



STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of H.B. 2421, H.D. 1, S.D.1
RELATING TO WOMEN'S COURT**

SENATOR DONAVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 4/5/2022

Hearing Time: 10:15 a.m.

1 **Department Position:** The Department of Health ("Department") supports this measure and
2 offers the following comments.

3 **Department Testimony:** The Adult Mental Health Division ("AMHD") provides the following
4 testimony on behalf of the Department.

5 The purpose of this measure is to establish a three-year women's court pilot program
6 within the Judiciary's First Circuit, establish and appropriate funds for temporary Judiciary
7 positions, and require a report to the Legislature. The Department appreciates the Legislature's
8 recognition that women enter the criminal justice system in pathways that current tools and
9 policies in place are not effective at keeping justice-involved women out of jail and prison. We
10 agree that innovation is necessary to not only prevent more women being incarcerated but also
11 to help them break the cycle of re- entering the criminal justice system.

12 The Department supports this bill because there is a need for this type of program in our
13 State. Nationally, since 1980, women have outpaced men in entering the prison population at a
14 rate of 700% compared to 50% for men, and the majority of women enter the system for non-
15 violent felonies.

16 As noted in this measure, poverty, abuse, mental health issues, substance abuse
17 disorders, trauma, marginalization, and unhealthy relationships all intersect the unique

1 pathways that lead women to criminal behaviors. Women typically enter the criminal justice
2 system with trauma and need services to address their mental health issues and substance
3 abuse disorders. If these factors are not addressed, the outcome for these women includes a
4 cycle of suffering not only for them but for their families and their community which can lead to
5 more trauma and behavioral health needs amongst affected family and community members.
6 To improve outcomes and to decrease risk for re-incarceration, we need to find ways to
7 address these issues proactively to break the cycle.

8 For these reasons we support this probation-based model that includes the core
9 objective of providing services in mental health and substance abuse treatment, trauma-
10 informed care, and education. By making these issues a priority rather than a supplement to
11 the way the court addresses nonviolent women offenders, we can end the cycle of women
12 needlessly going through the system; thereby saving money and resources in the long run and
13 making a positive impact on our community as a whole, including improving the mental health
14 status of those impacted.

15 Thank you for the opportunity to testify on this measure.

16 **Fiscal Implications:** The Department respectfully defers to the Judiciary as their preferred
17 funding is indicated in their testimony on this measure.



The Judiciary, State of Hawai‘i

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

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Tuesday, April 05, 2022 at 10:15 A.M.
Conference Room 211 & VIDEOCONFERENCE

by
R. Mark Browning
Chief Judge, First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2421, H.D. 1, S.D. 1, Relating to Women’s Court.

Purpose: Establishes a three-year women’s court pilot program within the Judiciary’s First Circuit. Establishes temporary positions. Requires a report. Appropriates funds. Repeals 6/30/2025. (SD1)

Judiciary's Position:

The Judiciary urges the strong support of House Bill No. 2421, H.D. 1, S.D. 1 to create a Women’s Court pilot program in the First Circuit. The Judiciary appreciates the Legislature's recognition that women enter the criminal justice system in pathways distinct from men's, that the current tools and policies in place are not effective at keeping justice-involved women out of jail and prison, and that innovation is necessary to not only prevent more women being incarcerated but also to help them break the cycle of re-entering the criminal justice system.

The Judiciary supports this bill for the following reasons:

1. There is a need for a program like this. Nationally, women have been outpacing men in entering the prison population since 1980, at a rate of 700% compared to 50% for men.



2. The majority of these women enter the criminal justice system for non-violent felonies. This is true in Hawai'i, where 32.3% of women versus 24.5% of men entered the system for a felony property crime and 35.9% of women versus 27% of men entered the system for a felony drug crime.
3. Research has shown that being in jail even for a day negatively impacts recidivism outcomes. This is especially an important consideration because prison and jail policies are historically designed to address male offenders and do not address the issues that typically affect women and lead them to become justice-involved.
4. Research shows that women become justice-involved in different pathways from men. Poverty, abuse, mental health issues, substance abuse disorders, trauma, marginalization, and unhealthy relationships all intersect the unique pathways that lead women to criminal behaviors. So, women typically enter the criminal justice system with trauma and need services to address their mental health issues and substance abuse disorders.
5. If these things are not addressed, the outcome is that these women risk re-entering the system, which creates a cycle of suffering not only for them but for their families and their community. This is true when you consider the fact that most women are the primary caretakers for their children, and being in jail can lead to serious and permanent consequences for their families such as losing custody of their children.
6. The goal of this program is to address these issues at the outset. Rather than sending women to jail for nonviolent crimes, the program will be based on the probation model with the core objective of providing services in mental health and substance abuse treatment, trauma-informed care, and education.
7. By making these issues a priority rather than a supplement to the way the court deals with nonviolent women offenders, we can end the cycle of women needlessly going through the system. It will save the State money in the long run and make a positive impact on our community as a whole.
8. To do all that, the program needs to appropriate funds for services such as mental health care, substance abuse treatment, trauma treatment, and education. Moreover, the funds will also be applied to establishing temporary positions to staff the program with individuals who possess specialized knowledge and experience in this field to ensure the program's success.
9. The program will first be established as a three-year pilot project. The Judiciary will provide annual reports to assess if and how the program should move forward.

