

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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House Committee on Economic Development
Honorable Takashi Ohno, Chair
Honorable Sonny Ganaden, Vice Chair

RE: Testimony Opposing H.B. 2312, Relating to Prison Reform
Hearing: February 4, 2022 at 10:00 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony **opposing the Sunshine Law exemption** in H.B. 2312.

H.B. 2312 would create and appropriate general funds for a permanent commission to develop and implement a plan to divert certain women offenders from the criminal justice system. It is rare – if not unprecedented – for the Legislature to exempt a **permanent, funded** commission from the Sunshine Law.

If a State commission will be using taxpayer monies for the indeterminate future, it is critical that the public have greater insight into the work of that commission. The Sunshine Law has not impeded, for example, the work of the Correctional System Oversight Commission.

A permanent commission on such an important issue to the community should not be hidden from public scrutiny. If there are specific concerns regarding the application of the Sunshine Law to this proposed commission, the Law Center is willing to work with the Legislature or others to identify more appropriately tailored language for such specific concerns.

Thank you again for the opportunity to testify in opposition to the Sunshine Law exemption in H.B. 2312.



HOUSE COMMITTEE ON CORRECTIONS, MILITARY, AND VETERANS
Friday, February 4, 2022, 10 am, State Capitol Room 430 & Videoconference
HB 2312

Relating to Prison Reform

TESTIMONY

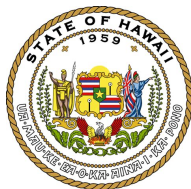
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Ohno and Committee Members:

The League of Women Voters of Hawaii requests amendment of HB2312.

The League has no expertise or position concerning prison reform. However, we request amendment of Section 2 of this bill so that the proposed Women’s Correction Implementation Commission is subject to Chapter 92, Hawaii Revised Statutes. There is no compelling justification to exempt the proposed Commission from the Sunshine Law. Moreover, normal Sunshine Law requirements (e.g. meeting agenda, public access to board packets, opportunity for public testimony, meeting minutes) seem likely to improve both development and implementation of “an evidence-based ... plan to divert non-violent women offenders ... from the criminal justice system.”

Thank you for the opportunity to submit testimony.



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i

Committee: House Committee on Corrections, Military, & Veterans
Bill Number: H.B. 2312
Hearing Date/Time: February 4, 2022, 10:00 a.m.
Re: Testimony of the Hawai'i State Ethics Commission with **COMMENTS AND PROPOSED AMENDMENT** to HB 2312, Relating to Prison Reform

Aloha Chair Ohno, Vice Chair Ganaden, and Committee Members:

The Hawai'i State Ethics Commission (“Commission”) respectfully suggests removing the following sentence:

No member of the commission shall be made subject to the financial disclosure requirements of sections 84-13 and 84-17, Hawaii Revised Statutes, solely because of that member’s participation as a member of the commission.

This carve-out to the Ethics Code is likely unconstitutional.

Article XIV of the Hawai'i Constitution provides, among other things, that the State’s “code of ethics . . . shall apply to appointed and elected officers and employees of the State . . . including members of the boards, commissions and other bodies.” The Legislature is granted the authority to define the exact contours of the conduct that may be deemed to violate the Ethics Code; however, the constitution requires that the Ethics Code apply to all employees and board/commission members. Indeed, in 2015, the Attorney General issued a letter to then-Representative Rhoads, explaining that the Legislature cannot exempt categories of employees from the Ethics Code:

May the Legislature, consistent with article XIV of the Hawai'i Constitution, exempt a state entity or the entity’s employees from the State Ethics Code, as codified in chapter 84, Hawaii Revised Statutes?

...

No. By its plain text, article XIV makes the application of the State Ethics Code mandatory to state employees.

Attorney General Op. No. 2015-02 at 1-2, available at <https://ag.hawaii.gov/wp-content/uploads/2012/11/AG-OP-NO-15-2.pdf>. The Opinion goes on to state that the Legislature may exempt certain conduct from the scope of the Ethics Code, but it may not exempt employees from the Code.

