit from rehabilitative services.

Meeting the Needs of Women in California's County Justice Systems: A Toolkit for Policymakers and Practitioners (B. Bloom, 2015) reported that “By the nature of their lower-level offenses, women pose less of a threat to public safety than men and they often are more amenable to community-based programming than men.” Data from CJRI indicates that only a small percentage of Hawaii’s incarcerated women have been convicted of a violent felony.

The majority of incarcerated women in Hawaii are incarcerated for drug offenses, including property crimes that were drug related, and may be more effectively rehabilitated through community-based programs that address women’s common pathways to crime and recidivism, including addiction, childhood trauma and abuse, poverty, interpersonal abuse, lack of job skills and employment, low levels of education, and lack of access to safe affordable housing, mental health care, addiction treatment and physical healthcare.

The courts can continue to hold women accountable while they participate in needed community-based services that allow them to keep their minor children with them. This would reduce trauma for children and mothers, lower risk of recidivism and help break the intergenerational cycle of incarceration.

The Women's Prison Project strongly supports the state's investment in programs that would allow women to be diverted or released from prison into programs that could preserve the parent-child bond while engaging women in therapeutic and rehabilitative programs. Ideally these programs will also provide parenting support and identify and address any developmental needs of the children. The appropriation should also include funds for childcare while women are engaged in treatment work activities.

Implementation of this bill will result in decreased rates of incarcerated women and reduced recidivism. It would also reduce trauma and its costly consequences for women, children, and our communities.

Thank you for considering our thoughts related to the Women's Prison Project's strong support for SB2641 RELATING TO THE JUDICIARY.

Linda Rich [richl001@hawaii.rr.com](mailto:richl001@hawaii.rr.com)

Hawaii Women's Prison Project



THE SENATE  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2022

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

NOTICE OF HEARING

DATE: Friday, February 4, 2022  
TIME: 9:30 a.m.  
PLACE: Via Videoconference

POSITION: **STRONG SUPPORT SB2641**

My name is Darlyn Chen Scovell, a volunteer advocate for families and children with FASD (Fetal Alcohol Spectrum Disorder), Infant Mental Health and the Hawaii FASD Action Group. Being the voice of infants, children and families of Hawaii.

I am writing in **STRONG SUPPORT of SB2641**

The legislature finds that, as of 2018, seventy—five percent of incarcerated women in Hawaii had children. Previous surveys have also shown that many women on parole are mothers of minor children. According to the study entitled, Reproductive justice for incarcerated mothers and advocacy for their infants and young children, a historically unprecedented number of children are exposed to parental incarceration. There are massive pieces of evidence that parental incarceration impairs children's wellbeing throughout the life course.

Given that these children are already born extraordinarily vulnerable and are also the most likely to experience one or both parents behind bars they write, these trends increase inequality among children. Parental incarceration massively strains family life, with cascading consequences for children. Children whose schoolmates have incarcerated mothers may suffer consequences, even if they do not have incarcerated mothers. An unfortunate exposure to ones less vulnerable with healthy families and children thriving.

The purpose of this Bill SB2641 - Act is to appropriate amounts of money for residential programs that allow minor children to remain with their mothers while participating in the program to reduce the risk of trauma and multigenerational incarceration. SECTION 2. There is an appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for the fiscal year 2022—2023 for residential programs that allow minor children to remain with their mothers while participating in the program, including: (1) Community—based furlough programs; (2) Residential drug treatment programs; (3) Therapeutic community programs; and (4) Mental health programs. The sum appropriated shall be expended by the judiciary for this Act.

