



The Judiciary, State of Hawai'i

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

House Committee on Finance
Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, February 22, 2024 at 11:30 a.m.
State Capitol, Conference Room 308 & 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.

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

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February 21, 2024

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

**H.B. No. 2509: PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF
THE HAWAII STATE CONSTITUTION TO INCREASE THE
MANDATORY RETIREMENT AGE OF STATE JUSTICES AND
JUDGES.**

February 22, 2024 at 11:30 a.m.

**Chair Kyle T. Yamashita
Vice Chair Lisa Kitagawa
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 H.B. No. 2509.

HB-2509-HD-1

Submitted on: 2/20/2024 12:21:16 PM

Testimony for FIN on 2/22/2024 11:30:00 AM

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

Comments:

Aloha Representatives,

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 FINANCE

Representative Kyle T. Yamashita, Chair

Representative Lisa Kitagawa, Vice Chair

Thursday, February 22, 2024

Room 308 & Videoconference

11:30 AM

STRONG SUPPORT FOR HB 2509 HD1 - RETIREMENT AGE OF JUSTICES AND JUDGES

Aloha Chair Yamashita, Vice Chair Kitagawa, 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 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 **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.

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>

² 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

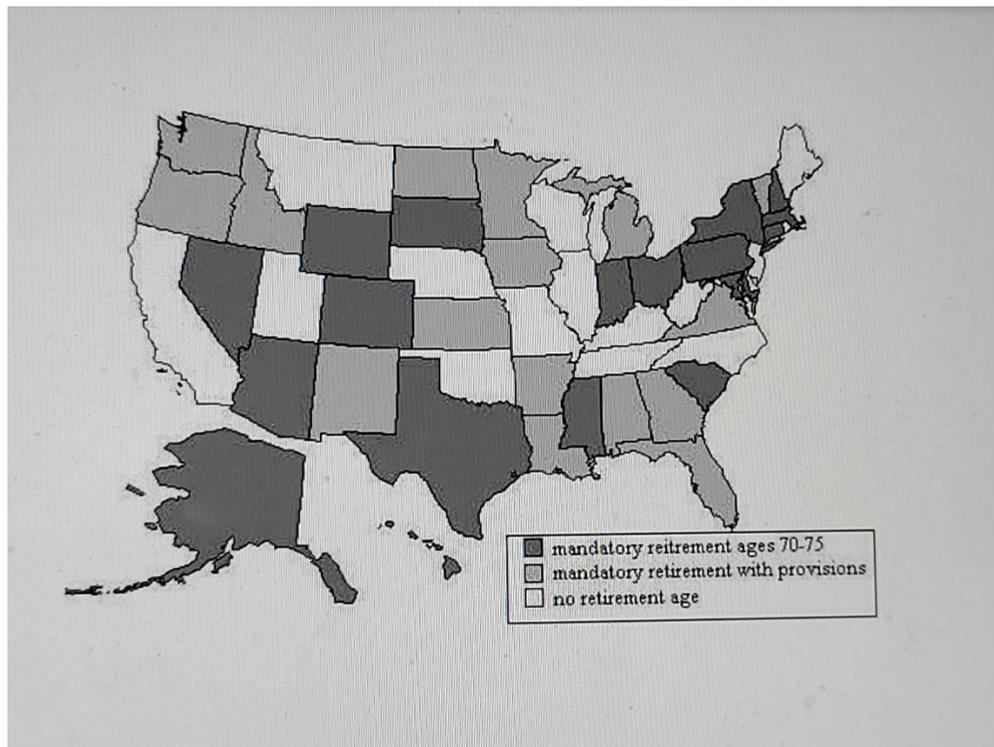
³ Mandatory judicial retirement ages by state as of March 14, 2022.

https://ballotpedia.org/Mandatory_retirement

Research published by the University of Vermont's Legislative Research Shop on the Mandatory Retirement Age of Judges from 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.²



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.

