

The Judiciary, State of Hawai'i

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

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice-Chair

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

Thursday, February 22, 2024 at 9:46 a.m.
Conference Room 211 & Videoconference

WRITTEN TESTIMONY ONLY

by

Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 3139, S.D. 1, Relating to Crisis Services.

Purpose: Establishes a Crisis Intervention and Diversion Services Program within the Department of Health to expand existing services to divert those with mental health issues to appropriate health care services. Defines "mental health emergency worker". Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation for the crisis intervention and diversion program. Takes effect 12/31/2050. (SD1)

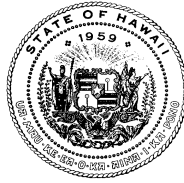
Judiciary's Position:

The Judiciary supports the intent of this measure. The establishment and use of behavioral health crisis centers will improve the government response to individuals suffering from serious mental illness, particularly for those who may become, or already are, involved in the criminal justice system. Access to, and the provision of, mental health care and services is

Testimony for Senate Bill No. 3139, S.D. 1, Relating to Crisis Services
Senate Committee on Ways and Means
Senate Committee on Judiciary
Thursday, February 22, 2024 at 9:46 a.m.
Page 2

integral to diverting those individuals who, but for their mental health crisis, would not be involved with the criminal justice system. Taken together with other bills designed to address the mental health needs of individuals at other intercept points these bills will help to close the proverbial revolving door by building a comprehensive government response that addresses each intercept point. As there are several bills presented that authorize and fund the use of behavioral crises centers, the Judiciary defers to the Department of Health as to the measure best suited to effectuate the purpose of this bill.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

Testimony in SUPPORT of S.B. 3139 SD1
RELATING TO CRISIS SERVICES

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Thursday, February 22, 2024, 9:46 AM, Room 211/VIDEO

1 **Fiscal Implications:** The Department of Health (“Department”) requests funding for this
2 measure be considered as a vehicle to expand services, including staff support, provided it does
3 not supplant the requests outlined in the Governor's executive budget request.

4 **Department Position:** The Department supports this measure, requests amendments for clarity
5 and consistency with other subsections, and requests a funding increase.

6 **Department Testimony:** Adult Mental Health Division (AMHD) provides the following
7 testimony on behalf of the Department.

8 The Department appreciates the support for a behavioral health crisis center, and
9 planning is well underway. The Department currently has funding to begin operations during
10 the current fiscal year but projects needing an additional \$6.7 million in annual funding, rather
11 than the \$6.0 million in the proposed measure.

12 For efficiency purposes, the Department is uncertain of the necessity to define Mental
13 Health Emergency Worker in statute with subsequent required rulemaking. The Department
14 contracts for this service and includes the requirements in the contract. The Department can

1 update its rules, without the statute change, when it next does rulemaking for the applicable
2 chapter. However, the Department has no objection to the definition itself.

3 In addition to considering deletion of Sections 3 and 4, the Department respectfully
4 requests consideration of the following proposed technical corrections and amendments:

5

6 SECTION 2.

7 "(b) The department may lease or acquire a facility to operate a behavioral health crisis center
8 to treat and refer ~~[patients]~~ individuals in behavioral health crisis, including those from the
9 criminal justice system, to appropriate services and providers."

10

11 SECTION 5.

12 (a)(3)(C) "In need of care or treatment; may direct transportation, by ambulance or other
13 suitable means, to a licensed psychiatric facility or other facility designated by the director for
14 further evaluation and possible emergency hospitalization. A licensed physician, an advanced
15 practice registered nurse, or physician assistant may administer treatment as is medically
16 necessary, for the person's safe transportation. A licensed psychologist may administer
17 treatment as is psychologically necessary."

18

19 Adding amending HRS 334-59 subsection (d) to read:

20 "(d) Emergency hospitalization. If the psychiatrist or advanced practice registered
21 nurse with prescriptive authority and who holds an accredited national certification in an
22 advanced practice registered nurse psychiatric specialization who performs the emergency
23 examination has reason to believe that the patient is:

24 (1) Mentally ill or suffering from substance abuse;

25 (2) Imminently dangerous to self or others; and

1 (3) In need of care or treatment, or both^[7],
2
3 the psychiatrist or advanced practice registered nurse with prescriptive authority and who
4 holds an accredited national certification in an advanced practice registered nurse psychiatric
5 specialization shall direct that the patient be hospitalized on an emergency basis, or cause the
6 patient to be transferred to another psychiatric facility or other facility designated by the
7 director for emergency hospitalization^[7]; or both. The patient shall have the right immediately
8 upon admission to telephone the patient's guardian or a family member including a reciprocal
9 beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the
10 staff of the facility shall inform the adult patient of the right to waive notification to the family,
11 including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's
12 guardian or family, including a reciprocal beneficiary, is notified of the emergency admission
13 but the patient's family, including a reciprocal beneficiary, need not be notified if the patient is
14 an adult and requests that there be no notification. The patient shall be allowed to confer with
15 an attorney in private."

