



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

Wednesday, April 17, 2024 at 2:00 p.m.

State Capitol, Conference Room 325 & Videoconference

by:

Rodney A. Maile

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Resolution No. and Title: Senate Concurrent Resolution 213, SD1, Requesting the Office of the Administrative Director of the Courts to Collect, Compile, and Share Data on the Assessment of Fees, Court Costs, Fines, and Restitution in Cases Against Minors.

Judiciary's Position:

The Judiciary takes no position on Senate Concurrent Resolution 213, SD1, and is willing and able to provide the data requested.

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

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender, State of
Hawaii to the House Committee on Judiciary & Hawaiian Affairs**

April 17, 2024

SCR No. 213 SD 1: REQUESTING THE OFFICE OF THE ADMINISTRATIVE DIRECTOR OF THE COURTS TO COLLECT, COMPILE, AND SHARE DATA ON THE ASSESSMENT OF FEES, COURT COSTS, FINES, AND RESTITUTION IN CASES AGAINST MINORS.

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

The Office of the Public Defender supports SCR No. 213 SD1.

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 SCR No. 213 SD1, which is to gather information and collect data on when and how fines, fees, court costs, and restitution are ordered, collected, and monitored in the juvenile justice system Statewide. This data collection will help us better understand how to improve the process and improve fairness Statewide.

We have joined 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. We also join in the call for restitution collection reform for juvenile adjudications to allow for the option of free-standing orders enforceable as civil judgments, in lieu of the possibility of a lifetime of hearings in the juvenile courts for the payment of restitution in small increments. We strongly agree that, when it comes to restitution, our juvenile courts may be "spend[ing] more money trying to collect those outstanding debts than they receive in revenue." (See SCR No. 213, lines 23-25). We suggest that the resolution also include data collection on annual staffing positions dedicated to restitution collection to determine the complete financial landscape for these issues.

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, and 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.

SCR No. 213 SD1 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 resolution.



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Wednesday, April 17, 2024 at 2:00pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SCR213/SR189**

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

The ACLU of Hawai'i **supports SCR213/SR189**, which requests the Office of the Administrative Director of the Courts to collect, compile, and share data on the assessment of fees, court costs, fines, and restitution in cases against minors.

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

There's a growing trend in the United States to eliminate or prohibit the imposition of fees or fines or both¹, on young adults and their families in juvenile court proceedings. Currently, sixteen states have adopted laws to effectuate this policy change, backed by research which shows that fees and fines generate little or no revenue for local government while doing real harm to youth rehabilitation. Moreover, 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

Imposing fines and fees disparately impact 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.

¹ Fees are designed to cover administrative costs associated with the system. Fines are intended to punish or deter future behavior.

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.*

Most 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.

Hawai'i Lacks Critical Data Relating to the Impact of Fines and Fees Imposed on Youth.

Current data is necessary to assess the statewide and county-specific imposition and impact of fees, court costs, fines, and restitution on young people and their families in Hawai'i.

SCR213/SR189 is a useful first step toward data collection and understanding the scope of this issue, how it impacts individuals, families, and communities. Please pass this resolution.

Mahalo for the opportunity to testify.

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.

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

April 17, 2024

RE: S.C.R. No. 213: REQUESTING THE OFFICE OF THE ADMINISTRATIVE DIRECTOR OF THE COURTS TO COLLECT, COMPILE, AND SHARE DATA ON THE ASSESSMENT OF FEES, COURT COSTS, FINES, AND RESTITUTION IN CASES AGAINST MINORS.

