



**TESTIMONY IN SUPPORT TO SENATE BILL 694
RELATING TO THE DETENTION OF MINORS**

House Committee on Judiciary & Hawaiian Affairs
Hawai'i State Capitol

March 14, 2025

2:00PM

Room 325

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Office of Hawaiian Affairs (OHA) submits this testimony in **SUPPORT** of SB 694 which prohibits minors from being held in jails, lockups, or prisons for adults. **This measure will mitigate the long-lasting trauma inflicted upon minors, including a disproportionate number of Native Hawaiians, who are unnecessarily exposed to incarcerated adults.**

In 2010, OHA produced a comprehensive report detailing the overrepresentation and disparate treatment of Native Hawaiians in the criminal justice system. This report found that Native Hawaiian youth are disproportionately represented in the juvenile justice system and are also the most frequently arrested ethnic group in all offense categories.¹ In 2012, the Native Hawaiian Justice Task Force (NHJTF) was tasked by the Legislature to address the issues raised in OHA's 2010 report. The NHJTF, in turn, acknowledged that "an individual's contact with the criminal justice system . . . often begins at youth."² Accordingly, OHA believes that a close examination of the juvenile justice system as a "pipeline" into later incarceration is critical to disrupting and mitigating the substantial and disproportionate impacts of the criminal justice system on the Native Hawaiian community.

¹ The Office of Hawaiian Affairs, The Disparate Treatment of Native Hawaiians in the Criminal Justice System 10 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² The Office of Hawaiian Affairs, Native Hawaiian Justice Task Force Report 23 n. 28 (2012), available at http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

When a youth is transferred to adult jails or correctional facilities, it has a profoundly negative effect on both the youth and the larger community. For example, there is strong evidence that youth are fundamentally different from adults and are more likely to experience abuse, commit suicide, and be exposed to prolonged periods of isolation if they enter an adult facility. The federal Prison Rape Elimination Act of 2003 highlights a tragic problem with incarcerating youth in adult facilities, finding that youth are five times more likely to be victimized in an adult facility than in a juvenile facility.³ Adult facilities also do not provide the developmentally appropriate rehabilitative services youth require, as adult facilities are not specifically designed or staffed for the rehabilitation of youth. The unnecessary incarceration of a juvenile in our adult facilities may thus foreclose opportunities for intervention that can reduce the likelihood of continued contact with the criminal justice system, as youth transition into adulthood.

OHA urges the Committee to **PASS SB 694** as an important criminal justice reform measure. Keeping youth out of adult facilities reduces the likelihood that incarceration as a minor is equivalent to a life sentence in the criminal justice system. Mahalo nui for the opportunity to testify on this important issue.

³ Federal law, 34 U.S.C. §11133, also provides financial incentives to treat youth in a more developmentally appropriate system of care.

JON N. IKENAGA
STATE PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

APPELLATE DIVISION
TEL. NO. (808) 586-2080

DISTRICT COURT DIVISION
TEL. NO. (808) 586-2100

FAMILY COURT DIVISION
TEL. NO. (808) 586-2300

FELONY DIVISION
TEL. NO. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y.C. CHENG
ASSISTANT PUBLIC DEFENDER

HILO OFFICE
275 PONAHAHAWAI STREET
SUITE 201
HILO, HAWAII 96720
TEL. NO. (808) 974-4571
FAX NO. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. NO. (808) 327-4650
FAX NO. (808) 327-4651

KAUA'I OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. NO. (808) 241-7128
FAX NO. (808) 274-3422

MAU'I OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. NO. (808) 984-5018
FAX NO. (808) 984-5022

**Testimony of the Office of the Public Defender,
State of Hawai'i to the House Committee on Judiciary and Hawaiian Affairs**

March 14, 2025

S.B. 694: RELATING TO THE DETENTION OF MINORS.

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

The Office of the Public Defender **strongly supports S.B. 694:**

It has long been the position of the Office of the Public Defender that no juvenile should ever be held in an adult detention facility and that all juveniles should be held in appropriate juvenile facilities without exception.

Thank you for the opportunity to provide testimony on this bill.



TESTIMONY IN SUPPORT OF SB 694 BEFORE THE HOUSE JUDICIARY & HAWAIIAN AFFAIRS COMMITTEE

Dear Chairman Tarnas and Members of the Judiciary & Hawaiian Affairs Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our full support for SB 694 and to urge the committee to pass this important measure. We are grateful to Senator Gabbard for his leadership in introducing this bill and appreciate the Hawaii Legislature's willingness to address this important human rights issue concerning the treatment of Hawaii's children in the criminal justice system.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States. A central focus of our work is advocating in state legislatures and courts for comprehensive justice reform for children consistent with the U.N. Convention on the Rights of the Child. We also work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes.