Parental incarceration contributes to psychological maladjustment by disrupting the attachment bond between the parent and child, thus influencing the development and deployment

of maladaptive emotion regulation competencies (Zeman & Dallaire, 2017). A nascent body of research indicates that children of incarcerated parents are at risk for negative socio-emotional, psychological, educational, and health outcomes. Studies have investigated incarceration's impact on emotion regulation; preliminary findings demonstrate that children who manifest more vital emotion regulation skills have fewer negative psychological outcomes. Emotion regulation competencies fostering resilience are warranted. Training children and caregivers to manage affect during emotionally provocative situations during the incarceration period, family reunification promotes healthy adjustment for both the infant and the mother (Condon, 2018)

Programs designed for incarcerated mothers most often aim to increase the mothers' parenting knowledge. The curricula combine objectives in several broad categories, among them improving communication, mental wellbeing, alliance with caregivers, attitudes toward parenting, child development, discipline, and behavior management. The four programs we describe below show that incarcerated mothers can benefit from such interventions. (Shlafer et al., 2019).

Mahalo Nui Loa, for the opportunity to submit testimony, for your kind consideration in **PASSING this critically meaningful Bill, SB2641.**

Mahalo Nui Loa, for the opportunity to submit testimony, for your kind consideration in passing this critically meaningful Bill SB2641

Taking Care of Our Tomorrow Today for a healthier and safer Hawaii.  
Always with Gratitude.  
Respectfully yours,  
Darlyn Chen Scovell MA, CSAC, CSACI, RBT

#### Reference

Condon, M.-C. (2018). Early Relational Health: Infants' experiences living with their incarcerated mothers. *Children of Incarcerated Parents*, 4–24. <https://doi.org/10.4324/9780203702673-2>

Shlafer, R. J., Hardeman, R. R., & Carlson, E. A. (2019). Reproductive justice for incarcerated mothers and advocacy for their infants and young children. *Infant Mental Health Journal*, 40(5), 725–741. <https://doi.org/10.1002/imhj.21810>

Zeman, J., & Dallaire, D. (2017). Children's and adolescents' emotion regulation in the context of parental incarceration. *Emotion Regulation and Psychopathology in Children and Adolescents*, 351–373. <https://doi.org/10.1093/med:psych/9780198765844.003.0017>

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  
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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 SENATE COMMITTEE ON JUDICIARY  
ON  
SENATE BILL NO. 2641

**February 4, 2022**  
**9:30 a.m.**  
**Via Videoconference**

RELATING TO THE JUDICIARY

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

Senate Bill No. 2641 makes an unspecified general fund appropriation in FY 23 to the Judiciary for residential programs that allow minor children to remain with their mothers while participating in programs, including community-based furlough, residential drug treatment, therapeutic community, and mental health programs.

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.



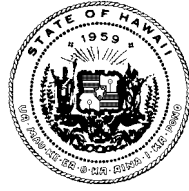
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- 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



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

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

February 3, 2022

TO: The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **SB 2641 – RELATING TO THE JUDICIARY.**

**HEARING:** Friday, February 4, 2022, 9:30 am  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of this bill, offers comments, and defers to the Judiciary.

**PURPOSE:** Appropriates moneys for residential programs that allow minor children to remain with their mothers to reduce the risk of trauma and multigenerational incarceration, including community-based furlough programs, residential drug treatment programs, therapeutic community programs, and mental health programs.

The DHS Child Welfare Services (CWS) is implementing Family First Hawaii'i (FFH), initiated by the Family First Prevention Services Act (2018) (FFPSA). The approved FFH 5-year plan provides prevention services and practices based on a safety intervention model to prevent children from entering foster care, thus preventing immediate and intergenerational trauma from separating families.

Additional funding will support the critical need for statewide expansion of evidenced-based residential treatment programs and services available to children and families to prevent entry into foster care and support the reunification of families.

The financing of FFPSA is a reimbursement model and provides opportunities for states to seek federal reimbursement of state funds expended on approved evidence-based practices; CWS will work with the Judiciary to explore ways to maximize the State's ability to seek reimbursement through FFPSA.