Thank you for the opportunity to testify.

Very truly yours,

/S/ Robert D. Harris
Robert D. Harris
Executive Director and General Counsel

HB-2312

Submitted on: 2/2/2022 9:21:11 PM

Testimony for CMV on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nikos Leverenz	Hawaii Health & Harm Reduction Center	Support	No

Comments:

Hawaii Health & Harm Reduction Center supports HB 2312.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawaii and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



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COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS
Representative Takashi Ohno, Chair
Representative Sonny Ganaden, Vice Chair

HEARING DATE: February 4, 2022

TIME: 10 AM

SUPPORT FOR HB2312 RELATING TO PRISON REFORM

Hawai'i Friends of Restorative Justice **STRONGLY SUPPORTS HB2312**, 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, 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 the Legislature enacts are faithfully 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



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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 the majority of 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.



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Please pass this measure and contact Loren Walker at lorenn@hawaiiifriends.org
for any additionally information needed about our support.

COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS
Representative Takashi Ohno, Chair
Representative Sonny Ganaden, Vice Chair

HEARING DATE: February 4, 2022
TIME: 10 AM

SUPPORT FOR HB2312 RELATING TO PRISON REFORM

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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.

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abundant research that documents the traumatic and detrimental effects on children and women when they are separated by incarceration.

Women's Prison Project hopes that this Implementation Commission will be established within the Judiciary and that it will bring about the changes needed to more fairly, humanely and effectively address the needs and recognize the strengths of women offenders in the court system and reduce their rate of incarceration. It is time for change.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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 CORRECTIONS, MILITARY, & VETERANS
ON
HOUSE BILL NO. 2312

February 4, 2022
10:00 a.m.
Room 430 and Videoconference

RELATING TO PRISON REFORM

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

House Bill No. 2312 proposes the following:

- Establishes the Women's Corrections Implementation 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:

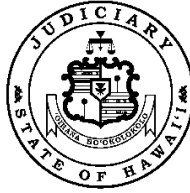
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support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

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

House Committee on Corrections, Military, & Veterans

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Friday, February 4, 2022, 10:00 A.M.

Via Videoconference

by

Rodney A. Maile

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

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

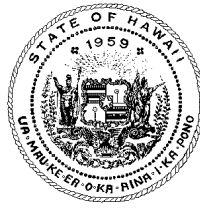
Purpose: Establishes the Women's Corrections Implementation Commission in the Judiciary to ensure implementation of the recommendations from the final report from the House Concurrent Resolution No. 85 (2016) task force, to develop and implement an evidence-based, gender-responsive plan to divert non-violent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

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
1177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON HOUSE BILL 2312
RELATING TO PRISON REFORM.**

By
Max N. Otani, Director
Department of Public Safety

House Committee on Corrections, Military, and Veterans
Representative Takashi Ohno, Chair
Representative Sonny Ganaden, Vice Chair

February 4, 2022; 10:00 a.m.
State Capitol, Room 430 & Via Video conference

Chair Ohno, Vice Chair Ganaden, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed House Bill (HB) 2312, 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 House Concurrent Resolution 85 (2016) task force and address the other issues related to the task force's work.

The Department offers comments regarding this measure and supports any efforts to divert offenders from incarceration. It should be noted, the Interagency Council on Intermediate Sanctions (ICIS) that is spearheaded by the Judiciary has data on female risks and needs assessments statewide. 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.

HB-2312

Submitted on: 2/3/2022 11:13:39 PM

Testimony for CMV on 2/4/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair and members,

Strong support. This measure would provide teeth to the 2006 Hawaii State Legislature mandated through Hawaii Revised Statutes §367D-2 that the Department of Public Safety (PSD) foster a gender responsive environment by providing model gender-responsive programs for female offenders that are responsive to statewide needs.

Reduction of recidivism not institutionalization should always be the goal.

Mahalo,

Ann S. Freed

Life-time Feminist in Mililani