Human Rights for Kids supports SB 694 because, if it is signed into law, it will end the shameful practice of housing children in adult jails in prisons and Hawaii.

Children Incarcerated in Adult Jails and Prisons

In the late 1980's and early 1990's states began passing laws to make it easier to transfer children into the adult criminal justice system which exposed them to the same treatment as adults, including being housed in the same facilities. Between 1993 and 1997 the number of children housed in adult jails more than doubled.

On any given night in America there are more than 2,200 children in our jails and prisons. Approximately 87% of these youth are in local jails, while the other 13% are in state prisons.

Policymakers were driven by the now-debunked "Super-Predator Theory" which stated that a new generation of child predators were coming of age who were more violent and less

remorseful than ever before. These children, the authors said, were “Godless, jobless, and fatherless” monsters and urged states to respond by treating them as adults and thereby exposing them to these inhumane, degrading, and cruel conditions.

The severe harms that children face when placed in adult jails and prisons have been well documented. They include physical and sexual violence, solitary confinement, lack of mental health treatment, lack of educational programming, and isolation from family. These forms of child abuse frequently follow children as they age and become adults in prison.

Physical and Sexual Violence

Children in adult prisons are five times more likely to be assaulted, and are nine times more likely to die of suicide than those in facilities for children. Abuse of children in prison is so pervasive that they intentionally commit infractions in order to be moved to solitary confinement to escape their abusers.

Solitary Confinement

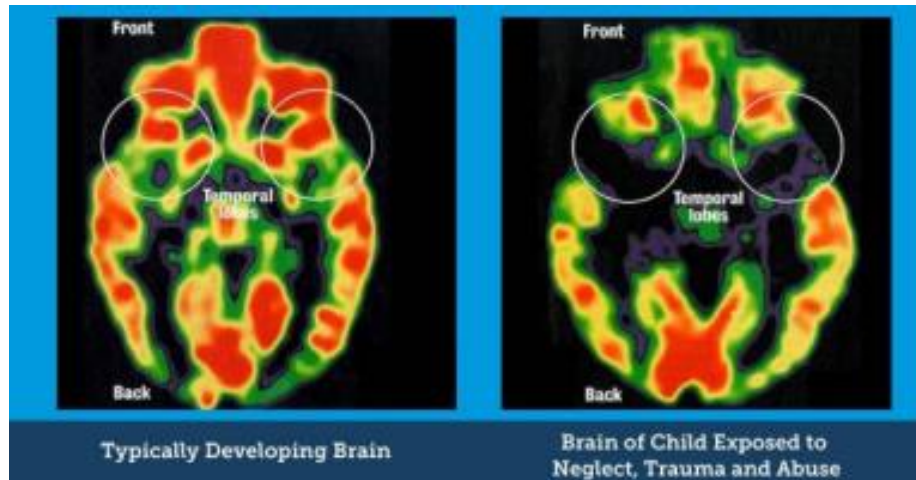
Some adult facilities preemptively move children into permanent solitary as a “protective” policy. The result is that indefinite solitary confinement becomes the norm for many children in adult jails and prisons. Solitary confinement has long been recognized as a form of torture under the CRC and the UN Convention Against Torture. Such treatment holds unique harm for children whose normative maturation process takes place in the context of family, peers and community.

Adverse Childhood Experiences

In the vast majority of cases, children who come into conflict with the law are contending with early childhood trauma and unmitigated adverse childhood experiences (ACEs), including physical and emotional neglect; physical, emotional, and sexual abuse; parental separation, domestic violence, household substance abuse, mental illness, and incarceration.

Research by Human Rights for Kids has shown that nationally more than 70% of children tried as adults experienced both physical and emotional abuse prior to their offense. Another 45% experienced sexual abuse. Almost every child tried as an adult came from broken homes where witnessing domestic violence (53%), substance abuse (75%), and mental illness (54%) were normalized.

This type of trauma often leads to early-onset PTSD and subsequently impacts children’s brain development, particularly the prefrontal cortex. This means that kids traumatized by violence in their homes and communities have impaired brain development that influences their behavior and decision making.



The image above depicts the impact of trauma on the developing brain of young children.

Adult jails and prisons neither have appropriate trauma-related treatment for children, nor do they provide ideal conditions for meaningful therapy.

