



The Judiciary, State of Hawai'i

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

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, March 12, 2024 at 10:00 a.m.

State Capitol, Conference Room 016 & Videoconference

by:

Rodney A. Maile

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2509, H.D. 1 – Proposing an Amendment to Article VI, Section 3 of the Hawai'i State Constitution to Increase the Mandatory Retirement Age for State Justices and Judges.

Judiciary's Position:

The Hawai'i State Judiciary supports House Bill No. 2509, H.D. 1, which proposes an amendment to article VI, section 3 of the Hawai'i State Constitution to raise the mandatory retirement age for state justices and judges.

Judges and justices are able to perform their judicial duties past the age of 70, and many judges and justices that were forced to retire as a result of the mandatory retirement age for state judges and justices continue to be very active in the legal community and other community-based endeavors. We believe that extending the mandatory retirement age for judges and justices from age 70 to age 75 is a reasonable balance.

We respectfully request removal of the July 1, 3000 effective date and restoration of language in the original version of the bill to "take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii."

Thank you for allowing us to testify on House Bill No. 2509, H.D. 1.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
HAWAII PAROLING AUTHORITY
Ka 'Ākena Palola o Hawai'i
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ACTING ADMINISTRATOR

No. _____

TESTIMONY ON HOUSE BILL 2509, HD1
RELATING TO PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3
OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY
RETIREMENT AGE FOR STATE JUSTICES AND JUDGES

by
Edmund "Fred" Hyun, Chair
Hawaii Paroling Authority

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, March 12, 2024; 10:00 a.m.
State Capitol, Conference Room 016 and via Video Conference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committees:

The Hawaii Paroling Authority (HPA) stands in support of HB 2509 HD1 to increase the mandatory retirement age for state justices and judges. Moving up the effective date of the bill will ensure retention of experienced and qualified judges which will maintain the stability within the respected court systems.

Thank you for the opportunity to present testimony on HB 2509 HD1. We will be available to answer questions the committee members may have.

JON N. IKENAGA
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March 11, 2024

**TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER STATE OF HAWAII
TO THE COMMITTEE ON JUDICIARY**

**HB 2509, HD1: PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF
THE HAWAII STATE CONSTITUTION TO INCREASE THE
MANDATORY RETIREMENT AGE OF STATE JUSTICES AND
JUDGES.
March 12, 2024 at 10:00 a.m.**

**Chair Karl Rhoads
Vice Chair Mike Gabbard
Honorable Committee Members**

The Office of the Public Defender (OPD) supports this bill.

In recent years a number of judges and justices have been forced to retire at age 70. These judges and justices were competent, contributing members of the judiciary and were retired not due to an inability to perform their duties at the highest levels but simply because they had reached mandatory retirement age. The fact that many of the retired judges and justices continue to be active in the legal community evidences that they should not have been forced into retirement simply because of age. Indeed, older judges and justices bring invaluable experience and knowledge to the bench. If the mandatory retirement age is not raised from 70 to 75, some current judges and justices will similarly be forced to retire in the upcoming years simply due to age and not due to competency.

The OPD supports this bill. Thank you for the opportunity to comment on HB 2509.

HB-2509-HD-1

Submitted on: 3/8/2024 8:21:17 PM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawai'i	Support	Remotely Via Zoom

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawai'i; Hawai'i's oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 2509 HD 1.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr. (he/him)
Chair and SCC Representative
Stonewall Caucus for the DPH

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, March 12, 2024

10:00 AM

STRONG SUPPORT FOR HB 2509 HD1 - CON AM: RETIREMENT AGE OF JUSTICES & JUDGES

Aloha Chair Rhoads, Vice Chair Gabbard and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost thirty years. This testimony is respectfully offered on behalf of the 3,838 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation of March 4, 2024.

We are always mindful that 858 men who are serving their sentences abroad (43.5% of the male prison population of 1,972) - thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates this opportunity to testify in **strong support of HB 2509 HD1** that proposes a constitutional amendment to increase the mandatory retirement age for state justices and judges from 70 years to 75 years.

Ballotpedia published a list of the Mandatory Judicial Requirement Ages by State². Here is a quick and easy breakdown:

- **16 STATES HAVE NO RETIREMENT AGE** (California, Delaware, Georgia, Idaho, Illinois, Kentucky, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Rhode Island, Tennessee, West Virginia)
- **1 STATE HAS THE MOST ADVANCED RETIREMENT AGE - 90 YEARS** (Vermont)

¹ **DPS/DCR Weekly Population Report, March 4, 2024.**

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-03.04.pdf>

² **Mandatory judicial retirement ages by state as of March 14, 2022.**

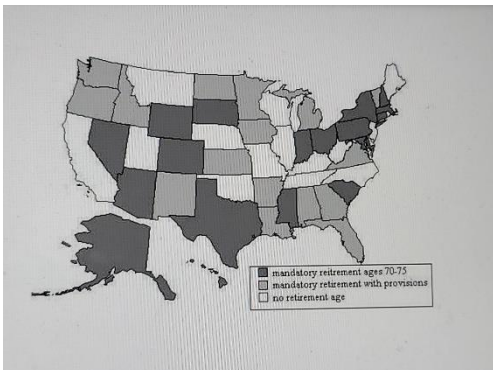
https://ballotpedia.org/Mandatory_retirement

