



## *The Judiciary, State of Hawai'i*

### **Testimony to the Thirty-Third State Legislature, 2025 Regular Session**

#### **Senate Committee on Judiciary**

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, January 28, 2025 at 9:15 a.m.

State Capitol, Conference Room 016 & Videoconference

by:

Rodney A. Maile

Administrative Director of the Courts

#### **WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 175 – 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.

**Purpose:** Proposes a constitutional amendment to increase the mandatory retirement age for justices and judges from seventy to seventy-five years of age.

#### **Judiciary's Position:**

The Hawai'i State Judiciary supports Senate Bill No. 175, 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 Senate Bill No. 175.

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**SB175: PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE OF STATE JUSTICES AND JUDGES.**

Chair Karl Rhoads, Vice Chair Mike Gabbard, and Honorable Committee Members,

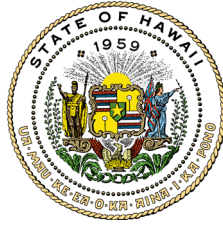
The Office of the Public Defender (OPD) **supports this bill.**

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 shows that they should not have been forced into retirement simply because of age.

The Judiciary has long-standing issues with recruitment due to the demands of the work, pay, and ability. The ethics for members of the Judiciary are the strictest in our profession. Should a judge or justice become incompetent no matter their age, there are mechanisms in place to assure that parties before the court receive due process. Many judges have grown into their positions over many difficult years on the bench. These judges and justices bring invaluable experience and knowledge. 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.

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

**KENNETH FINK, MD, MGA, MPH**  
DIRECTOR OF HEALTH  
KA LUNA HO'OKELE



**STATE OF HAWAII  
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**Testimony in SUPPORT of SB175  
PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3,  
OF THE HAWAII STATE CONSTITUTION TO INCREASE THE  
MANDATORY RETIREMENT AGE FOR STATE JUSTICES  
AND JUDGES.**

COMMITTEE ON JUDICIARY  
SENATOR KARL RHOADS, CHAIR  
SENATOR MIKE GABBARD, VICE-CHAIR  
Testimony of Caroline Cadirao  
Director, Executive Office on Aging  
Attached Agency to the Department of Health

Hearing: Tuesday, January 28, 2025, 9:15 A.M., Conference Room 308

- 1 **EOA Position:** The Executive Office on Aging (EOA), an attached agency to the Department of
- 2 Health (DOH) **supports** the intent of this measure.
- 3 **Fiscal Implications:** None.
- 4 **Purpose and Justification:** The purpose of this measure is to propose an amendment to Article
- 5 VI, Section 3, of the Hawai'i State Constitution to increase the mandatory retirement age for
- 6 justices and judges to the age of seventy-five years. Over the last few decades, life expectancy
- 7 has increased globally and in the United States. More people are working longer and helping to
- 8 maintain and sustain the workforce. Increasing the retirement age for justices and judges to
- 9 seventy-five years of age may benefit the judicial system in several ways:

- 1       • Older judges may have years of valuable legal experience and knowledge that can be
- 2       helpful, especially in complex legal matters;
- 3       • Increasing the retirement age may reduce turnover and judicial vacancies and minimize
- 4       disruption to the court system; and
- 5       • Older, more experienced judges could potentially save some time and personnel costs
- 6       versus appointing and training new judges; and
- 7       • Giving judges more time to serve would allow for a more diverse representation.

8   Other mechanisms can be implemented to review a justice's and judge's ability to serve. The  
9   wealth of knowledge and experience that older justices and judges possess is invaluable to the  
10   courts.

11   **Recommendation:** EOA supports the intent of this measure.

12   Thank you for the opportunity to testify.

# COMMUNITY ALLIANCE ON PRISONS

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*Today's Inmate; Tomorrow's Neighbor*



## COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, January 28, 2025

9:15 AM

Room 016 & VIDEOCONFERENCE

## **STRONG SUPPORT FOR SB 175 - Con Am to Increase Retirement Age of Justices and Judges from 70 to 75**

Aloha Chair Rhoads, Vice Chair Gabbard 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 3,717 Hawai'i individuals living behind bars<sup>1</sup> and under the "care and custody" of the Department of Corrections and Rehabilitation on January 20, 2025. We are always mindful that 928 of Hawai'i's imprisoned male population 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 SB 175** that proposes a constitutional amendment to increase the mandatory retirement age for state justices and judges from 70 years to 75 years.

