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OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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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
SENATE BILL NO. 2770, S.D. 1, H.D. 1

March 22, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS

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

Senate Bill No. 2770, S.D. 1, H.D. 1, appropriates an unspecified amount of general funds in FY 23 to the Department of Public Safety to collaborate with the Office of Hawaiian Affairs on the creation of a Native Hawaiian rehabilitation program for Native Hawaiian prison inmates, which puts an emphasis on Native Hawaiian values and cultural practices.

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.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 21, 2022

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **SB 2770 SD1 HD1 – RELATING TO NATIVE HAWAIIAN REHABILITATION
PROGRAMS.**

Hearing: March 22, 2022, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this measure, defers to the Department of Public Safety and the Office of Hawaiian Affairs, and offers comments.

PURPOSE: The purpose of the bill is to require the department of public safety, in collaboration with the office of Hawaiian affairs, to create a Native Hawaiian rehabilitation program for prison inmates that emphasizes Native Hawaiian values and cultural practices. Appropriates funds. Effective 7/1/3000. (HD1)

The SD1 amended the measure by:

- (1) Codifying in the Hawaii Revised Statutes the mandate for the creation of a Native Hawaiian rehabilitation program;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (3) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

The HD1 amended the measure by:

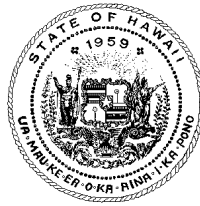
- (1) Placing the mandate for the creation of a Native Hawaiian rehabilitation program in session law rather than codifying it in the Hawaii Revised Statutes;
- (2) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Traditionally, rehabilitation programs focused on education and employment, if offered, are often based on models that may not have any relevance or foundation to inmates' identity, cultural beliefs, and worldview. Studies have shown a positive association between having a strong cultural identity and feelings of self-worth, belonging or social connections, and purpose. The national movement on racial and gender equality and equity continues to address the needs of various cultural groups. It recognizes the richness of cultural practices while acknowledging the impacts and consequences of historical and intergenerational trauma. Addressing historical and intergenerational trauma through informed cultural practices and frameworks should be a foundational part of rehabilitation programs during and after incarceration.

In addition to education and employment programs, DHS supports including trauma-informed, culturally- and gender-appropriate rehabilitation programs to address the needs of currently incarcerated individuals. DHS further emphasizes the importance of creating culturally-based diversion programs as alternatives to incarceration to minimize or eliminate traumatization and re-traumatization.

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 SENATE BILL 2770, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS.**

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

Tuesday, March 22, 2022; 2:00 p.m.
State Capitol, Room 325, and Via Videoconference

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

The Department of Public Safety (PSD) supports the intent of Senate Bill (SB) 2770, Senate Draft (SD) 1, House Draft (HD) 1, which seeks to appropriate funds to PSD to collaborate with the Office of Hawaiian Affairs (OHA), to create a Native Hawaiian rehabilitation program for prison inmates that emphasizes Native Hawaiian values and cultural practices.

PSD is very willing to work with OHA to gain their valuable input, guidance, and expertise on creating such a program that will benefit Native Hawaiian inmates, to include an estimated cost for this initiative. If the program is successful, the Department is hopeful that it can be expanded to be inclusive of all interested inmates.

Thank you for the opportunity to provide testimony supporting the intent of SB 2770, SD1, HD1.

LATE



SB2770, SD1, HD1
RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS

Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i
House Committee on Judiciary & Hawaiian Affairs

Malaki 22, 2022

2:00 p.m.

Hālāwai Keleka‘a‘ike / Lumi 325

The Office of Hawaiian Affairs submits the following in **SUPPORT** of SB2770, SD1, HD1, which urges the Department of Public Safety (PSD) to recognize the value of culture-based rehabilitation activities in the State’s correctional system and to increase the use and access to culture-based programming in the correctional system.

