

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**  
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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 HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 3295, S.D. 1, H.D. 2

**March 31, 2022**  
**2:30 p.m.**  
**Room 308 and Videoconference**

RELATING TO CORRECTIONS

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

Senate Bill No. 3295, S.D. 1, H.D. 2, establishes the Women's Correctional Implementation Commission (WCIC) within the Department of Public Safety (PSD) for administrative purposes only to provide oversight over State correctional facilities and community correctional centers that incarcerate women, receive and investigate complaints from incarcerated women, monitor the criminal justice system's progress in implementing reforms, and monitor programs and data that are important to ensuring successful outcomes for women in the correctional system. This bill also requires the WCIC to submit annual reports to the Legislature and appropriates an unspecified amount of general funds to the Judiciary for FY 23 to fund the operations of the commission, including the hiring of necessary staff.

B&F would like to point out that there appears to be an error in Section 3 of the draft which specifies the Judiciary as the expending agency. The WCIC is administratively attached to PSD and it should be the expending agency.

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.

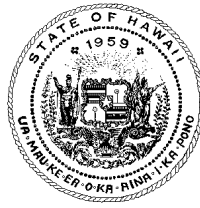
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- 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 SENATE BILL 3295, SENATE DRAFT 1, HOUSE DRAFT 2  
RELATING TO CORRECTIONS.

By  
Max N. Otani, Director  
Department of Public Safety

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

March 31, 2022; 2:30 p.m.  
Via Videoconference

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

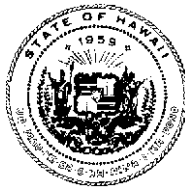
The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 3295, Senate Draft (SD) 1, House Draft (HD) 2, which seeks to establish a Women's Corrections Implementation Commission within the Judiciary, to provide oversight over state jails and correctional facilities that incarcerate women, receive and investigate complaints from incarcerated women, monitor the criminal justice system's progress in implementing reforms, and monitor programs and data important to ensuring successful outcomes for women in the correctional system.

PSD offers the following comments regarding SB 3295, SD 1, HD 2 noting the close similarity to 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.

The Department also wishes to caution the Legislature regarding the selection of the Judiciary as the expending agency. PSD respectfully suggests that it may be more appropriate to place the funding and responsibilities for implementation with another Executive Branch department.

In addition, the Department notes that recidivism outcomes are tracked by the Interagency Council on Intermediate Sanctions (ICIS), spearheaded by the Judiciary. The ICIS publishes an annual recidivism study that tracks, in detail, the recidivism rates of probationers, parolees, and inmates who have completed their term(s) of incarceration.

Thank you for the opportunity to provide comments on SB 3295, SD 1, HD 2.



**STATE OF HAWAII  
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 31, 2022

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance  
  
The Honorable Representative Kyle T. Yamashita, Vice-Chair, House  
Finance Committee

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight  
Commission

SUBJECT: **SB 3295, RELATING CORRECTIONS**

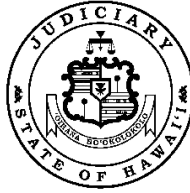
POSITION: COMMENTS

Chair Luke and Vice Chair Yamashita and Members of the Committees:

The Hawaii Corrections System Oversight Commission was created by Act 179, SLH 2019, to provide independent oversight over our correctional system. The Commission's statutory responsibilities include all of the duties and responsibilities that would be assigned to the Women's Correctional Implementation Commission that would be if SB 3295 were enacted.

Our Commission takes its responsibilities seriously. We have met in public monthly – sometimes more often – for two years. Our five volunteer members are all experienced criminal justice professionals who are interested and concerned about our correctional system. However we have been unable to obtain the staff support that was provided by Act 179. We have made two unsuccessful attempts to hire the staff we need. Our latest request has been pending since early December.

If the Legislature chooses to enact this bill, you may be assured that we will fully cooperate with the new Commission.



*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

Thursday, March 31, 2022, 2:30 P.M. – Agenda #2  
State Capitol, Conference Room 308 & Videoconference

by  
Rodney A. Maile  
Administrative Director of the Courts

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 3295, S.D. 1, H.D. 2, Relating to Corrections.