Ballotpedia published a list of the Mandatory Judicial Requirement Ages by State<sup>2</sup>. Here is a quick and easy breakdown:

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<sup>1</sup> DCR Weekly Population Report, January 20, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/01/Pop-Reports-Weekly-2025-01-20.pdf>

<sup>3</sup> Mandatory judicial retirement ages by state as of March 14, 2022.

[https://ballotpedia.org/Mandatory\\_retirement](https://ballotpedia.org/Mandatory_retirement)

<sup>2</sup> University of Vermont, Legislative Research Shop, Mandatory Retirement Age of Judges.

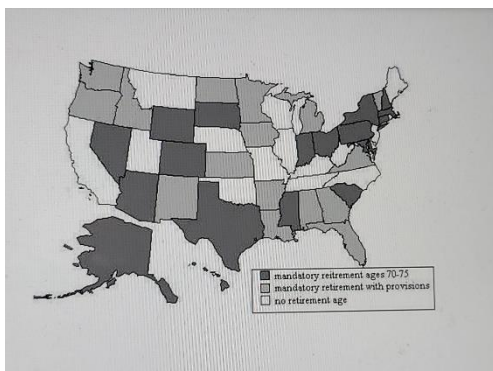
[https://www.uvm.edu/sites/default/files/Department-of-Political-Science/vlrs/PoliticsGovernment/Mandatory\\_retirement\\_age\\_for\\_judges.pdf](https://www.uvm.edu/sites/default/files/Department-of-Political-Science/vlrs/PoliticsGovernment/Mandatory_retirement_age_for_judges.pdf)

- **16 STATES HAVE NO RETIREMENT AGE** (California, Delaware, Georgia, Idaho, Illinois, Kentucky, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Rhode Island, Tennessee, West Virginia)
- **1 STATE HAS THE MOST ADVANCED RETIREMENT AGE - 90 YEARS** (Vermont)
- **8 STATES HAVE 75 YEARS AS RETIREMENT AGE** (Florida, Indiana, Kansas, Oregon, Pennsylvania, Texas, Utah, Washington)
- **19 STATES HAVE 70 YEARS AS RETIREMENT AGE** (Alabama, Alaska, Arizona, Arkansas, Connecticut, Hawai'i, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, South Dakota, Wisconsin, Wyoming)
- **6 STATES HAVE RETIREMENT AGES BETWEEN 71 - 74 YEARS** (Colorado (72), District Of Columbia (74), Iowa (72), North Dakota (73), South Carolina (72), Virginia (73))

Research published by the University of Vermont's Legislative Research Shop on the Mandatory Retirement Age of Judges in 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.<sup>3</sup>



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.

<sup>2</sup> 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](https://www.uvm.edu/sites/default/files/Department-of-Political-Science/vlrs/PoliticsGovernment/Mandatory_retirement_age_for_judges.pdf)