The Judiciary is requesting an appropriation in the amount of \$695,236 for fiscal year 2022-2023 for equipment, contracted services for mental health, substance abuse, and other services, and the establishment of seven temporary positions for the Women's Court pilot program.

Thank you for the opportunity to testify on House Bill No. 2421, H.D. 1, S.D. 1.



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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2421, H.D. 1, S.D. 1

April 5, 2022
10:15 a.m.
Room 211 and Videoconference

RELATING TO WOMEN'S COURT

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

House Bill No. 2421, H.D. 1, S.D. 1, proposes the following:

- Establishes a three-year women's court pilot program in the First Circuit Court to address women's individualized needs to divert them from incarceration, support them in the community and reduce recidivism.
- Appropriates \$695,236 in general funds in FY 23 to the Judiciary and authorizes 7.00 temporary, full-time positions including 1.00 Social Worker V, 4.00 Social Worker IVs, 1.00 Circuit Court Clerk II, and 1.00 Judicial Clerk.
- Requires the Judiciary to submit a report on its findings and recommendations to the Governor and the Legislature for each year of the three-year pilot program.
- Repeals the pilot program on June 30, 2025.

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.

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Thirty-First State Legislature
Regular Session of 2022
State of Hawai'i

April 5, 2022

RE: H.B. 2421, H.D. 1, S.D. 1; RELATING TO WOMENS COURT.

Chair Dela Cruz, Vice-Chair Keith-Agaran and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in support of H.B. 2421, H.D. 1, S.D. 1, with comments.

The purpose of this bill is to create a three-year women’s court pilot program in the First Circuit of the Judiciary to provide rehabilitative/re-entry services and programs to address the unique needs of female offenders in the criminal justice system.

The Department recognizes that female offenders face unique and complex barriers in successful re-entry after incarceration. The implementation of women’s court will ensure that a gender-responsive approach exists to address the various obstacles encountered by female offenders as they transition from parole or probation back into the community. Although there are other models used nationwide to address this disparity of services, a “one size fits all” design might not address Hawaii’s unique makeup, thus, a model tailored to address our special dynamics would be paramount for future success. While this bill provides the necessary mandate and resources to establish the women’s court pilot program, the Department believes that it will be important for the various stakeholders, including the Judiciary, the Department, and the Office of the Public Defender, to meet to build a general framework for this court and to ensure that all involved agencies understand what role they must play to ensure successful implementation.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports H.B. 2421, H.D. 1, S.D. 1, with comments. Thank you for the opportunity to testify on this matter.

COMMITTEE ON WAYS AND MEANS
Senator Donovan Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

HEARING DATE: Tuesday, April 5, 2022

TIME: 10:15 a.m.

PLACE: Conference Room 211 & Videoconference

SUPPORT FOR HB2421, HD1, SD1 RELATING TO WOMEN'S COURT

The Women's Prison Project strongly supports the initiation of a Women's Court as described in HB2421 ,HD1,SD1.

A Women's Court would offer a much-needed shift to a rehabilitative and restorative approach to corrections that is trauma informed, culturally and gender responsive, and directly addresses women's pathways to crime and risk of recidivism by providing needed treatment and life skills development. It would keep more court-involved women in the community with their children.

The Women's Court could help reduce the rate of incarceration of women in Hawaii and reduce recidivism. Meeting the Needs of Women in California's County Justice Systems: A Toolkit for Policymakers and Practitioners (B. Bloom, 2015) reported that "By the nature of their lower-level offenses, women pose less of a threat to public safety than men and they often are more amenable to community-based programming than men."

"When women are provided programs and services that support their living productive, crime-free lives, there is a strong possibility, as well as empirical evidence, that their children also benefit." (B. Bloom, 2015) Children of incarcerated mothers are more likely to enter the foster care system, drop out of school, and become involved with the justice system.