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

**To: Committee on Judiciary**

**Hearing Date/Time: Friday, February 4, 2022 9:30 AM**

**Re: Testimony in Support of SB 2641**

**From: Heather Lusk, Hawaii Health and Harm Reduction Center**

Dear Chair Rhoads, Vice Chair Keohokalole and Members of the Committee:

The Hawaii Health & Harm Reduction Center (HHHRC) supports SB 2641 which would provide an appropriation for community-based programs to allow women to participate with their minor children.

I was able to work in such a program on the continent more than 20 years ago and saw first hand how supporting women to bond with their children while gaining parenting skills and support from community programs lowered recidivism and had a high success rate of participants maintaining employment and other forms of support.

HHHRC's mission is to *reduce harm, promote health, create wellness and fight stigma in Hawaii and the Pacific*. We focus our efforts on those disproportionately affected by social determinants of health, including but not limited to: people living with and/or affected by HIV, hepatitis, substance use, and the transgender, LGBTQ and the Native Hawaiian communities.

Thank you for the opportunity to testify.

Heather Lusk, Executive Director, Hawaii Health and Harm Reduction Center



## **SB2641 Funding for Women and Babies programs for Women Offenders**

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Tuesday, Feb 4 2022: 9:30 am : Videoconference

### **Hawaii Substance Abuse Coalition Strongly Supports SB2641:**

*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.*

Drug Treatment coupled with work furlough programs helps women and their children to stop the intergenerational cycle of alcohol and drug dependency:

- Women have special needs that are more relationship oriented and that includes supporting their children,
- Counseling helps women and children in recovery by rebuilding relationships with their children and loved ones,
- Residential and outpatient programs tailor to gender responsive treatment approaches within an environment that addresses their spiritual, physical, cultural and emotional needs,
- Recovery includes supporting self-sufficiency by establishing work or educational goals,
- Following treatment, housing and furlough programs can help women and their children by practicing recovery, rebuilding family connections, and transitioning into independent housing through learning about daily living skills, educational classes on parenting and health as well as vocational training.

This bill is important because according to the 2017 National Institute of Justice report<sup>1</sup>, children of offenders are the “hidden victims” facing a host of challenges and difficulties, stresses, and strains:

- Research demonstrates that the strength of the parent-child bond in healthy ways can play significant roles in the child’s ability to overcome these challenges.
- About 11% of children have a parent who was or is involved with criminal justice,
- Moreover, on the average, the mother is the primary support for the child,

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<sup>1</sup> National Institute for Justice: 2017: Hidden Consequences: The Impact of Incarceration on Dependent Children: <https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children>

- Children of incarcerated parents are 6 times more likely to be incarcerated themselves.

It is critical for our families that we ensure a safety net for the child and successful re-entry for the incarcerated mother.

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

**SB-2641**

Submitted on: 2/2/2022 12:11:49 PM

Testimony for JDC on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

**Amanda Luning, LMHC, IMH-E®**  
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***I write the testimony as a private citizen, but with full disclosure that I serve as a director whose non-profit programming stands to potentially receive funds should this legislation be passed.***

Please imagine with me a woman, through little fault of her own, having likely been exposed to substances in-utero, grown up with intergenerational trauma, violence and substance use, finds herself using and pregnant.

She gives birth to her baby, full of dreams that they will together have a clean slate, a new generation of hope and love...and our system says "take it away."

So now we have a postpartum woman, dizzy with hormonal imbalance, in addition to the physiological cost of years of all kinds of abuse, that is supposed to "focus on treatment" without her newborn baby...*or her hope.*

If this were you or I, we would call this insane, we would say it is a "set up to fail", the odds are too stacked against us. Yet we still do this to women every day.

As a provider in the community who has worked for nearly 20 years with families and a specialist in Infant and Early Childhood Mental Health, it is my definitive opinion that you cannot separate the long-term health and social emotional success of a very young child from that of their primary caregiver(s)/parents.

