

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 2872, RELATING TO DATA COLLECTION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, February 24, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Christopher D.W. Young, Administrator,
Hawaii Criminal Justice Data Center

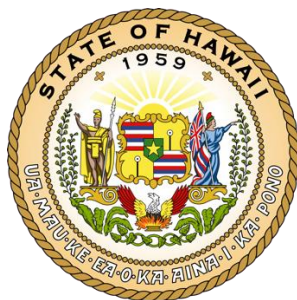
Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports the intent of this bill with comments.

The purpose of this bill is to amend chapter 846, Hawaii Revised Statutes (HRS), by adding to part I a new section that requires that sexual orientation and gender identity be collected pursuant to section 846-2.5, HRS, and shall be included in the systems of identification.

The Hawaii Criminal Justice Data Center (HCJDC) systems must be adapted to allow for collection of this data, which includes changes to records in law enforcement record management systems (RMS) of county police departments and state law enforcement agencies. Data will not be received by HCJDC until these RMS systems and their respective policies are properly updated. HCJDC is unable, at this time, to determine the costs or time needed to update the various RMS systems within the State. With respect to changes within the HCJDC data systems, HCJDC estimates that it will take approximately three to six months and a minimum of 80 hours of staff time to complete.

The Department of the Attorney General appreciates the opportunity to provide comments on this bill.



‘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

In Support of S.B. 2872 with Amendments

Dear Chair Rhoads, Vice Chair Keohokalole, and Honorable Members,

The Hawai‘i State Commission on the Status of Women strongly supports S.B. 2872, which would require that the sexual orientation and gender identity of persons processed for crimes be included in the systems of identification.

Firstly, this bill is needed to standardize data collection on gender across the State. At present, Honolulu Police Department and Maui Police Department offer male and female categories for gender, while Kaua‘i and Hawai‘i County collect data on male, female, and transgender people when responding to the public. This means that we cannot even compare data sets between counties, let alone measure the problem of violence against māhū (transgender in English) and gender non-conforming people.

Secondly, the absence of transgender and non-binary categories creates the impression that this community does not exist, which can ingrain discrimination and societal transphobia. The State must legitimize transgender identity.

Finally, national data provides evidence that transgender individuals are nearly twice as likely to experience intimate partner violence.¹ Trans women face the additional burden of transmisogyny, which can be and is weaponized by abusive partners. This bill will create a foundation to understand and end transmisogynistic violence—an imperative for Hawai‘i State Commission on the Status of Women, including the Missing and Murdered Native Hawaiian Women and Girls Task Force.

Requested Amendments

¹ Peitzmeier, S., *Intimate Partner Violence in Transgender Populations: Systematic Review and Meta-analysis of Prevalence and Correlates*, American J. of Public Health, 2020.

1. Limit data collection to gender classification and remove sexual orientation so that no one feels forced to reveal their sexual orientation to law enforcement. All police departments already collect gender-related data but the current gender designations are inadequate and inconsistent across counties.
2. Clarify that the Criminal Justice Data Center and all law enforcement agencies should collect the following FIVE gender identity designations and terminology: Male, Female, Transgender Women/Female, Transgender Man/Male, Non-Binary. These five categories are considered best practice by the National LGBTQIA+ Health Education Center.²

Accordingly, the Commission respectfully requests that the Committee pass S.B. 2872 with friendly amendments.

Mahalo,

² <https://www.lgbtqihealtheducation.org/publication/ready-set-go-guidelines-tips-collecting-patient-data-sexual-orientation-gender-identity/>



February 20, 2022

Senate's Committee on Judiciary
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Hearing: Thursday, February 24, 2022 – 9:30 a.m.

RE: Support the Intent for Senate Bill 2872 with Requested Amendment

Aloha Chair Rhoads, Vice Chair Keohokalole, and fellow committee members,

I am writing to support the intent to Senate Bill 2872 on behalf of the Stonewall Caucus of the Democratic Party of Hawai'i (formerly the LGBT Caucus) and to express our concern over the initial draft of this bill. SB 2872 would require that the sexual orientation and gender identity of persons processed for crimes be included in the systems of identification.

The Stonewall Caucus agrees that we need to gather this information to see if Hawai'i's LGBTQIA+ community is over represented in our criminal justice system, [like we are currently seeing on the continent](#).¹ Our major concern over this bill arises over the lack of confidentiality currently in the bill.

