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S.B. NO. 986

A Bill for an Act Relating to the Criminal Justice System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. House Concurrent Resolution No. 27, H.D. 1 (2009), requested the office of Hawaiian affairs to contract for a study to examine the disparate representation and treatment of Native Hawaiians in Hawaii's criminal justice system. Pursuant to House Concurrent Resolution No. 27, H.D. 1, on September 28, 2010, the office of Hawaiian affairs released a study entitled, "The

Disparate Treatment of Native Hawaiians in the Criminal Justice System.” The study includes groundbreaking current research and analysis, using quantitative and qualitative methods, and includes the voices of Native Hawaiians about the criminal justice system and the effect it has on their lives.

The study shows that the disproportionate representation of Native Hawaiians in the criminal justice system accumulates at each stage. When controlled for age, gender, and severity of charge, Native Hawaiians are sentenced to more days in prison and receive a longer term of probation than most other racial or ethnic groups.

Collateral consequences of the disproportionate representation of Native Hawaiians in the criminal justice system, such as the inability to complete education, find employment, and obtain a driver’s license, further increase the likelihood of recidivism and place significant pressure on Native Hawaiian families. These collateral consequences push the limits of imposing a punishment to fit the crime and potentially deprive a person convicted of an offense of any chance to start afresh after incarceration.

A first step toward reducing the disproportionate representation of Native Hawaiians in the criminal justice system and collateral consequences would be to identify strategies for reducing unnecessary contact with the criminal justice system.

The purpose of this Act is to address the findings and recommendations of the office of Hawaiian affairs’ study by creating a task force to formulate policies and procedures to eliminate the disproportionate impact of the criminal justice system on all individuals, with particular focus on Native Hawaiians.

SECTION 2. (a) There is established a task force, to be attached administratively to the office of Hawaiian affairs, to formulate policies and procedures to eliminate the disproportionate representation of Native Hawaiians in Hawaii’s criminal justice system by looking for new strategies to reduce or avoid unnecessary involvement of these individuals with the criminal justice system.

(b) The task force shall recommend cost-effective mechanisms, legislation, and policies to reduce or prevent individuals’ unnecessary involvement with the criminal justice system. The recommendations shall include estimates of cultural and fiscal impact.

(c) The task force shall consist of nine members:

- (1) The attorney general, or the attorney general’s designee;
- (2) The director of public safety, or the director’s designee;
- (3) The chief executive officer of the office of Hawaiian affairs, or the chief executive officer’s designee;
- (4) The administrator of the adult client services branch of the first circuit court, or the administrator’s designee;
- (5) A circuit court judge to be selected by the chief justice of the Hawaii supreme court;
- (6) A criminologist to be selected by the governor from a list of no more than four names, two submitted by the senate president and two submitted by the speaker of the house of representatives;
- (7) A representative from the department of the prosecuting attorney of the city and county of Honolulu;
- (8) A representative from the office of the public defender; and
- (9) A member of the public selected by the governor from a list of no more than four names, two submitted by the senate president and two submitted by the speaker of the house of representatives.

(d) The members of the task force shall serve without compensation, but shall be reimbursed for expenses necessary in the performance of their duties.

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(e) The members of the task force shall select a chairperson from among its members.

(f) The task force shall submit to the legislature, no later than twenty days prior to the convening of the regular session of 2013, a final report of its activities, findings, and recommendations.

(g) The task force shall cease to exist on August 1, 2013.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 27, 2011.)