Here is a list of states from Ballotpedia in 2022.³

List of states

State	Mandatory retirement age	Additional information
Alabama	70 ^[9]	Judges may finish the final term during which they turn 70. ^[9]
Alaska	70 ^[4]	
Arizona	70 ^{[5][6]}	
Arkansas	Judges who do not retire at 70 lose all earned retirement benefits. ^[7]	No retirement age; however, judges lose their earned retirement benefits by election past age 70. ^[8]
California	-	No retirement age
Colorado	72 ^[9]	
Connecticut	70 ^[10]	
Delaware	-	No retirement age
District of Columbia	74 ^[11]	
Florida	75 ^[12]	Judges may finish the final term if more than one-half has been served.
Georgia	-	No retirement age
Hawaii	70 ^[13]	
Idaho	-	No retirement age
Illinois	-	Used to be 75, but law was struck down by Illinois Supreme Court in 1992.
Indiana	75 ^[16]	No limit for superior court and county court judges. ^[17]
Iowa	72 ^[18]	
Kansas	75 ^[19]	Judges may finish the final term during which they turn 75. ^[19]
Kentucky	-	No retirement age
Louisiana	70 ^[20]	Judges may finish the final term during which they turn 70. ^[20]
Maine	-	No retirement age
Maryland	70 ^[21]	
Massachusetts	70 ^[22]	
Michigan	70 ^[23]	Judges may finish the final term during which they turn 70. ^[23]

Minnesota	70 ^[24]	Judges must retire the last day of the month in which they have turned 70.
Mississippi	-	No retirement age
Missouri	70/75 ^{[25][26]}	Judges other than municipal judges must retire at 70. ^[25] Municipal judges must retire at 75. ^[26]
Montana	-	No retirement age
Nebraska	-	No retirement age
Nevada	-	No retirement age
New Hampshire	70 ^[27]	
New Jersey	70 ^[28]	Judges serving as Administrative Director of the Courts may apply for retirement at 65.
New Mexico	-	No retirement age
New York	70 ^[30]	Judges may finish out year they turn 70. There is no retirement limit for judges of the Appellate Division.
North Carolina	72 ^[31]	Judges must retire the last day of the month in which they have turned 72.
North Dakota	Judges who do not retire at 73 lose all earned retirement benefits. ^[32]	No retirement age; however, judges lose their earned retirement benefits if they do not retire before turning 73. ^[33]
Ohio	70 ^[34]	Judges may finish the final term during which they turn 70. ^[34]
Oklahoma	-	No retirement age; limit may be established by statute. ^[35]
Oregon	75 ^[36]	Limit may be reduced to as low as 70 by statute or initiative. ^[36]
Pennsylvania	75 ^[37]	Judges may finish out year they turn 75. ^[37]
Rhode Island	-	No retirement age ^[38]
South Carolina	72 ^[39]	No limit for Probate or Municipal Court judges. ^[39]
South Dakota	70 ^[40]	Judges that turn 70 may serve until the first Tuesday following a general state legislature election. ^[40]
Tennessee	-	No retirement age
Texas	75 ^{[41][42]}	Conditions may vary. See Article 5 for more information ^[41]
Utah	75 ^[43]	
Vermont	90 ^[44]	Judges may finish out year they turn 90. ^[44]
Virginia	73 ^[45]	Judge will be retired 20 days after the regular session of the General Assembly. ^[45]
Washington	75 ^[46]	Judges may finish out year they turn 75. ^[46]
West Virginia	-	No retirement age
Wisconsin	-	The Wisconsin Blue Book 2005-2006 states: "Wisconsin used to have a mandatory retirement age for judges and justices. From 1955 to 1978, judges and justices had to retire at 70. The Wisconsin Constitution has authorized the legislature to impose a retirement age, but the legislature has not done so." ^[47]
Wyoming	70 ^[48]	

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 so that the community can weigh in on this question.

HB-2509-HD-1

Submitted on: 2/20/2024 1:12:30 PM

Testimony for FIN on 2/22/2024 11:30:00 AM

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

Comments:

I support HB2509. Judges should be allowed to serve until 75 if they wish. Please pass this bill.

Mike Golojuch, Sr.

HB-2509-HD-1

Submitted on: 2/21/2024 7:41:19 PM

Testimony for FIN on 2/22/2024 11:30:00 AM

Submitted By	Organization	Testifier Position	Testify
John Begg	Individual	Oppose	Written Testimony Only

Comments:

It's beyond the time for these senior citizens to enter a different role than remaining on the job. There are other ways for these people to contribute and it is time to get new blood into the courts.