**Purpose:** Establishes the women's corrections implementation commission within the department of public safety to provide oversight over state correctional facilities and community correctional centers that incarcerate women; receive and investigate complaints from incarcerated women; monitor the criminal justice system's progress in implementing reforms; and monitor programs and data that are important to ensuring successful outcomes for women in the correctional system. Requires annual reports to the legislature. Appropriates funds. Effective 7/1/2050.

**Judiciary's Position:**

The Judiciary supports the intent of this measure that is consistent with a gender-responsive approach to improve outcomes for women in the criminal justice system but respectfully offers the following comments for the Committee's consideration.

The women's corrections implementation commission contemplated by this measure would be established within the Department of Public Safety and focus on the oversight of state correctional facilities and incarcerated women. The Judiciary does not have authority over these facilities or jurisdiction over this target population, and as such does not appear to be contemplated as part of the commission's membership. Operationally, considering the



Senate Bill No. 3295, S.D. 1, H.D. 2, Relating to Corrections  
House Committee on Finance  
Thursday, March 31, 2022  
Page 2

Judiciary's relatively defined and limited involvement with these specific issues, the Judiciary does not appear to be the appropriate entity for the role as expending agency as contemplated in the current version of this measure.

In addition, from a fiscal perspective, the Judiciary serving as the expending agency would be highly complicated and arguably inappropriate. Specifically, it would be difficult for the Judiciary to expend funds for the commission since the administrative functions fall under the Department of Public Safety, which is outside of the Judiciary's purview. Thereby, it would be a complex task for the Judiciary to monitor, verify, and reimburse for expenditures of an external entity as required by our financial administration policies. Moreover, since it would be improper for the Judiciary to participate in the substantive work of the commission, it is unclear how recruitment, hiring, and control over any positions associated with the commission would be handled.

We would also note that a similar measure has been proposed (HB2312, H.D. 1, S.D. 1), which would establish a commission within the Judiciary that focuses on diversion and community-based programs to support women offenders. The goals, membership, and structure of the HB2312 commission are more closely aligned with the areas of the criminal justice system under the Judiciary's jurisdiction. As expressed in our testimony for HB2312, H.D. 1, we are supportive of this approach and recognize that such a commission would be a helpful forum for ongoing improvements.

Thank you for the opportunity to testify on this measure.

**SB-3295-HD-2**

Submitted on: 3/30/2022 1:32:11 PM

Testimony for FIN on 3/31/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Linda Rich	Women?s Prison Project	Support	Remotely Via Zoom

Comments:

**COMMITTEE ON FINANCE**

**Representative Sylvia Luke Chair**

**Representative Kyle Yamashita, Vice Chair**

HEARING DATE: Thursday, March 312022

TIME: 2:00 PM, Via Videoconference

LOCATION: Conference Room

**SUPPORT FOR SB3295, SD1 RELATING TO CORRECTIONS**

The Women's Prison Project **strongly supports** SB3295, SD1, HD2 which establishes a Women's Implementation Commission to ensure timely implementation of the recommendations from the House Concurrent Resolution No 85 (2016) and other reforms which may be mandated by the Legislature.

We would bring to the committee's attention that HB2312, which was supported by the Judiciary, placed the Women's Implementation Committee in the Judiciary. We request that the final form of this bill reflect the Women's Implementation Commission's work with both Judiciary and DPS. The diversion of women from incarceration and development of effective community-based alternatives to incarceration are also areas of focus for the Commission, and the Judiciary has demonstrated their support of the Commission. SB3295 places The Women's Implementation Commission in DPS, however, WPP recommends that it be placed in the Judiciary, with responsibilities there as well as with Corrections.

In its 2018 report, the House Concurrent Resolution No 85 (2016) Task Force recommended to the House that the state implement certain gender-specific reforms, including the provision of specialized Trauma Informed Training for all DPS personnel and contractors working with



incarcerated women. It was further recommended that Hawaii implement evidence-based, gender-responsive rehabilitative and therapeutic programs, support services, and community services needed to comprehensively and holistically respond to the needs of women in the state criminal justice system. Six years later, most of those recommendations have not been implemented. A comprehensive approach to women's issues is needed to reduce the incarceration rate of non-violent, low risk women offenders and to insure a successful pathway to transition and non-recidivism for those women who are transitioning out of prison.