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

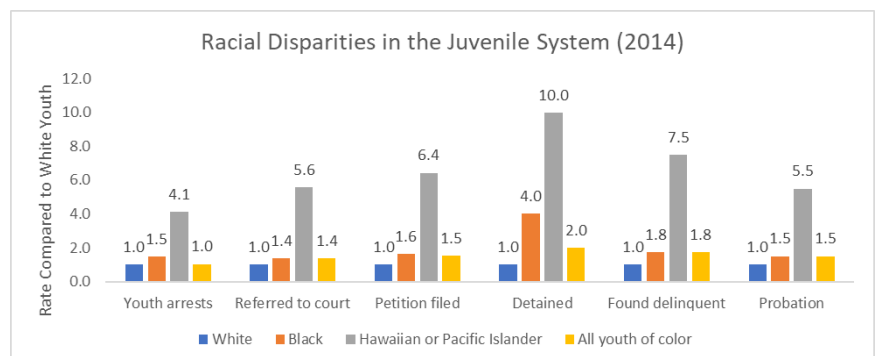
The Policy Advocacy Clinic at Berkeley Law, as a member of the national Debt Free Justice campaign,¹ submits the following testimony to express our support for S.C.R. No. 213.

Fees, court costs, fines, and restitution (hereafter, “monetary sanctions”) assessed against youth 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. Requiring the collection of data would provide insight into how many youth in the state are harmed by monetary sanctions and help inform policymakers about areas of the law that may warrant future legislation.

Evidence from other jurisdictions suggest that monetary sanctions are ineffective, criminogenic, and unaffordable for the youth and families who make up Hawai'i's juvenile legal system.

Research shows that monetary sanctions are ineffective at supporting youth rehabilitation and may instead increase the likelihood that youth reoffend in the future. In 2017, researchers examining over 1,000 juvenile court cases in Pennsylvania found that monetary sanctions “significantly increased the odds of a youth recidivating . . . even after controlling for relevant youth demographics and case characteristics variables.”² Earlier last year, a study of over 12,000 juvenile court cases in Florida revealed that youth who are assessed monetary sanctions are more likely to recidivate than youth who receive no monetary sanctions.³

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.⁴ 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.⁵ With Native Hawaiian and Pacific Islander youth both more likely to be impacted by the juvenile system and poverty, youth monetary sanctions create a perfect storm of monetary extraction from families least likely to be able to afford it.

Data on youth monetary sanctions is not being comprehensively collected.

Over the last two years, we have conducted legal and legislative research, requested data from the family courts, and engaged with a variety of stakeholders including community leaders, advocacy groups, attorneys, judges, and court staff in Hawai‘i.

In our conversations with family courts across the state, we learned that no court is actively tracking information on fees and fines. Only the First Circuit, which also operates an Accountability Program that allows youth to do community service to pay off their debt,⁶ was able to provide data on restitution. From 2017 to 2022, the First Circuit ordered over \$152,000 in restitution against 230 youth and collected approximately \$53,000.⁷ Nearly 100 of those youth have paid less than 25% of the total amount ordered.⁸ Collecting data over time will not only allow family courts to identify juvenile case trends but also to understand the effectiveness of existing programs like the Accountability Program.

It is necessary to understand the current landscape of youth monetary sanctions as Hawai‘i begins to make substantive juvenile legal system reforms.

Local organizations dedicated to juvenile legal system change were recently awarded the Kellogg Grant for their trauma-informed and innovative reforms.⁹ As these organizations prepare for implementation, collecting data and documenting the status quo will be necessary to understand needs and ultimately evaluate progress.

Kaua‘i County has already taken bold action to end the imposition of monetary sanctions on youth.¹⁰ The Judiciary affirmed that “family courts across the state already rarely impose fines, fees, or costs on youth and their parents.”¹¹ Collecting further data on the assessment—or lack thereof—of monetary sanctions will help identify evidence-based alternatives that promote accountability and rehabilitation and inform future reforms to the juvenile system in Hawai‘i.

Collecting data on youth in the system and outcomes, including around the assessment and collection of monetary sanctions, will lead to more informed and comprehensive reform of Hawai‘i’s juvenile legal system.

We respectfully ask for “Aye” vote.

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 Alex R. Piquero & Wesley G. Jennings, *Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE AND JUVENILE JUSTICE 325, 334 (2017).