Here is a list of states from Ballotpedia in 2022.<sup>3</sup>

## List of states

State	Mandatory retirement age	Additional information
<a href="#">Alabama</a>	70 <sup>[3]</sup>	Judges may finish the final term during which they turn 70. <sup>[3]</sup>
<a href="#">Alaska</a>	70 <sup>[4]</sup>	
<a href="#">Arizona</a>	70 <sup>[5][6]</sup>	
<a href="#">Arkansas</a>	Judges who do not retire at 70 lose all earned retirement benefits. <sup>[7]</sup>	No retirement age; however, judges lose their earned retirement benefit election past age 70. <sup>[8]</sup>
<a href="#">California</a>	-	No retirement age
<a href="#">Colorado</a>	72 <sup>[9]</sup>	
<a href="#">Connecticut</a>	70 <sup>[10]</sup>	
<a href="#">Delaware</a>	-	No retirement age
<a href="#">District of Columbia</a>	74 <sup>[11]</sup>	
<a href="#">Florida</a>	75 <sup>[12]</sup>	Judges may finish the final term if more than one-half has been served a
<a href="#">Georgia</a>	-	No retirement age
<a href="#">Hawaii</a>	70 <sup>[13]</sup>	
<a href="#">Idaho</a>	-	No retirement age
<a href="#">Illinois</a>	-	Used to be 75, but law was struck down by <a href="#">Illinois Supreme Court</a> in 200
<a href="#">Indiana</a>	75 <sup>[16]</sup>	No limit for superior court and county court judges. <sup>[17]</sup>
<a href="#">Iowa</a>	72 <sup>[18]</sup>	
<a href="#">Kansas</a>	75 <sup>[19]</sup>	Judges may finish the final term during which they turn 75 <sup>[19]</sup>
<a href="#">Kentucky</a>	-	No retirement age
<a href="#">Louisiana</a>	70 <sup>[20]</sup>	Judges may finish the final term during which they turn 70 <sup>[20]</sup>
<a href="#">Maine</a>	-	No retirement age
<a href="#">Maryland</a>	70 <sup>[21]</sup>	
<a href="#">Massachusetts</a>	70 <sup>[22]</sup>	
<a href="#">Michigan</a>	70 <sup>[23]</sup>	Judges may finish the final term during which they turn 70. <sup>[23]</sup>
<a href="#">Minnesota</a>	70 <sup>[24]</sup>	Judges must retire the last day of the month in which they have turned
<a href="#">Mississippi</a>	-	No retirement age
<a href="#">Missouri</a>	70/75 <sup>[25][26]</sup>	Judges other than municipal judges must retire at 70. <sup>[25]</sup> Municipal judges
<a href="#">Montana</a>	-	No retirement age
<a href="#">Nebraska</a>	-	No retirement age
<a href="#">Nevada</a>	-	No retirement age
<a href="#">New Hampshire</a>	70 <sup>[27]</sup>	
<a href="#">New Jersey</a>	70 <sup>[28]</sup>	Judges serving as Administrative Director of the Courts may apply to de

<a href="#">New Mexico</a>	-	No retirement age
<a href="#">New York</a>	70 <sup>[30]</sup>	Judges may finish out year they turn 70. There is no retirement limit for
<a href="#">North Carolina</a>	72 <sup>[31]</sup>	Judges must retire the last day of the month in which they have turned
<a href="#">North Dakota</a>	Judges who do not retire at 73 lose all earned retirement benefits. <sup>[32]</sup>	No retirement age; however, judges lose their earned retirement benefits before turning 73. <sup>[33]</sup>
<a href="#">Ohio</a>	70 <sup>[34]</sup>	Judges may finish the final term during which they turn 70 <sup>[34]</sup>
<a href="#">Oklahoma</a>	-	No retirement age; limit may be established by statute. <sup>[35]</sup>
<a href="#">Oregon</a>	75 <sup>[36]</sup>	Limit may be reduced to as low as 70 by statute or initiative. <sup>[36]</sup>
<a href="#">Pennsylvania</a>	75 <sup>[37]</sup>	Judges may finish out year they turn 75. <sup>[37]</sup>
<a href="#">Rhode Island</a>	-	No retirement age <sup>[38]</sup>
<a href="#">South Carolina</a>	72 <sup>[39]</sup>	No limit for Probate or Municipal Court judges. <sup>[39]</sup>
<a href="#">South Dakota</a>	70 <sup>[40]</sup>	Judges that turn 70 may serve until the first Tuesday following a Monday state legislature election. <sup>[40]</sup>
<a href="#">Tennessee</a>	-	No retirement age
<a href="#">Texas</a>	75 <sup>[41][42]</sup>	Conditions may vary. See <a href="#">Article 5</a> for more information <sup>[41]</sup>
<a href="#">Utah</a>	75 <sup>[43]</sup>	
<a href="#">Vermont</a>	90 <sup>[44]</sup>	Judges may finish out year they turn 90. <sup>[44]</sup>
<a href="#">Virginia</a>	73 <sup>[45]</sup>	Judge will be retired 20 days after the regular session of the General As
<a href="#">Washington</a>	75 <sup>[46]</sup>	Judges may finish out year they turn 75. <sup>[46]</sup>
<a href="#">West Virginia</a>	-	No retirement age
<a href="#">Wisconsin</a>	-	The Wisconsin Blue Book 2005-2006 states: "Wisconsin used to have judges and justices. From 1955 to 1978, judges and justices had to retire. Wisconsin Constitution has authorized the legislature to impose a maximum age, but the legislature has not done so." <sup>[47]</sup>
<a href="#">Wyoming</a>	70 <sup>[48]</sup>	