OHA agrees with the intent of SB2770. It has long supported the integration of culturally-based models to better rehabilitate pa‘ahao, reconcile them with their ‘ohana and communities, and reduce recidivism. The Native Hawaiian Justice Task Force has similarly encouraged the exploration of options to address systemic issues in the criminal justice system, such as by supporting indigenous models of healing, and bolstering reintegration programs and services.¹ Our beneficiaries who were pa‘ahao have shared how valuable culturally-based programs, such as working in the lo‘i, hula and even having Hawaiian food on Kamehameha Day, helped in their healing.

Meaningful consultation with indigenous peoples from conception to implementation, evaluation and reform is integral to self-determination. Truly partnering with the Native Hawaiian people will ensure culturally-based programs will be most effective, sustainable and pono.

The Office of Hawaiian Affairs urges the Committee to **PASS** SB2770, SD1, HD1. Mahalo piha for the opportunity to testify.

¹ THE OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT 8 (2012), http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

For hearing Tuesday, March 22, 2022

Re: SB2770, SD1, HD1

RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS.

Requires the department of public safety, in collaboration with the office of Hawaiian affairs, to create a Native Hawaiian rehabilitation program for prison inmates that emphasizes Native Hawaiian values and cultural practices. Appropriates funds. Effective 7/1/3000. (HD1)

TESTIMONY IN OPPOSITION

The whole purpose of this bill is to mandate "The department of public safety, in collaboration with the office of Hawaiian affairs, shall create a rehabilitation program for Native Hawaiian prison inmates with an emphasis on preserving Native Hawaiian values and cultural practices."

Is that really a good idea?

For several decades ethnic Hawaiian activists have been working hard to strengthen government and private institutions or programs that require members or beneficiaries to prove they have "Native Hawaiian" ancestry, even if the percentage of blood quantum is low. DHHL, OHA, Kamehameha Schools, Council for Native Hawaiian Advancement, Queen Lili'uokalani Childrens Center... the list is endless. Apparently there is something so powerful in even a single drop of the magic blood that many people who have it feel compelled to associate primarily or even exclusively with anyone else who has it. Racial "preference" turns out to be racial segregation and separatism. The beautiful Hawaiian creation legend "Kumulipo" says all humans are children of the gods and siblings to the 'aina; but today's activists twist it as describing only ethnic Hawaiians, relegating everyone else to an inferior status of "other."

See webpage "Hawaiian religious fascism. A twisted version of a beautiful creation legend provides the theological basis for a claim that ethnic Hawaiians are entitled to racial supremacy in the governance and cultural life of the Hawaiian islands."

<https://www.angelfire.com/big11a/HawnReligFascism.html>

See book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State"

<https://www.angelfire.com/planet/bigfiles40/BookPromo.html>

How often have we heard it said that Native Hawaiians have the worst rate among all Hawaii's ethnic groups for drug abuse, spouse abuse, child abuse, arrests, incarceration, and other social dysfunction. Clearly there is something troubling about "Hawaiian values" and "Hawaiian cultural practices" -- the exact terms which this bill touts as the core of "rehabilitation programs" which prisons must be required to

foist upon Native Hawaiian inmates, at taxpayer expense. Either "Hawaiian values" and "Hawaiian cultural practices" are purely aspirational labels and not descriptive of actual behavior in the community, or else they are damaging to the ability of Native Hawaiians to participate successfully in the larger society where they find themselves whether they like it or not.

A prison program designed to inculcate Native Hawaiian inmates with "Hawaiian values" and "Hawaiian cultural practices" closely resembles school curriculum in the Hawaiian-focus charter schools. It is designed to brainwash people with a political viewpoint leading them to become activists for race-based political power and, ultimately, sovereignty. Here are quotes from a foundational document where Ku Kahakalau unashamedly explained the purpose of her "Kanu O Ka 'Aina" Hawaiian-focus tax-funded public charter school:

"Kanu is tailored towards the distinctive cultural wants and needs of Hawai'i's indigenous student population. Utilizing our natives values handed down to us in thousands of proverbs as a philosophical basis ... The long-term goal of Kanu is to create a native designed and controlled system of Hawaiian education that will empower native communities throughout the archipelago to achieve political, cultural and economic self-determination. ... Kanu wants to actively prepare native students to participate in - and perhaps even lead - Hawai'i's indigenous sovereignty movement. Initially I was sort of hesitant to claim that Kanu represents a liberatory pedagogy. However, the more I reflected on the true purpose of my model the more I realized that my model is definitely designed to liberate. Specifically, Kanu wants to encourage Hawaiian students to become politically conscious, and individually and collectively tackle the problem of Hawaiian oppression by the United States and our subjugation to American law and a Western way of life. In that vein, Kanu has the potential of significantly contributing to the Hawaiian sovereignty effort."

Well, that is certainly not what most taxpayers want our government tax-funded schools to be doing with their students, and not what we want our government tax-funded prisons to be doing with their inmates.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark Nakashima, Chair

Representative Scot Matayoshi, Vice Chair

Tuesday, March 22, 2022

2:00 PM

STRONG SUPPORT FOR SB 2770 HDI - NATIVE HAWAIIAN REHABILITATION PGMS.

Aloha Chair Nakashima, Vice Chair Matayoshi 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 3,997 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety or the corporate vendor as of March 14, 2022¹. We are always mindful that 1,110 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 the opportunity to share our STRONG SUPPORT of cultural programming, especially when delivered by cultural practitioners. We have witnessed the effect of programs that have resonated with Kanaka Maoli and others who gain a deeper understanding of their responsibilities to themselves, their families, their communities, and to their ancestors. These programs, initiated by our people serving sentences abroad in Minnesota, have been amazing and transformative.

When our people were sent to prisons on the continent, they worked hard to keep their connections to home alive. We know many of the men who created the program; some have been released after serving many years in prison, and they are now contributing members of our communities. We know that facilitating people to maintain their connections to their culture has been transformative, not only for them and their families, but for their communities as well.

In the Saguaro program there is a rule that you leave your colors or gang symbols at the door - and they do. In class they work together learning mele and oli and gaining a deeper understanding of who they are and what their responsibilities are to themselves, their families, their communities, and their ancestors. The program has been successful because the focus is on culture and values.

We respectfully ask the committee to support SB 2770 HD1.

¹ Department of Public Safety Weekly Population Report.

<https://dps.hawaii.gov/wp-content/uploads/2022/03/Pop-Reports-Weekly-2022-03-14.pdf>

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Date: Tuesday, March 22, 2022

Time: 2:00 PM

Place: VIA VIDEOCONFERENCE

Conference Room 325

State Capitol
415 South Beretania Street

My name is Malina Kaulukukui, and I am a retired social worker and cultural practitioner of hula as well as traditional, family-based ho'oponopono. I am testifying on behalf of the Women's Prison Project in **Strong Support of SB2770.SD1 RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS.**

Since 2016, I have been a volunteer at the Women's Community Correctional Center and established a hula halau - hula school - within the facility. I have seen first hand the healing power of culture as foundational for women who have experienced so much pain in their lives.

It has been well-established that the impact of on Native Hawaiians in the criminal justice system is disproportionate and stark.* While Native Hawaiians as a whole comprise about 24% of the state's population (depending on which Census Report is used) , they make up almost 36% of the incarcerated population. Native Hawaiian women, in particular, comprise about 18% of the state's population, but almost 44% of Hawaii's female incarcerated population. Trauma is a prominent factor in justice-involved women and often contributes to why they enter the into the system. Once incarcerated, trauma affects their institutional behaviors, which, in turn, negatively affects eligibility for limited treatment and educational opportunities, while often extending their release dates. It is also well-established that cultural historical trauma (a constellation of characteristics associated with the intergenerational collective trauma experienced by a specific group that has a history of being systematically

oppressed by a dominant group) compounds individual trauma.* Research with a variety of indigenous groups has also shown that when cultural historical trauma is present, healing and rehabilitation from trauma must also include the opportunities for cultural healing through cultural practices.* Culture is foundational. Thus, gender-specific, trauma-informed, culturally-grounded services and opportunities for incarcerated women, overseen by knowledgeable providers well-versed in Native Hawaiian principles, are key to equipping them with practical and emotional skill sets critical for post-release success, which can also break the cycle of intergenerational trauma and recidivism. It is about hope, and connecting with their families again and standing healthy in their communities. **The Women's Prison Project urges you to support SB2770,SD1 to appropriate funds for these critically needed programs.** Thank you for considering our thoughts on this bill.