Lack of Educational Programming

The educational programs that adult prisons provide – mostly geared towards GEDs or professional training, are not designed for a child seeking a high school diploma, so much so that their time in class may not even be credited as progress. There are no individualized programs or accommodations for special needs, and if the prison imposes a period of isolation on or takes disciplinary action against a child, then what little educational programming that is provided may grind to a halt. Children are often unable to participate in educational programming within jails or prisons due to ‘sight and sound’ restrictions that are meant to protect them from physical or sexual violence at the hands of older adults in prison. Children who were given lengthy prison terms, like life or de facto life sentences, are often prohibited from participating in programming.

Isolation from Family

By removing children from naturally occurring supports, such as connections to family, school and community mentors, children are denied pathways to build their resiliency and address the trauma at the root of their behavior. Furthermore, such removal inhibits the development of important familial connections, hindering development and negatively impacting children’s mental health.

Racial Disparities

Black children are disproportionately represented in the adult criminal justice system, comprising 60% of all children confined in adult prisons. In addition, roughly 83% of children prosecuted in the adult criminal justice system are racial minorities. Black children represent 87% of drug cases, 48% of property cases, and 63% of the public order offense cases where children are tried in the adult criminal justice system.

International Human Rights Law

In 1989 the United Nations adopted the Convention on the Rights of the Child (CRC), which sets forth minimum standards for the treatment of children who come into conflict with the law. For the purposes of this legislation, Articles 10 and 14 of the International Covenant on Civil and Political Rights states:

“Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status . . . the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.”

Article 37 of the CRC adds that:

“Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.”

The need to treat children differently from adults is at the core of these human rights protections. This cannot be accomplished, however, when we place children in the same jails and prisons as adults, subjecting them to extreme conditions like solitary confinement and increased risks for physical and sexual violence. To protect children’s human rights Hawaii must join California, West Virginia, and Delaware in prohibiting the placement of children in adult jails and prisons.

Nelson Mandela once said, “*There is no keener revelation of a society’s soul than the way in which it treats its children.*” Children can and do commit serious crimes. While they must be held responsible, we cannot sanction the use of torture or cruelty as a means to hold them accountable which is what happens when children are placed in adult correctional facilities. SB 694 will end this human rights abuse by ensuring that all children are held in juvenile detention facilities until their 18th birthday regardless of their offense or whether they were tried as an adult.

We strongly urge this committee to vote favorably upon SB 694 to ensure children are treated fairly and with dignity when they come into the justice system. Mahalo for your consideration.

With hope and love,



James. L. Dold
CEO & Founder,
Human Rights for Kids



Star Advertiser

Traumatized Children Need Our Love, Not Mass Incarceration

By: John Mizuno



Every year the United States prosecutes more children as adults than any other country in the world. A [2023 report by Human Rights for Kids](#) (HRFK) found that today there are more than 32,000 people in our prisons for crimes committed as children and more than 80 percent of them are people of color. In nearly every case where a child is tried as an adult, they are contending with adverse childhood experiences (ACEs), which measure ten distinct types of abuse, neglect, and traumatic events in early childhood. A national ACEs survey by HRFK of children tried as adults revealed that more than 70% experienced emotional and physical abuse, and another 40% experienced sexual abuse prior to their system-involvement.

Parental divorce or separation is the most common traumatic event reported and is often accompanied by household substance abuse (75%), domestic violence (53%), mental illness (54%), and incarceration (64%).

Most of these children first come into contact with the system in our juvenile or family courts. Yet, the legal system rarely identifies or effectively responds to these levels of severe childhood trauma which have been causally linked to adverse brain development. Instead, when young children reach adolescence and predictably begin to act out we label them “Super Predators” and lock them away in cages.

Our mass incarceration of children begins as young as elementary school. In Hawaii, for example, we don’t have a minimum age for when a child can be arrested or prosecuted in juvenile court. Most Hawaiians might be shocked to learn that between 2020 and 2023 nearly 600 children age 11 or younger were arrested on the islands. These are kids in grade school who still believe in Santa Claus and the tooth fairy.

Treating children this way is a clear violation of the UN Convention on the Rights of the Child (CRC). While states like Texas, Louisiana, and Massachusetts have passed laws establishing a

minimum age for delinquency, sadly we have not. The CRC also prohibits sentencing children by the same standards we use for adults and placing children in adult jails and prisons. Despite Hawaii passing a resolution urging the U.S. government to ratify the CRC, we have yet to embrace these requirements.

That is why when I was in the Legislature, I worked with former Rep. Karen Awana to end life without parole sentences for children and then worked to pass a law requiring children to consult with legal counsel prior to waiving their Miranda Rights in 2023. These laws were based on human rights norms embraced the world over.