³ Alex Piquero, Michael Baglivio & Kevin Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity* (2023), <https://jlc.org/resources/statewide-analysis-impact-restitution-and-fees-juvenile-recidivism-florida-across-race>.

⁴ Burns Institute, *United States of Disparities: National Map: Hawaii* (2014).

<https://usdata.burnsinstitute.org/decision-points/12/hawaii#comparison=2&placement=1&racess=2,3,4,5,6&offenses=5,2,8,1,9,11,10&odc=0&dmp=1&dmp-comparison=2&dmp-decisions=2,3,4,6,5,7,10,8,9&dmp-county=-1&dmp-races=1,2,3,4,7,5,6&dmp-year=2014>.

⁵ *Id.*

⁶ Hawai'i State Judiciary, "Papa Hoike Kuleana: Accountability Program of the First Circuit Family Court," https://www.courts.state.hi.us/news_and_reports/featured_news/2016/07/papa-hoike-kuleana-accountability-program-of-the-first-circuit-family-court.

⁷ Family Court of the First Circuit, Restitution Amounts 2017-2022 (on file with authors).

⁸ *Id.*

⁹ W.K. Kellogg Foundation, "Partners in Development Foundation,"

<https://www.wkkf.org/grants/grant/2022/11/kawailoa-a-transformative-indigenous-model-tim-to-end-youth-incarceration-6011193> (last accessed Mar. 21, 2023).

¹⁰ Office of the Prosecuting Attorney, County of Kaua'i, State of Hawai'i, Memorandum to All Deputy Prosecuting Attorneys Re: Juvenile Monetary Sanctions (June 29, 2021), <https://www.law.berkeley.edu/wp-content/uploads/2021/07/FINAL-Fines-Fees-Kauai-DA-Policy.pdf>.

¹¹ *Relating Youth Fines and Fees: Hearing on H.B. 317 Before the House Comm. on Hum. Servs.*, 32nd Leg., Reg. Sess. (Haw. 2023) (statement of Andrew T. Park, Judge, Fam. Ct. of the First Cir., Haw. State Judiciary).



SCR213 SD1: REQUESTING THE OFFICE OF THE ADMINISTRATIVE DIRECTOR OF THE COURTS TO COLLECT, COMPILE, AND SHARE DATA ON THE ASSESSMENT OF FEES, COURT COSTS, FINES, AND RESTITUTION IN CASES AGAINST MINORS.

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

Hawai'i Friends of Restorative Justice submits the following testimony to express our support for this measure.

Fees, court costs, fines, and restitution (hereafter, “monetary sanctions”) assessed against youth 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. Requiring the collection of data would provide insight into how many youth in the state are harmed by monetary sanctions and help inform policymakers about areas of the law that may warrant future legislation.

Evidence suggests that monetary sanctions are ineffective, criminogenic, and unaffordable for the youth and families involved in Hawai'i's juvenile legal system

Research shows that monetary sanctions 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 monetary sanctions charged to youth.^[1] Additionally, studies by criminologists found that youth who had monetary sanctions imposed on them had a significantly higher likelihood of recidivism, even when controlling for demographics and case characteristics.^[2] As the amount of monetary sanctions increased, so did the youth's chances of recidivism.^[3]

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 monetary sanctions create a perfect storm of financial and emotional harm for often already struggling families.

Data on youth monetary sanctions needs to be comprehensively collected

Presently, none of the Family Courts are actively tracking information on fees and fines. Only the First Circuit, which also operates an Accountability Program that allows youth to do community service to pay off their debt, provided data on restitution. Collecting data over time will not only allow family courts to identify juvenile case trends but also to understand the effectiveness of existing programs like the Accountability Program.



Data collection is necessary as Hawai‘i begins to make substantive juvenile legal system reforms. Local organizations dedicated to juvenile legal system change were recently awarded the Kellogg Grant for their trauma-informed and innovative reforms.^[4] As these organizations prepare for implementation, collecting data and documenting the status quo will be necessary to understand needs and ultimately evaluate progress.