Dyadic interventions when a mother and infant are at any sort of high-risk for detriment to their health and well-being, such as addiction and family trauma, are BY FAR *the best kind*. The Substance Abuse and Mental Health Services Administration (SAMHSA) says so, the American Academy of Pediatrics says so, and anyone who truly understands dyadic early intervention will say so as well.

Programs and providers that specialize in working with women, who are coming from some of the most traumatic and unhealthy experiences that life can bring, AND their very young child, *need more support.*

***It is one of the most intricate, delicate, complex and difficult professional specializations that exists.***

**To be plain:** PTSD, poverty, drugs, and babies. It needs to be incredibly intentional to be successful and it will be expensive.

We know that home visiting cost less than hospitalization. We know that preschool costs less than prison. We know that prevention costs less than intervention. We MUST invest. This an intergenerational issue, and these babies and their mothers deserve their fair shot, no matter the cost. Infant and maternal mental health is a social justice issue and ultimately should be a *human right.*

**There is SO much hope.** The women that receive comprehensive, holistic, and collaborative care CAN and DO succeed. If I had more time, I could share things you'd never believe were possible. "Throw away" cases with so much pitted against them that wellness and happiness seemed impossible, that are *now thriving and raising strong and resilient children who will know where they came from and what their families had to overcome.*

**I implore you to support this SB2641 as it is presented and to explore even further how to make this kind of support a reality on behalf of those who are most vulnerable.**

Sincerely,



Amanda Luning, LMHC, IMH-E ®



***I am writing in support of SB2641, to advocate for the inclusion of children with their mothers as they receive treatment services.***

I write to you as a concerned private citizen but also as an administrator in an organization that is focused on supporting families in breaking multigenerational cycles of substance use, poverty and trauma. Our vision of healthy families starts with the mother and her baby.

Although I've heard from hundreds of women over my 25+ years in this behavioral health field, one of the most impactful stories comes from a first time mother who was incarcerated due to criminal activities that she engaged in to support her addiction to methamphetamine.

She applied for assistance in hopes of being released to a treatment program where she could give birth to her infant and get help to stop her drug use. She unfortunately gave birth while still incarcerated and shared with me about her traumatic experience of giving birth and then needing to leave the hospital without her newborn, to return to prison alone. It was heartbreaking.

But she was so focused on reuniting with her baby and had a goal of being able to one day breastfeed her child. She talked about "pumping and dumping" for weeks before she was released to a program where she was reunited with her infant and where she could finally nurse her baby and begin motherhood, now in early recovery. That just highlighted clearly to me the devotion of a mother to her child.

***But it also made me wonder what would have happened had she not had a program to go to that would allow her child to join her in treatment?***

I consistently hear from women that their greatest motivation for life changes such as seeking treatment or leaving an abusive partner was to be a healthy mother to her children. That relationship is key. It is a motivator for change. It provides a break in that damaging multigenerational cycle and sets up a new trajectory for the whole family!

This story is not unique in that most women who are incarcerated are there because of non-violent offenses related to their dependency to drugs. Their drug use often stems from early childhood trauma and an attempt to manage the overwhelming and intrusive trauma symptoms through the only tool that they know---drugs and alcohol. The drug use leads to more traumatic experiences, stunts emotional growth and leads to limited skills in managing difficult life experiences in healthy ways. It's a cycle that becomes more complex when adding an infant, whose mental health is dependent on the nurturance, responsiveness and care that they receive from their primary caregivers around them.

This is why programs that hold the mother and child relationship as central leads to healing for not only the adult but for the child as well. Separation on the other hand, during those crucial regulatory and attachment forming periods of development, only sets up a difficult path for children and leaves them vulnerable to follow the same path as their parent.

More programs that provide services that can support the inclusion of the children with the parent in treatment are needed in Hawaii. I ask for your consideration and support of SB2641 to make this level of care available for mothers and to help shift those negative multigenerational cycles for the whole family!

Mahalo,

Candace Pang