Community Alliance on Prisons is concerned about losing all that institutional knowledge that justices and judges have acquired through the years of experience and, therefore, we urge the committee to pass this constitutional amendment so that the community can weigh in on this important question.





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#### COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

DATE: Tuesday, January 28, 2025

TIME: 9:15 AM

PLACE: Room 016

Re SB 175: Increased Retirement Age for Judges

**SUPPORT**

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 55 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

SB 175 proposes a constitutional amendment to increase the mandatory retirement age for justices and judges from seventy to seventy-five years of age. This makes sense since people are living longer and have more production lives in their senior years.

Ballotpedia published a list of the Mandatory Judicial Requirement Ages by State<sup>1</sup>. No state forces a judge to retire before the age of 70. Hawaii is one of 19 states that forces a judge to retire at age 70. Sixteen states have no retirement age, and one has a retirement age of 90.

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<sup>1</sup> **Mandatory judicial retirement ages by state** as of March 14, 2022.  
[https://ballotpedia.org/Mandatory\\_retirement](https://ballotpedia.org/Mandatory_retirement)

**Joan Ruth Bader Ginsburg** was an American lawyer and jurist who served as an associate justice of the U.S. Supreme Court until she was 87.

**Oliver Wendell Holmes Jr.** is one of the most widely cited and influential U.S. Supreme Court justices in American history. He retired from the court at age 90.

**Daniel Inouye** served in the US Senate until age 88.

**Ah Quon McElrath** was an intellectual force who gave voice to Hawai'i's working class, helped power a labor movement and was a social activist in her 80s and 90s.

Mahalo

Henry Curtis  
Executive Director

**SB-175**

Submitted on: 1/22/2025 6:08:22 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of the constitutional amendment to increase the mandatory retirement age for justices and judges from seventy to seventy-five years of age. The valuable judicial experience should not be lost just from an arbitrary number of seventy years of age that is currently in the law. Personally, the seventy five is the new sixty five years.

Thank you for the opportunity to testify in strong support of SB 175.

**SB-175**

Submitted on: 1/26/2025 6:30:51 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Brett Kulbis	Individual	Oppose	Written Testimony Only

Comments:

Chair Rhoads and Committee Members,

My name is Brett Kulbis, I'm a 26yr Navy Veteran and Retired Civil Servant. I live in Ewa Beach.

**I OPPOSE SB-175.**

This bill has been presented last year and as far back as 2014, and has never shown any plausible reason why 75. I want younger judges who will bring more energy and fresh thinking to their decision-making; who are open to new ways of solving old problems. I don't want judges who have established friendships with attorneys who may be appearing before them.

Respectfully, I encourage you to vote **NO** on SB-175.

**SB-175**

Submitted on: 1/26/2025 6:46:13 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

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

## Comments:

I don't see the need to extend the mandatory retirement age for justices. Ending a lifetime's dedication to practicing and interpreting the law at age 70 is more than enough. We have seen on the world stage how aging leaders have affected policies and laws on the national level, not only with their lack of mental clarity but also by stopping other qualified candidates from moving up and bringing new ideas or, in this case, new interpretations. I mean no disrespect to our elderly justices, but I do not support this bill.

**LATE**

**SB-175**

Submitted on: 1/27/2025 9:36:11 AM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

My name is Carolyn Eaton and I am a resident of Makiki. I have deep respect for the Hawai'i Supreme Court Justices and the initiatives they have undertaken to improve our State Courts over the years. The years of experience our Supreme Court Justices have accrued by age 70 are of great value and requiring their retirement at this age surely robs the State of opportunities for insightful innovations. I strongly support this bill.

I appreciate your thoughtful hard work all year, between sessions and once the annual session convenes. Mahalo for the opportunity to support this bill.