- **8 STATES HAVE 75 YEARS AS RETIREMENT AGE** (Florida, Indiana, Kansas, Oregon, Pennsylvania, Texas, Utah, Washington)
- **19 STATES HAVE 70 YEARS AS RETIREMENT AGE** (Alabama, Alaska, Arizona, Arkansas, Connecticut, Hawai`i, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, South Dakota, Wisconsin, Wyoming)
- **6 STATES HAVE RETIREMENT AGES BETWEEN 71 - 74 YEARS** (Colorado (72), District Of Columbia (74), Iowa (72), North Dakota (73), South Carolina (72), Virginia (73))

Research published by the University of Vermont’s Legislative Research Shop on the Mandatory Retirement Age of Judges in 2000 gives a good overview of what other jurisdictions are doing:

*“...In a number of states conditional provisions have been accompanied with mandatory retirement ages. For example, in the state of **Florida** appellate judges who turn 70 at the midpoint of a six-year term are allowed to serve out his or her term and retire at 73 (FLA Constitution. art V, sections 8). In **Ohio** any voluntarily retired judge or any judge retired at 70 may be assigned, with his consent, by the Chief Justice or acting Chief Justice of the Supreme Court to active duty as a judge and while serving will receive compensation in addition to any retirement benefits to which he may be entitled (OHIO CONST. art. IV section 6). And, in **Minnesota** the legislature may provide for the extension of the term of any judge who becomes eligible for retirement within three years after the expansion of the term for which he is selected; a retired judge may also be assigned to hear and decide any case over which the court to which he is assigned has jurisdiction. (MINN CONST.art IV.section 9 and 10).*

The following map displays the states in which no mandatory retirement exists, states in which there is a mandatory retirement age but conditional provisions, and states that have mandatory retirement ages set at 70-75 years of age.³



References Makar, Scott D. 1997. "In Praise of Older Judges: Raise the Mandatory Retirement Age?" Florida Bar Journal. April 1997 v71 n4 p.48(3). Florida Constitution, article V, section 8. Ohio Constitution, article IV, section 6. Minnesota Constitution, article IV, sections 9 and 10. Parker, Deanna L. National Center for State Courts, Knowledge Management Department. Williamsburg VA.

Community Alliance on Prisons is concerned about losing all that institutional knowledge that justices and judges have acquired through the years and, therefore, we urge the committee to pass this constitutional amendment bill so that the community can weigh in on this important ballot question.

³ **University of Vermont, Legislative Research Shop, Mandatory Retirement Age of Judges.**
https://www.uvm.edu/sites/default/files/Department-of-Political-Science/vlrs/PoliticsGovernment/Mandatory_retirement_age_for_judges.pdf

HB-2509-HD-1

Submitted on: 3/7/2024 6:22:04 PM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support HB2509. Please pass this bill.

Mike Golojuch, Sr

HB-2509-HD-1

Submitted on: 3/8/2024 5:21:16 AM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

Comments:



Support in consideration of the following:

1. According to the National Center for Health Statistics, life expectancy has increased to an average of 80.4 years for Hawai‘i. Increasing the mandatory retirement age of judges to 75 would allow the court to retain experienced, knowledgeable judges.

2. Even though, we cannot overlook health threats to the elderly, especially as related to Alzheimer’s disease. According to Healthline Media, “Most people diagnosed with Alzheimer’s are ages 65 and over. The risk of AD nearly doubles every 5 years after age 65. After age 85, the risk increases to almost one-third.”

3. The latter presumably can be addressed during the Judicial Selection Commission’s review of petitions by judges to be retained in office as provided by the Hawai‘i State Constitution, Art VI, Section 3, Tenure, i.e., “...at least six months prior to the expiration of a justice’s or judge’s term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period provided by this section or by law. Further, the Hawai‘i State Constitution , Art VI, Section 5 provides the Supreme Court the authority to retire or remove from office any judge for disability.

4. Career growth and infusion of new ideas – no doubt increasing the retirement age of judges to 75 will likely have an impact on career growth and infusion of new ideas in the Judiciary, yet, in balance, the more critical need in the Judiciary is experienced judges who bring years of knowledge and experience and therefore are able to better assess the situations in which he or she will likely rule and be able to logically analyze the legal issue. Too, professional organizations of lawyers can help to infuse new ideas into the Judiciary.

HB-2509-HD-1

Submitted on: 3/10/2024 12:29:07 PM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Rhoads, Vice Chair Gabbard and members of the Committee,

My name is Carolyn Eaton and I am a resident of Honolulu. I support this measure as written. It will enable seasoned judges to continue contributing to timely justice in Hawaii.

Mahalo for considering this important amendment to our Constitution regarding compulsory retirement age of our Justices and Judges.

HB-2509-HD-1

Submitted on: 3/11/2024 10:02:47 AM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

I am writing to express my strong support for HB2509 HD1 which would continue the practice of conducting a comprehensive review of the Hawaii Penal Code every ten years to propose changes that would improve our carceral system. HB2509 HD1 requests that the Judicial Council appoint a committee to conduct the review. As with other major deliberations in which the public will be greatly impacted, it is advisable to include community stakeholders on the committee in order to provide perspectives that will create more balanced, effective, and fair decisions.

Mahalo for this opportunity to testify. Please support HB2509 HD1.

Diana Bethel, Honolulu

HB-2509-HD-1

Submitted on: 3/11/2024 10:25:27 PM

Testimony for JDC on 3/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Individual	Support	Written Testimony Only

Comments:

Chair Rhoads, Vice-Chair Gabbard, & Committee Members:

I write in support of HB 2509, HD 1.

Raising the mandatory retirement age from 70 to 75 for state justices and judges is sound policy at this juncture in the 21st Century.

The state would be fortunate to have seasoned septuagenrian jurists who foresake a life of relative leisure (with or without a private law practice) and have the mental acuity to continue their term of public service.

Mahalo for the opportunity to provide testimony.