Last session, this committee passed a single chamber resolution on data collection (SR 202), but the Administrative Office of the Courts said “because of ongoing commitments and priorities, and limited resources, the Judiciary does not necessarily take action in response to single house resolutions” and that “due to limited resources and capacity” they were not in a position to take action in response to the resolution. We are hopeful the Legislature will prioritize passing a concurrent resolution this year, as it may propel the AOC to fulfill this important data request.

Collecting data on youth in the system and outcomes, including around the assessment and collection of monetary sanctions, will lead to more informed and comprehensive reform of Hawai‘i’s juvenile legal system.

Please vote yes for this measure and mahalo for your public service.

Mahalo,

Lorenn Walker, JD, MPH

Director, Hawai‘i Friends of Restorative Justice

[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.*

[4] W.K. Kellogg Foundation, “Partners in Development Foundation,” <https://www.wkkf.org/grants/grant/2022/11/kawailoa-a-transformative-indigenous-model-tim-to-end-youth-incarceration-6011193> (last accessed Mar. 21, 2023).

Opportunity Youth Action Hawai'i

April 17, 2024

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: State Capitol Conference Room 325

Re: SCR213 SD1, Requesting the Office of the Administrative Director of the Courts to collect, compile, and share data on the assessment of fees, court costs, fines, and restitution in cases against minors.

Aloha e Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

On behalf of the Opportunity Youth Action Hawai'i hui, we are writing in **strong support** of SCR213, SD1, which requests Office of the Administrative Director of the Courts to collect, compile, and share data on the assessment of fees, court costs, fines, and restitution in cases against minors.

This bill will help gather information and collect data on when and how fines, fees, court costs, and restitution are ordered, collected, and monitored across the juvenile justice system statewide. By mandating the collection and dissemination of data pertaining to these financial obligations, SCR213 SD1 empowers policymakers, stakeholders, and the public with information necessary to evaluate the efficacy and fairness of the current juvenile justice system. A comprehensive analysis of this data helps identify patterns of inequity, assess the impact of financial penalties on minors and their families, and implement evidence-based reforms to promote greater justice and equality before the law.

Often, minors may find themselves entangled in legal proceedings without the means of navigating the complexities of the legal system. The imposition of fees, fines, and court costs can disproportionately burden minors and their families, exacerbate existing socioeconomic disparities and hinder their ability to move forward in their lives.

Further, SCR213 SD1 will help juveniles and their families concentrate their financial resources on accessing other services more in line with rehabilitation, such as providing basic needs, maintaining housing security, accessing counseling, educational, and mental health services.

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 SCR213 SD1.

1099 Alakea Street, Suite 2530 | Honolulu, Hawaii 96813 | (808) 447-1840

SCR-213-SD-1

Submitted on: 4/17/2024 11:30:19 AM

Testimony for JHA on 4/17/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Hawaii Health & Harm Reduction Center	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and Member of the JHA Committee:

On behalf of Hawaii Health & Harm Reduction Center (HHHRC), I am writing in strong support of SCR 213, SD 1, which would request that the Office of the Administrative Director of the Courts to collect, compile, and share data on the assessment of costs placed upon minors in the criminal legal system.

Our state's criminal legal system disproportionately impacts those from under resourced Native Hawaiian and Pasifika communities. Fees, court costs, fines, and restitution fall particularly hard on those with little or no economic means.

[As noted by a April 2023 Dear Colleague letter from the U.S. Department of Justice](#), "Imposition of fines and fees that do not comply with constitutional and statutory requirements, or that fail to take account of other public policy concerns, may erode trust between local governments and their constituents, increase recidivism, undermine rehabilitation and successful reentry, and generate little or no net revenue."

Hawaii should strive to ensure that data is made publicly available so that needed reforms can be advanced to address persistent structural inequities in the administration of justice.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions, and have also been deeply impacted by trauma related to histories of physical, sexual, and psychological abuse.

Mahalo for the opportunity to provide testimony.