Malina Kaulukukui For Women's Prison Project

***Resources**

Substance Abuse and Mental Health Services Administration (2012), *Creating A Place of Healing and Forgiveness: The Trauma-Informed Care Initiative at the Women's Community Correctional Center of Hawaii*. Rockville, MD: Substance Abuse and Mental Health Services Administration.

Office of Hawaiian Affairs (2010). *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, Honolulu, HI. Office of Hawaiian Affairs.

Office of Hawaiian Affairs ((2018). *Haumea – Transforming the Healthg of Native Hawaiian Women and Empowering Wahine Well-being*. Honolulu HI, Office of Hawaiian Affairs.

HCR85 Task Force (December, 2018). *Creating Better Outcomes, Safer Communities: Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai'i Legislature 2019 Regular Session*.

Report of the Federal Partners Committee on Women and Trauma: A Federal Intergovernmentl Partnership on Mental Health Transformation, June 2011.



Papa Ola Lōkahi
Nana I Ka Pono Na Ma

Papa Ola Lōkahi

894 Queen Street
Honolulu, Hawaii 96813

Phone: 808.597.6550 ~ Facsimile: 808.597.6551

House Committee on Judiciary & Hawaiian Affairs

Representative Mark Nakashima, Chair

Representative Scot Matayoshi, Vice-Chair

Tuesday, March 22, 2022, 2:00 PM, Videoconference

Papa Ola Lōkahi

is the Native Hawaiian Health Board established in 1988 to improve the health and well-being of Native Hawaiians.

Board of Directors

Member Organizations

Ho'ola Lāhui Hawaii

Hui No Ke Ola Pono

Hui Mālama Ola Na 'Oiwī

ALU LIKE

Ke Ola Mamo

E Ola Mau

University of Hawai'i

Hawai'i State Department of Health

Nā Pu'uwai

Office of Hawaiian Affairs

Executive Director

Sheri-Ann Daniels, EdD

RE: SB 2770 SD 1 HD 1 – Relating to Native Hawaiian Rehabilitation Programs
Position: OFFERS COMMENTS

Dear Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee on Judiciary & Hawaiian Affairs,

Papa Ola Lōkahi offers **comments** on SB 2770 SD 1 HD 1, which creates a Native Hawaiian rehabilitation program for prison inmates centering Native Hawaiian values and cultural practices. This measure has the potential to rehabilitate better, reduce recidivism, and improve the health and wellbeing of Native Hawaiians, who are overrepresented in the carceral system.

Papa Ola Lōkahi supports efforts to provide access to culturally-based programs for Native Hawaiians, as cultural connection is a crucial factor contributing to overall health and wellbeing. For imprisoned Native Hawaiians, culturally-based programs that reconnect them with their culture, 'ohana, and communities may have better outcomes than existing models for rehabilitation and reintegration. Success with the use of culturally-based programs for Native Hawaiians, Pacific Islanders, and other marginalized groups has been seen in other places, such as the [San Quentin State Prison in California](#), with participating members crediting their hula program with helping them to build relationships, changes in their behavior both in and out of prison, and increased physical activity.

Culturally-based programs, like hula, attend to the holistic way Native Hawaiians view health, which [research](#) has found improves functional capacity among participants, a deepened appreciation and connection to Hawaiian culture, and offering new spiritual connections to their surrounding social environment. Such programming implemented and sustained in alignment with Native Hawaiian culture has the potential to create long-term changes for our communities. For culturally-based programs to be effective, sustainable, and pono, meaningful consultation with Native Hawaiians, Pacific Islanders, and community advocates, such as ['Ekolu Mea Nui](#) and the [American Civil Liberties Union Hawai'i](#), is necessary from conception to implementation, during program evaluation, and reform.