We still have more work to do in Hawaii which is why I am encouraging my former colleagues in the legislature to pass a trio of bills recently introduced by Senator Gabbard. His legislation would require judges to consider the impact of childhood trauma when sentencing youth tried as adults and give judges the flexibility to deviate from mandatory minimums. Another bill would prohibit children from being placed in adult correctional facilities in order to protect them from physical and sexual violence at the hands of adult prisoners. Finally, his reforms would also establish a minimum age of 12 before a child could be arrested and adjudicated delinquent.

Fred Rogers once said that “Love is at the root of everything, all learning, all relationships. Love or the lack of it.” We must embrace this notion and show the most victimized and vulnerable children in our state that we love them despite their mistakes. We can uphold public safety while simultaneously protecting the human rights of our children. Senator Gabbard has provided a blueprint; we should embrace it.

POTENTIAL AMENDMENT OPTIONS

If the committee is concerned about issues surrounding implementation, we would propose the following options for your consideration:

- (1) A two-year delayed implementation to give the Judiciary time to develop a standard protocol for how to process and house youth in compliance with applicable law as set forth below:

SECTION 3. This Act shall take effect ~~upon its approval.~~ on July 1, 2027.

- (2) Create a narrow exception to allow youth to be temporarily detained in an adult facility pending transport to court or a juvenile facility as set forth below:

Amend 571-32 to read as follows:

By creating a new subsection (h):

"(h) In cases arising in a rural jurisdiction or county where no juvenile detention facility exists, a minor may temporarily be held for processing or while in transit to court in an adult jail or lockup if:

- (1) the minor is held for not more than 24 hours; and**
- (2) the minor is separated by sight and sound from adult inmates."**



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Friday, March 14, 2025, at 2:00pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of S.B. 694
Relating to the Detention of Minors**

Dear Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The ACLU of Hawai'i **supports S.B. 694**, which prohibits minors from being held in jails, lockups, or prisons for adults.

The ACLU of Hawai'i believes all young people should remain in the juvenile justice system, rather than in our adult carceral system, regardless of their crimes. Each year, an estimated 250,000 children—some not yet in their teens—are prosecuted in adult criminal courts and subjected to the consequences of adult criminal convictions.

Children locked up in adult facilities are eight times more likely to commit suicide, five times more likely to be sexually attacked and twice more likely to be assaulted by staff than juveniles confined in a juvenile facility. Adult institutions also lack the same type of programs and services that juvenile facilities provide to rehabilitate young offenders. In effect, by incarcerating child offenders with adults we are giving up on the future of these children. The likelihood they will return to crime rises when they are initially imprisoned in an adult institution.

We support this measure as it would prohibit minors from being held in jails or prisons for adults. Mahalo for the opportunity to submit testimony in support of **S.B. 694**.

Sincerely,

Carrie Ann Shiota

Carrie Ann Shiota

Policy Director

ACLU of Hawai'i

cshiota@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 founded in 1965 that provides its services at no cost to the public and does not accept government funds.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

SB-694

Submitted on: 3/13/2025 10:34:04 AM

Testimony for JHA on 3/14/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Support	Written Testimony Only

Comments:

This bill is a no brainer. Support this bill

Opportunity for Youth Action Hawai'i

KAWAIILOA

March 14, 2025

Senate Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: 325 via Videoconference

Re: SB 694, Relating to Detention of Minors

Aloha e Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

On behalf of the Opportunity for Youth Action Hawai'i hui, we are writing in **support of SB 694, relating to detention of minors**. This bill prohibits minors from being held in jails, lockups, or prisons for adults.

According to the Child Crime Prevention and Safety Center, including children in adult jails and prisons creates a variety of risks and issues for these juvenile offenders. Minors, as well as the community, experience profound negative impacts when transferred to an adult jail or correctional facility. For example, the Center reports that minors are five times more likely to be sexually assaulted in adult detention facilities and are 36 times more likely to commit suicide if housed in an adult jail or prison. Minors are also more likely to endure abuse, undergo periods of isolation, and repeatedly offend when placed in an adult correctional facility.

Youth are also more susceptible to learn and grow from misbehavior when provided with appropriate rehabilitation opportunities. They learn effective ways to cope with internal and external stressors that have led to their misconduct, develop the ability to heal, change their mentality, and acquire skills that help turn their lives around for the better. Adult correctional facilities are not designed or staffed for youth rehabilitation. Therefore, it does not provide the developmentally appropriate rehabilitative services that youth require to succeed.

Youth are in critical stages of their development. Therefore, they must avoid the mental and physical health implications that can result from exposure to the violence, abuse, and isolation that occur from being held with adult offenders. Therefore, SB694 acknowledges that youth require protection from the harsh environment of adult correctional facilities.

Opportunity for 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 houselessness 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 SB 694.

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