

‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women

Comments re: H.B. 2312

Dear Chair Nakashima, Vice Chair Matayoshi, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports the intent of this measure and **provides comments on H.B. 2312**, which would establish the women's corrections implementation commission in the judiciary to ensure implementation of the recommendations from the final report of the House Concurrent Resolution No. 85 (2016) task force, to develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system.

We believe that this measure is duplicative of the functions of the Hawai‘i State Commission on the Status of Women and a more cost-effective approach would be to add this project to Hawai‘i State Commission on the Status of Women legislatively mandated duties with one FTE to coordinate with the Judiciary. More importantly, the Hawai‘i State Commission on the Status of Women is the State’s main consultant on gender-responsive planning and our unique expertise.

Mahalo,

Khara Jabola-Carolus
Executive Director

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 2312, H.D. 1

February 17, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO PRISON REFORM

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2312, H.D. 1, proposes the following:

- Establishes the Women's Corrections Implementation Commission (Commission) under the Judiciary, for administrative purposes, to implement the recommendations from the final report from the House Concurrent Resolution No. 85 (2016) task force. The purpose of the seven-member Commission consisting of all women is to develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system.
- Makes an unspecified general fund appropriation in FY 23 to the Judiciary to establish the Commission.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

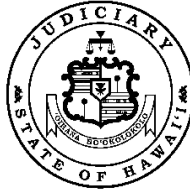
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First State Legislature, 2022 Regular Session

House Committee on Judiciary and Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Thursday, February 17, 2022, 2:00 P.M.
Via Videoconference

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2312, H.D. 1, Relating to Prison Reform.

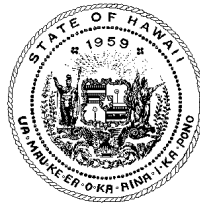
Purpose: Establishes the Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the final report from the House Concurrent Resolution No. 85 (2016) task force, to develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal justice system. Requires the commission to consider model programs including residential, in-person and community-based rehabilitation programs, supportive and subsidized housing, restorative justice, and educational programs. Effective 7/1/3000.

Judiciary's Position:

The Judiciary writes in support of this measure that is consistent with a collaborative and gender-specific approach to rehabilitating women in the criminal justice system. The commission this measure proposes would be a helpful forum for ongoing improvements in this area. To this end, the Judiciary also endeavors to establish in the First Circuit a Women's Court pilot, which will apply a gender-specific and trauma-informed approach to those in need; this pilot is proposed in House Bill 2421 and Senate Bill 3207.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

TESTIMONY ON HOUSE BILL 2312, HOUSE DRAFT 1
RELATING TO PRISON REFORM.

By
Max N. Otani, Director
Department of Public Safety

House Committee on Judiciary and Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

February 17, 2022; 2:00 p.m.
State Capitol, Conference Room 325 & Via Videoconference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed House Bill (HB) 2312, House Draft (HD) 1, which seeks to establish a Women's Corrections Implementation Commission within the Judiciary to ensure implementation of the recommendations from the final report from the HCR 85 (2016) Task Force and address the other issues related to the task force's work.

The Department supports efforts to divert offenders from incarceration and offers the following comments regarding this measure. PSD notes that the Interagency Council on Intermediate Sanctions (ICIS) that is spearheaded by the Judiciary has statewide data on female risks and needs assessments. Funding of the efforts of the ICIS could potentially fulfill the purpose of this bill.

Thank you for the opportunity to provide comments on HB 2312, HD 1.

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

HEARING DATE: Thursday, February 17, 2022
TIME: 2:00 PM, Via Videoconference

SUPPORT FOR HB2312, HD 1 (HSCR 201-22) RELATING TO PRISON REFORM

The Women's Prison Project **supports HB 2312**, which establishes a Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the House Concurrent Resolution No. 85 (2016) and develop an evidence based , gender responsive plan to divert non-violent women offenders , especially those with children from the criminal justice system and to consider a range of community based rehabilitative program models and review local resources for their effectiveness and capacity for expansion.

Change within complex systems is difficult. As noted in the 2019 report of the Resolution 85 task force, experience has shown that without implementation oversight, recommendations and planned programs may fall by the wayside and not be fully implemented. The report emphasized the need for "an Independent Commission to ensure that recommendations and Legislature enacts are faithfully and executed"

The high rate of incarceration of women in Hawaii and the high rate of recidivism indicate a need for change. We can do better. The establishment of an Implementation Commission within the Judiciary to direct and oversee the changes needed to develop a

more effective and gender responsive system for Judiciary involved women is vital. We have seen too many task force reports gather dust on the shelves. Women are a small percentage within the judicial and correctional systems. They need advocates with the authority to move reforms forward on their behalf. They need an Implementation Commission empowered not only to review and plan, but to actually affect implementation of gender responsive Judiciary enhancements and reforms.

The majority of incarcerated women are convicted of drug related crimes, including property crimes. The Women's Prison Project advocates for community based rehabilitation for women who are at low risk of endangering the public, and community based programs that prepare incarcerated women for re-entry. There are a number of bills before the legislature now that seek to establish a more gender responsive system for women within the judiciary, including gender specific assessments, community based rehabilitation programs, and a Women's Court that could divert women from incarceration. There are also many excellent, evidence based models for community based programs for justice involved women, including those with children, in many parts on the nation and the state.

For several decades now, research and experience have shown us that women's pathways to crime and recidivism differ from men's and that many women offenders pose low risk to the community and can be well managed in community settings. There is abundant research that documents the traumatic and detrimental effects on children and women when they are separated by incarceration.

Women's Prison Project strongly supports the establishment of this Implementation Commission be established within the Judiciary with the authority to ensure changes

needed to more fairly, humanely and effectively address the needs, recognize the strengths of women offenders in the court system and reduce their rate of incarceration. It is time for change.

TESTIMONY IN SUPPORT OF HB 2312, HD1

TO: Chair Nakashima, Vice Chair Matayoshi, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 17, 2022 (2:00 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 2312, HD 1, which establishes a Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the [final report of the HCR 85 Task Force on Prison Reform](#). The Commission would develop and implement an evidence-based, gender-responsive plan to divert non-violent women offenders, especially those with minor children, from the criminal legal system.

As the HCR 85 Task Force Report notes, “female offenders tend to have a history of physical and/or sexual abuse, and they are the primary caretakers of young children at the time of arrest. Their involvement in criminal activity is often motivated by poverty and/or substance abuse, and they are less likely than men to have been convicted of a violent crime.” The report further provides that “programs for justice-involved women should be holistic and support the entire woman.”

Prevailing prosecutorial practices, along with the continued absence of substantive bail reform, sentencing reform, and probation reform, set the stage for perennially overcrowded carceral facilities. The continued criminalization of personal drug use and possession significantly perpetuates lasting social, medical, and legal stigma. Criminalization subjects persons from under-resourced communities to prolonged periods of criminal legal supervision. [The enforcement of drug laws pertaining to personal use and possession of drugs has disproportionately impacted Native Hawaiians](#). In this regard, the criminal legal system's enforcement of punitive drug laws embodies the structural [racism that this Legislature declared a public health crisis via HCR 112](#) just last year.

HHRC'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 of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse. Criminalization compounds their suffering and further jeopardizes their health and well-being.

Thank you for the opportunity to testify on this measure.