While Papa Ola Lōkahi generally supports the intent of this bill, the current bill language does not ensure stakeholder input is collected or integrated, and it does not outline how accountability, oversight, and evaluation of the program are to be addressed. Including these elements will strengthen the bill so that the proposed program is Native Hawaiian both by design and implementation.

Mahalo piha for the opportunity to provide **comments** on **SB 2770 SD 1 HD 1**.

Papa Ola Lōkahi, the Native Hawaiian Health Board, authorized by the federal Native Hawaiian Health Care Improvement Act, is charged with raising the health status of Native Hawaiians to the highest possible level, which we achieve through strategic partnerships, programs, and public policy.

**OPPORTUNITY
YOUTH
ACTION HUI**

22 March 2022

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 p.m.

Location: Virtual

Re: SB 2770, SD1 HD1, Relating to Native Hawaiian Rehabilitation Programs

Aloha Chair Nakashima, Vice-Chair Matayoshi, and members of the Committee,

We are writing in strong support of SB 2770, SD1 HD1, relating to Native Hawaiian Rehabilitation Programs. This measure will require the Department of Public Safety to create, in collaboration with the Office of Hawaiian Affairs, a Native Hawaiian rehabilitation program for prison inmates that emphasizes Native Hawaiian values and cultural practices. Effective 07/01/3000.

This bill would focus on traditional practices in programs that contribute to the betterment of Kānaka Maoli in the prison system. Hawai'i's incarceration crisis has had a particularly severe impact on Native Hawaiians and Pacific Islanders (NHPI). According to the ACLU, in 2018, NHPI made up only 23% of adults in the state, yet also a reported 47% of people incarcerated under Hawai'i's jurisdiction that year. Prison sentences alone are not enough to rehabilitate Native Hawaiian individuals. Connection to ancestral and cultural roots are crucial in healing and creating opportunities for better ways of life for Kānaka Maoli. We believe this measure is a very important step in the efforts to advance Native Hawaiian equity in the justice system.

The Opportunity Youth Action Hui is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs.

We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support SB 2770, SD1 HD1.

A COLLABORATION OF THE HAWAI'I YOUTH CORRECTIONAL FACILITY, PARTNERS IN DEVELOPMENT FOUNDATION, OLOMANA SCHOOL, KINA 'EHA, HALE KIPA, RYSE, OTHER ORGANIZATIONS AND INDIVIDUALS, 1099 ALAKEA ST., STE. 2530, HONOLULU, HAWAI'I 96813
(808) 447-1840 WWW.OYAHPOLICY.COM/



Hawai'i

Committee: Committee on Judiciary & Hawaiian Affairs
Hearing Date/Time: Tuesday, March 22, 2022 at 2:00pm
Place: Via Videoconference
Re: Testimony of the ACLU of Hawai'i in support of **SB2770 SD1, HD1** Relating to Native Hawaiian Rehabilitation Programs with an Amendment

Dear Chair Nakashima, Vice Chair Matayoshi, and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") supports **SB 2770 SD1, HD1** that would require the Department of Public Safety, in collaboration with the Office of Hawaiian Affairs, to create a Native Hawaiian rehabilitation program for incarcerated people that emphasizes Native Hawaiian values and cultural practices.

The ACLU of Hawai'i is committed to transforming Hawaii's criminal legal system and building a new vision of safety and justice. We advocate for the State to shift spending priorities away from mass criminalization and incarceration that disparately impacts Native Hawaiians, Pacific Islanders and Blacks, and low-income people, towards investments in education, housing, health care, human services and restorative justice in our communities.