16 Adding amending HRS 334-59 subsection (e) to read:

17 "(e) Release from emergency hospitalization. If at any time during the period of
18 emergency hospitalization the treating physician determines that the patient no longer meets
19 the criteria for emergency hospitalization and the examination pursuant to section 334-121.5
20 has been completed, the physician shall expediently discharge the patient. If the patient is
21 under criminal charges, the patient shall be returned to the custody of a law enforcement

1 officer. In any event, the patient shall be released within forty-eight hours of the patient's
2 admission to a psychiatric facility[,] or other facility designated by the director, unless the
3 patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered
4 evaluation or hospitalization, or both, is initiated as provided in section 334-60.3. If that time
5 expires on a Saturday, Sunday, or holiday, the time for initiation is extended to the close of the
6 next court day. Upon initiation of the proceedings, the facility shall be authorized to detain the
7 patient until further order of the court."

8 Mahalo for the opportunity to testify and for your consideration of these requested
9 changes.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • TTY (808) 586-8162 • Fax (808) 586-8129

February 22, 2024

TESTIMONY TO THE SENATE COMMITTEES ON WAYS AND MEANS, AND JUDICARY

Senate Bill 3139 SD1 – Relating to Crisis Services

The Disability and Communication Access Board (DCAB) supports Senate Bill 3139 SD 1 – Relating to Crisis Services.

This bill would establish a Crisis Intervention and Diversion Program within the Department of Health to divert those with mental health issues to appropriate health care services and define "mental health emergency worker."

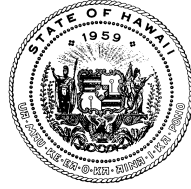
Establishing a Crisis Intervention and Diversion Program would help ensure that individuals having mental illnesses or co-occurring mental illnesses and substance use disorders receive treatment for their conditions. This treatment could reduce or eliminate the individual's reoccurring involvement with the criminal justice system.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

JOSH B. GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA
MOKU'ĀINA 'O HAWAI'I



Katherine Aumer, PhD
COUNCIL CHAIRPERSON
LUNA HO'OMALU O KA PAPA

LATE

STATE OF HAWAI'I
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
STATE COUNCIL ON MENTAL HEALTH
P.O. Box 3378, Room 256
HONOLULU, HAWAII 96801-3378

**WRITTEN
TESTIMONY
ONLY**

STATE COUNCIL ON MENTAL HEALTH
Testimony to the Senate Committee on Ways and Means and
Committee on Judiciary
in Support of S.B. 3139 SD1
RELATING TO CRISIS INTERVENTION

CHAIRPERSON

Katherine Aumer, PhD

1st VICE CHAIRPERSON

Kathleen Merriam, LCSW CSAC

2nd VICE CHAIRPERSON

John Betlach

SECRETARY

Eileen Lau-James, DVM

MEMBERS:

Antonino Beninato

Naomi Crozier, CPS

Jon Fujii, MBA

Heidi Ilyavi

Jackie Jackson, CFPS

Lea Dias, MEd

Jean Okudara, CSAC

Ray Rice, MEd

Mary Pat Waterhouse

Kristin Will, MA, CL, CSAC

Fern Yoshida

IMMEDIATE PAST

CHAIRPERSON:

Richard I. Ries PsyD, MSEd

EX-OFFICIO:

Marian Tsuji, Deputy Director

Behavioral Health Administration

WEBSITE:

scmh.hawaii.gov

EMAIL ADDRESS:

doh.scmhchairperson@

doh.hawaii.gov

February 22, 2024, 9:46 a.m., CR211 and Videoconference

Chairs Dela Cruz and Rhoads, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

Hawaii law, HRS §334-10, established the State Council on Mental Health (SCMH) as a 21-member body to advise on the allocation of resources, statewide needs, and programs affecting more than one county as well as to advocate for adults with serious mental illness, children with serious emotional disturbances, individuals with mental illness or emotional problems, including those with co-occurring substance abuse disorders. Members are residents from diverse backgrounds representing mental health service providers and recipients, students and youth, parents, and family members. Members include representatives of state agencies on mental health, criminal justice, housing, Medicaid, social services, vocational rehabilitation, and education. Members include representatives from the Hawaii advisory commission on drug abuse and controlled substances and county service area boards on mental health and substance abuse.