A recent review of research by the State of Hawaii Judiciary's Criminal Justice Research Institute (CJRI) found that women make up a larger percentage of Hawaii's total incarcerated population than in any other state in the nation. CJRI's study also found that only a small percentage of women offenders in Hawaii's corrections system were convicted of violent felonies. While Native Hawaiian women were approximately 19% of the state's female population in 2018, they were approximately 44% of women in prison. The majority of these women were convicted of drug offenses or property crimes often related to drugs. Simple assault is the primary conviction involving violence identified in studies. The report noted high rates of mental illness, use of illicit drugs, and histories of trauma related to abuse in childhood and as adults. These factors, as well as poverty, lack of access to education, job training and safe affordable housing have been identified as women's pathways to crime. These factors also put women at risk for recidivism, which at the time of the CJRI's study was at 51%.

Participants in the Women's Court might include women who have committed a first-time

offense and are at low risk for recidivism and whose primary needs are treatment for co-occurring mental health and substance abuse disorders, probation offenders, women who are pregnant or have children, women who are eligible for parole, or women nearing the end of their sentence who need preparation for successful transition into the community. The Women's Court would maintain a level of accountability and structure in its oversight of women's progress as they participated in needed services. We strongly support this movement toward keeping women out of incarceration while participating in community based, supervised programs.

An evaluation of Women's Reentry Court in Los Angeles County(WRC) which provides mental health and substance use disorder treatment along with housing, employment and reunification of children with their mothers in the early stage of treatment, found that graduates of the WRC had an 18% recidivism rate compared to 49% for women released from prison the same year.

A 2019 review of problem solving courts for the Centre for Justice Innovation by Brown and Whitehead, while raising concerns about many other specialty courts said of the emerging practice of specialty courts for women, "Based on the evidence, women's distinctive needs and the impact of gender specific approaches, we conclude that a problem solving court for female offenders who have complex needs or are at risk of custody has the potential to reduce re-offending. We see a strong theory of change for a specialized court that is evidence led, trauma informed, and gender responsive."

Hawaii has a model for a gender-responsive court in Hawaii. Hawaii's Girls Court began in 2004 as a pilot project and was established in 2017 as a permanent court within the Judiciary. It has been acknowledged nationally as a best practice for working with court-involved girl offenders. Lessons learned from the Girls Court experience would suggest that the Women's Court would need firm assessment and selection criteria to ensure appropriateness for the program. This would involve the implementation of a validated assessment specifically developed for use with women in the justice system. Staff, including probation officers and social workers, must be educated in women's pathways to crime, and be committed to a trauma-informed, gender-responsive approach. Selection of a consistent judge who will provide "both nurturing encouragement and formal authority" is critical, as is a commitment to a gender-responsive philosophy, willingness to do things differently, to look at the reasons women are in the court in the first place. The court should have a step-down system as women complete requirements and clear criteria for "graduation". Transitions should be planned early and connections made with any needed aftercare.

The Women's Prison Project strongly supports HB2421 HD1 SD1 to keep women out of prison, promote successful outcomes by addressing their pathways to crime and reduce recidivism. Mahalo for considering our thoughts on this matter.

Linda Rich For Women's Prison Project.



TESTIMONY

Senate Committee on Ways and Means
Hearing: Tuesday, April 5, 2022 (10:15 a.m.)

TO: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Rhonda L. Griswold
HSBA President-elect

RE: House Bill No. 2421, HD1, SD1
Relating to the Women’s Court

Section 1 of this measure succinctly and accurately sets forth the significant increase in the number of female offenders in correctional facilities, and the difficulties and obstacles women face pre-incarceration, during incarceration, and post-incarceration. The lives of women in the criminal system are made even more difficult as many are the primary caregivers of children whose formative years are disrupted.

The proposed three-year pilot program for the establishment of a Women’s Court in the First Circuit is a bold step forward to meet the needs of female offenders, who themselves are often victimized.

Specifically, the need for the following services that this program would provide has been verified by numerous community service and educational organizations for the past decade:

- Support to improve parenting and positive relationships.
- Life skills training.
- Educational opportunities and vocational training.
- Medical services and well-being-education.
- Safe and affordable housing.

The bill’s sponsoring legislators are to be commended for their foresight and leadership. The Subject Matter Committee has approved funding for:

- 1 Social Worker V position
- 4 Social Worker IV positions
- 1 Circuit Court Clerk II position
- 1 Judicial Clerk position

The HSBA requests that *new* funding be provided for this innovative initiative so as not to detract from existing appropriations or the Judiciary’s priorities in its 2022 legislative package.

Thank you for the opportunity to submit comments in **STRONG SUPPORT** of this bill.

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HB-2421-SD-1

Submitted on: 4/2/2022 11:14:47 AM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support.

HB-2421-SD-1

Submitted on: 4/2/2022 3:06:52 PM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

Please support this bill. Hawaii has a very high rate of incarceration for women, but often for nonviolent crimes and other offenses that would be best dealt with through diversion programs. This court would be a great pilot project to see if we can make a difference in rehabilitating these women instead of putting them away for years, where they lose their jobs, their families, and their chance to become productive citizens.