Over the years, the Legislature has created multiple task forces and supported initiatives for the purpose of examining and improving the state's criminal legal system and reducing the carceral population. These include:

- Justice Reinvestment Initiative (2011)
- Native Hawaiian Justice Task Force (2012)
- H.C.R. 85 Task Force (2018)
- Criminal Pretrial Task Force (2018)
- The Hawaii Correctional Oversight Commission (2020)
- Criminal Justice Research Institute

Additionally, **numerous reports and literature have highlighted the racial bias and disparities that exists within Hawai'i's criminal legal system – and disparately targets Native Hawaiians.**

- *Crime and Justice Related to Hawaiians and Part-Hawaiians in the State of Hawai'i*, Dr. Gene Kassebaum, A Report Prepared for Alu Like, Inc., Study supported by a grant from the Department of Health and Human Services, Office of Human Development, Administration for Native Americans (April 1981)
- *Racial Tensions and Public Concern about Crime Control in Hawaii*, Dr. Gene Kassebaum, Department of Sociology, University of Hawaii at Manoa (1981)

- *The Colonial Carceral and Prison Politics in Hawai'i*, Dr. RaeDeen Keahiolalo Dissertation (2008)
- *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, Office of Hawaiian Affairs, Justice Policy Institute, Georgetown Law, University of Hawaii at Manoa and Georgetown Law, 2010.
- *Understanding Women's Pathways into Crime and What Works to Improve Outcomes Among Women in the Criminal Justice System*, Criminal Justice Research Institute, Dr. Erin Harbinson and Aerielle Reynolds, MS. (2021-2022). **In 2019, Native Hawaiian women were 19% of the female general population in Hawai'i. However, they comprise 44% of the female incarcerated population in Hawai'i.**

While these Commissions and initiatives have issued a plethora of recommendations to reduce the jail and prison population, and eliminate racial disparities within our criminal legal system, these recommendations have been ignored, underfunded and rarely implemented.

Instead of spending millions of taxpayer dollars on building new or expanding jails and prisons, let's invest in data driven strategies, and culturally based holistic programs and support services, to reduce our incarcerated population – especially the number of Native Hawaiians in the carceral system.

This measure is a step towards implementing recommendations outlined in several Task Reports to transition away from a system of punishment to a system of restorative justice and healing, taking into account the nuanced history of Hawai'i and the disparate impact of the penal system on Native Hawaiians for over a century.

Please pass **SB 2770, SD1, HD1** and include an **amendment for OHA to have the discretion to utilize the appropriation and contract with cultural-based programs and practitioners**, including those programs and practitioners that have demonstrated experience working with people who are incarcerated and as they transition home. Mahalo for the opportunity to testify.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
cshirota@acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

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TESTIMONY ON SB2770 SD 1 HD 1 RELATING TO NATIVE HAWAIIAN
REHABILITATION PROGRAMS.

BEFORE THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

March 22, 2022
Time: 2PM
Virtual

LATE

Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the House Committee on Judiciary & Hawaiian Affairs, **my name is Lilinoe Kauahikaua, MSW and I am submitting this testimony on behalf of ‘Eku Mea Nui. I am here today to support SB 2770 SD 1 HD1 RELATING TO NATIVE HAWAIIAN REHABILITATION PROGRAMS**

There are disproportionate numbers of Native Hawaiians incarcerated. A statistic that has unfortunately been sustained over decades. OHA found that compared to other racial or ethnic groups, Hawaiians are more likely to be: a) given a prison sentence; b) given longer prison sentences; c) be sentenced to longer probation terms; and d) commit an act of recidivism. Since 1977, the amount of people incarcerated in Hawai‘i has increased by more than 700%.

This disproportionate rate of incarceration among Native Hawaiians has had devastating impacts on Native families, leading to increased poverty, at risk youth, and family separation.

Many of the existing programs within facilities favor more western oriented, clinical therapies targeting short term solutions to behavioral problems that do not necessarily resonate with Indigenous peoples and the cultural perceptions of self among Indigenous communities. For our Native populations, many of these behaviors have manifested through intergenerational generational trauma through the impacts of colonization. The disconnection, oppression and criminalization of the Native identity have seriously impacted the health and wellbeing of the Native Hawaiian community.