The State Council on Mental Health members unanimously support the intent of SB3139 SD1. In supporting this measure, the Council is looking for a continuum of care that can honestly respond to the treatment and recovery of individuals who have a mental illness. It also seeks to reduce healthcare costs by avoiding unnecessary hospitalization. This measure supports the two interrelated goals by supporting Crisis Intervention and Diversion Services Programs and Behavioral Health Crisis Centers.

Thank you for the opportunity to testify. Should you have any questions, please contact us at DOH.SCMHChairperson@doh.hawaii.gov.



SB3139 SD1 Crisis Bed Funding

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, Feb 22, 2024: 9:46 : Room 211 Videoconference

Hawaii Substance Abuse Coalition Strongly Supports SB3139 SD1:

ALOHA CHAIRS, VICE CHAIRS, 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 and recovery-oriented services.

HSAC strongly supports a Crisis Intervention and Diversion Program within the Department of Health to divert those with mental health issues from the criminal justice system to appropriate health care services:

HSAC supports the amendments made to improve services:

- Add co-occurring disorders with substance abuse given that so many people who have severe substance use disorders such as stimulants like methamphetamine have drug induced psychosis, or for those who are severely mentally impaired often have co-occurring substance use disorders such that they are frequently arrested are unsheltered homeless and in dire need of co-occurring (mental health and substance abuse) intervention and crisis care.
- Changes to allow crisis bed services instead of only licensed psychiatric facilities.

We support a Crisis Intervention and Diversion Services program so that there can be collaboration with law enforcement, mental health providers and community including:

- The authority to lease or acquire facilities to operate a Behavioral Health Crisis center
- Support a “mental health emergency worker” designation to provide crisis stabilization to help determine if a person meets the criteria for emergency crisis services.

Summary

HSAC commends the legislature for developing diversion and crisis stabilization alternatives for people subject to their mental health or co-occurring substance use disorder

disease. This is an exciting time for Hawaii to expand both our criminal justice diversion programs and our crisis stabilization services.

It's important that this bill responds to the **need for more behavioral health crisis** centers so that more diversions and crisis stabilization can happen in our justice systems.

These stabilization services will ultimately help people to better access substance abuse or co-occurring disorder residential and outpatient treatment that will help people with mental health issues and chronic co-occurring substance use disorders to better access housing, employment and possibly get off the street entirely. This is a clear path to help end homelessness.

We appreciate the opportunity to provide testimony.

Opportunity Youth Action Hawai‘i

February 20, 2024

House Committee on Ways and Means

Hearing Time: 9:46 AM

Location: State Capitol Conference Room 211

Re: SB3139 SD1, RELATING TO CRISIS INTERVENTION

Aloha e Chair Dela Cruz, Vice Chair Moriwaki, and members of the Committee:

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **strong support** of SB3139 SD1, relating to crisis intervention. This bill Establishes a Crisis Intervention and Diversion Services Program within the Department of Health to expand existing services to divert those with mental health issues to appropriate health care services. This bill also Defines "mental health emergency worker," declares that the general fund expenditure ceiling is exceeded, and makes an appropriation for the crisis intervention and diversion program.

Expanding the availability of services and resources for individuals suffering from mental health emergencies is a strong alternative to the traditional method of subjecting these individuals to the judicial system. By working directly with community support networks and mental health professionals, the state can ensure that those in need receive the proper care and support. Additionally, designating the position of “mental health emergency worker” further carves out a niche to ensure mental health issues are properly addressed by experienced and trained professionals.

Opportunity Youth Action Hawai‘i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

Please support SB3139 SD1.



THE QUEEN'S HEALTH SYSTEM

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Moriwaki, Vice Chair
Members, Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members, Senate Committee on Judiciary

From: Jacce Mikulanec, Director, Government Relations, The Queen's Health System

Date: February 22, 2024

Re: Comments on SB3139 SD1 – Relating to Crisis Services

The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on SB3139 SD1 which establishes a crisis intervention and diversion services program within the Department of Health (DoH) to expand existing services to divert those with mental health issues to appropriate health care services. Queen's Manamana campus and emergency department experience some of the highest acuity mental and behavioral health patients in our state and as such we see worth in the Department providing further emphasis on the role of mental health emergency workers in helping to determine appropriate crisis intervention and emergency stabilization care with the caveat that these workers should have clinical competence and experience.

Under the current Adult Mental Health Division's policy and procedure manual (No.60.411), MHEW are required to have college or postgraduate work and are clinicians; with competency and experience working with persons with mental illness (experience should include recognizing mental disorders, suicide risk and intervention techniques, etc.).