Because most crime is committed by men, the criminal justice system is set up to address the correctional concerns and needs of men. However, criminal justice researchers have established that women differ in their offending patterns, both in kind and in degree. Women, for example, are more likely than men to be arrested, convicted, and sentenced for minor crimes, including narcotic-related crimes and property crimes. Women are also less likely to engage in acts of violence against others, which reduces the public safety risk to others if they are sentenced to probation, community service, or residential treatment programs instead of prison. Women are also more likely to suffer from substance abuse addiction and poor mental health, that, if left untreated, become risk factors that can lead to increased recidivism

Perhaps most importantly, women are far more likely to serve as primary caretakers for minor children within the home. A prison sentence, therefore, represents a far greater punitive sentence for women than men. Incarceration unnecessarily isolates women from their support networks, and it inflicts emotional and psychological trauma by separating mothers (and grandmothers) from their minor children for extended periods of time. It also creates a cyclical problem, as children who have a mother in prison are more likely to end up in foster care and/or juvenile justice system as a result. In fact, one federal study estimates that children are *six times more likely* to go to prison themselves if they have one or more parent in prison (Martin, *National Institute of Justice*, 2017).

The Hawaii legislature can help to address this problem by passing SB3295, SD1, HD2. A Women's Corrections Implementation Commission will ensure that Hawaii's correctional system is reviewing policies and procedures with gender in mind and staying abreast of the latest gender-responsive research. **This is not a duplication of the work of the existing Corrections Oversight Commission, which is dealing with issues of the greater corrections system. The Women's Prison Project supports the establishment of an IMPLEMENTATION Commission, which is specifically to implement reforms for women in the justice system, including the Judiciary. Its scope is focused and its membership consists of women with the knowledge and expertise to effectively implement a specific range of reforms for justice involved women. Like the Corrections Oversight Commission, this Women's Implementation Commission should be housed in the Judiciary since some recommended reforms relate to diversion of women from prison with oversight by the courts.**

There are numerous studies highlighting the benefits of implementing rehabilitative and correctional programs tailored to the unique needs of women, and the Women's Implementation Commission will be poised to evaluate and implement program recommendations in order to improve the outcomes for women and their dependent children.

By adopting a Women's Implementation Commission that has an eye on these gender-specific recommendations and reforms, we can help to ensure that our systems are functioning as well as they can to ensure the ongoing health and safety of our communities.

Linda Rich for Women's Prison Project

**SB-3295-HD-2**

Submitted on: 3/30/2022 1:04:20 PM

Testimony for FIN on 3/31/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: COMMITTEE ON FINANCE

FROM: Wendy Gibson-Viviani RN/BSN

RE: SB3295 (In Support)

Hearing: March 31, 2022 at 2:30 p.m.

Dear Chair Rep. Sylvia Luke, Vice-Chair Rep. Kyle T. Yamashita, and Members of the Committee,

I am Wendy Gibson-Viviani, a healthcare professional (RN) who has lived and worked in Hawaii for 29 years. I support SB3295 because:

Most crimes are committed by men and so our criminal justice system was constructed to address the needs of men better than women.

In 2016, the House recommended that Hawaii implement evidence-based, **gender-responsive rehabilitative and therapeutic programs, support services, and community services** needed to comprehensively and holistically **respond to the needs of women** in the state criminal justice system. This hasn't happened yet.

We need a timely implementation of the recommendations found in the 2018 Taskforce on Prison Reform report (HCR85). They state that:

Hawai'i's correctional system is not producing acceptable, cost-effective, or sustainable outcomes and needs immediate and profound change. One way to meet that end would be to pass this bill which will require:

- A women's corrections implementation commission within the department of public safety to provide oversight over state correctional facilities and community correctional centers that incarcerate women;
- receive and investigate complaints from incarcerated women;

- monitor the criminal justice system's progress in implementing reforms;
- and monitor programs and data that are important to ensuring successful outcomes for women in the correctional system.
- Requires annual reports to the legislature.
- Appropriates funds (especially important if you transfer this responsibility to the **underfunded** Hawaii Correctional System Oversight Commission)

Thank you for the opportunity to testify. Please support SB3295.

Wendy Gibson-Viviani RN/BSN

Kailua