Such communities are often struggling to reassert a positive ethnic identity after centuries of colonization. Their own healing systems were often crushed and outlawed in the process of colonization. The loss, disruption or displacement of traditional healing practices went hand-in-hand with the undermining of worldviews and the destruction of a way of life. Attacks on traditional healing systems had the effect of weakening indigenous beliefs that gave meaning and structure to life. And such belief systems can be the very things that sustain people through periods of pain and struggle. Native Hawaiian health is intimately bound up with Native Hawaiian identity: “Autonomy is closely linked with self-esteem and the earning of respect. Both are basic and linked. Low levels of autonomy and low self-esteem are likely to be related to worse health.

Therefore it is incredibly important that we support the promotion and connection of a strong and positive cultural identity for Native Hawaiians, especially those experiencing incarceration. Positive cultural connections can lead to long-term paradigm shifts and an increase in self-worth which lead to lower recidivism rates.

Please support SB2770,SD1 HD 1 and appropriate funds for these critically needed programs

Lilinoe Kauahikaua, MSW

'Ekolu Mea Nui

Kinohi Mana Nui

Lkauahik@hawaii.edu

SB-2770-HD-1

Submitted on: 3/18/2022 3:21:42 PM

Testimony for JHA on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

Support

SB-2770-HD-1

Submitted on: 3/19/2022 1:01:56 PM

Testimony for JHA on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupaluk	Individual	Support	Written Testimony Only

Comments:

All Native Hawaiians that are incarcerated should be required to go through a cultural immersion program and graduate with their AA in Hawaiian/Pacific Studies, prior to being released. Connecting these individuals with their biological identities will be highly instrumental in their personal reform and will positively impact our communities.

SB-2770-HD-1

Submitted on: 3/21/2022 12:04:54 PM

Testimony for JHA on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

[COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS](#)

RE: SB2770 (In Support)

Dear Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair and Members of the Committee

I am Wendy Gibson-Viviani, an RN who has lived and worked on Oahu for 29 years. I am writing in SUPPORT OF SB2770.

Recently, The State Of Hawai'i -- Hawai'i Correctional System Oversight Commission stated that:

In the commissions responsibility of oversight of the Department of Public Safety in regards to population control and a Comprehensive re-entry program, we strongly support SB2770 to encourage collaboration between the departments of Public Safety and the Office of Hawaiian Affairs in the creation of a Native Hawaiian indigenous model of healing to manage culturally relevant programming for its entire incarcerated population.

They asserted that **for successful reintegration to occur** (in National movements regarding indigenous programing within a correctional setting advocate) **the following must be addressed:**

- their participation in and access to spiritual and cultural activities
- culturally responsive programs, preferably delivered by Indigenous people
- the support they receive from family and community

In the Office of Hawaiian Affairs report on the Disparate Treatment of Native Hawaiians in the Criminal Justice System 2011 recommendations were offered that spoke on:

- Honoring the Sacred Forgiveness, and Successful Entry Back
- Kuleana (Responsibility within the context of the collective)
- Pili, Close Relations, and Feeding with learning

Please help provide this important program by supporting SB2770.

Thank you for this opportunity to submit testimony.

Wendy Gibson-Viviani RN/BSN

Kailua

SB-2770-HD-1

Submitted on: 3/21/2022 1:39:23 PM

Testimony for JHA on 3/22/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

SB2770 SD1 HD1 requires the Department of Public Safety to create, in collaboration with the Office of Hawaiian Affairs, a Native Hawaiian rehabilitation program for prison inmates that emphasizes Native Hawaiian values and cultural practices. It also appropriates funds for this purpose.

SB2770 SD1 HD1 recognizes the importance of taking into account the cultural context in which a successful rehabilitation process can take place for Native Hawaiians. This approach has proven successful and should be supported.

Please pass SB2770 SD1 HD1.