We urge the Department and stakeholders to carefully examine existing crisis intervention services that Queen's and others are employing, in particular with regard to MH1 patients, to ensure that those experiencing mental health crisis are not reflexively sent to acute care/emergency department settings which are already operating at high capacities. Other measures moving through the legislature this Session include authorization and funding to the State to direct resources to

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

developing crisis intervention services and stabilization facilities; we support those efforts and see them intrinsically tied to this and similar bills.

Furthermore, we urge the Committee to keep in mind the impact this bill and others have with regard to the overall continuum of care. Investing in the crisis intervention stage of care is only part of solving the broader mental/behavioral healthcare challenges facing our community. Investment in residential care programs, expanding mobile crisis teams, incentivizing and expanding the mental/behavioral health workforce, and investing in the public/private mental health infrastructure is critical if we are to see improvements in the quality of care for those most in need of services.

Thank you for allowing us to testify on SB3139 SD1.

SB-3139-SD-1

Submitted on: 2/20/2024 10:34:09 PM

Testimony for WAM on 2/22/2024 9:46:00 AM

Submitted By	Organization	Testifier Position	Testify
Shana Wailana Kukila	Individual	Support	Written Testimony Only

Comments:

There is a distinct difference between individuals experiencing a mental health crisis due to substance abuse and those experiencing a behavioral health issue due to a disability.

This bill needs a couple of amendments to consider:

1. Persons with disabilities are covered by federal protections, and MUST be handled as such. Those who are disabled should be transported using least restrictive means and best practices according to federal guidelines and assessments should align with individualized treatments from licensed clinicians in the field. Otherwise, the state and county will be exposed to liability should any of these disabled individuals get hurt or killed in custody because federal law was not enforced.

Any state law that seeks to address the issues faced by the developmentally disabled and others covered by federal statutes must be aligned and in compliance with Title II of the Americans with Disabilities Act and others that protect the safety and welfare of the disabled.

2. Another amendment would be to change the term, "a danger to self or others" to: "are in danger of harm" or "endangered." It is more likely for these individuals to be victims of crime due to their vulnerability rather than perpetrators. They should be seen as "endangered adults" and Adult Protective Services should be there to help them, not to punish them.

Funding:

Can the U.S. Health and Human Services Administration be included in this legislation as it pertains to vulnerable populations? How about the Veterans Administration to be included as it pertains to veterans in crisis or who are vulnerable and unsheltered? How about considering the Department of Justice's Violence Against Women Act, which can provide funding for unsheltered domestic violence victims who are in a mental health crisis and need treatment and help with housing?

Funding partnerships with federal agencies like these are crucial so that the state does not carry all the costs and are in compliance with federal regulations. If there are federal grants that can be used for any of these programs that currently serve federally protected and supported populations that are unsheltered here in Hawai'i, they should be vigorously pursued in order to make crisis intervention funded and successful.

Thank you for the opportunity to testify on this legislation.

LATE

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON WAYS AND MEANS

Senator Donovan Dela Cruz, Chair

Senator Sharon Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, February 22, 2024

Room 211 & Videoconference

11:30 AM

SUPPORT FOR SB 3139 SD1 - CRISIS SERVICES

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees!

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 more than two decades. This testimony is respectfully offered on behalf of the 3,866 Hawai`i individuals living behind bars¹ and under the “care and custody” of the Department of Public Safety/Corrections and Rehabilitation on February 12, 2024. We are always mindful that 858 - 25% of the male imprisoned population - of Hawai`i’s imprisoned people are serving their sentences abroad -- 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 support of SB 3139 SD1 that establishes a Crisis Intervention and Diversion Services Program within DOH to expand existing services to divert those with mental health issues to appropriate health care services.

We are keenly aware of what is happening in our communities, especially those communities that have been chronically underserved. We appreciate the language in

¹ DPS/DCR Weekly Population Report, February 12, 2024.

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-02-12.pdf>

this bill that requires a Mental Health Emergency Worker to provide crisis intervention and emergency stabilization services to assist in determining whether a mentally ill person is likely to meet the criteria for emergency admission and examination. Mental health emergency workers are trained in evaluating and de-escalating behavioral health crises, must be the ones responding to people in crisis – not the police, who are ill-equipped to safely and effectively serve people experiencing behavioral health crises.²

This is a national movement to help some of the most vulnerable people in communities access the services they so desperately need. We urge the committees to support crisis intervention and diversion to appropriate health care services. We understand that this and similar bills will most likely go to conference committee.

We urge the legislature to support crisis intervention and diversion for the good of the individuals contending with behavioral health issues and for the good of all our communities.

Mahalo.

² <https://www.vera.org/behavioral-health-crisis-alternatives>