The Caucus recognizes that this data will only be gathered 'if disclosed.' But after talking with members of the LGBTQIA+ community that have been incarcerated they have relayed to us that if this question is on the intake forum, that a person being processed will feel they have to answer or may be forced to answer. If they refuse to answer or decide to not out themselves, for whatever reason, that could be held against them by the staff or their fellow inmates.

We encourage that you find a way to gather this much needed data, while protecting the civil rights of the persons being 'processed for crimes'. This is a serious concern since the data shows that members of the LGBTQIA+ community in prison are sexually victimized at much higher rates than their straight/cisgender counterparts.

To address these concerns the Stonewall Caucus is respectfully asking for the following language to be inserted on page 1 at line 11:

(b) Sexual orientation and gender identity information collected pursuant to this section shall remain confidential and shall be used strictly for statistical research and data analysis, as authorized by section 846—2.5(d).

The Caucus feels that with this language it will help protect the confidentiality of the members of the LGBTQIA+ community.

¹ Visualizing the unequal treatment of LGBTQ people in the criminal justice system
<https://www.prisonpolicy.org/blog/2021/03/02/lgbtq/>

Stonewall Caucus Testimony is Support with requested amendments Senate Bill 2872

Should you or any member of your staff have any questions about this requested amendment please do not hesitate in contacting me.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

TESTIMONY IN SUPPORT OF SB 2872

TO: Chair Rhoads, Vice Chair Keohokalole, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 24, 2022 (9:30 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 2872, which requires that the sexual orientation and gender identity of persons processed for crimes be included in systems of identification.

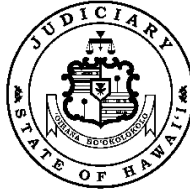
This kind of data collection will assist police, prosecutors, policymakers, and the public in determining whether patterns of enforcement, incarceration, and supervision disproportionately impact sexual and gender minorities. Trans persons and other sexual and gender minorities have historically been the target of enforcement actions, including the citation and arrest of trans women who failed to wear buttons that proclaimed their biological sex.

Sexual and gender minorities are disproportionately represented in the criminal legal system, including higher rates of arrest, incarceration, and community supervision. Data from the National Survey on Drug Use and Health show that sexual minorities were 2.25 times as likely to be arrested than heterosexual persons. Lesbian, gay, and bisexual women were 4 times as likely to be arrested than heterosexual women, with gay and bisexual men 1.35 times as likely to be arrested than heterosexual men. The National Inmate Survey found that lesbian, gay, and bisexual persons were incarcerated at a rate over three times that of the general adult population. NSDUH data also indicate that those on probation and parole are almost twice as likely to be lesbian, gay, and bisexual persons.

More data is needed to continually assess whether this state's criminal legal system is operating in an equitable fashion.

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 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.



The Judiciary, State of Hawaii

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

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Thursday, February 24, 2022, 9:30 A.M.
Via Videoconference

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2872, Relating to Data Collection.

Purpose: Requires that the sexual orientation and gender identity of persons processed for crimes be included in the systems of identification.

Judiciary's Position:

The Judiciary takes no position on the intent of this bill, but would like to submit testimony on system impacts. The Judiciary's existing case-management system (Judiciary Information Management System or "JIMS") does not have a database field or table for sexual orientation data and changes will require software development time and resources. With the current schedule to implement JIMS for Family Civil in April 2022, all development time and resources are dedicated to this effort and will not be available for additional changes until later in the year. Therefore, the Judiciary respectfully requests an effective date of January 1, 2023 or later.

Thank you for the opportunity to testify on this measure.

SB-2872

Submitted on: 2/22/2022 7:13:29 PM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ashley Galacgac	Testifying for AF3IRM Hawai'i	Support	No

Comments:

I strongly support SB2872, which requires the collection of sexual and gender minority data for people being processed for crimes. The carceral system has been historically more harmful to some than others with racism, misogyny, and transphobia embedded within. Gender-inclusive and gender-expansiveness may help shed light on how the carceral system impacts people differently in order to find ways to bring healing to our communities.

Firstly, this bill is needed to standardize data collection on gender across the State. At present, Honolulu Police Department and Maui Police Department offer male and female categories for sex/gender, while Kaua'i and Hawai'i County collect data on male, female, and transgender people when responding to the public. This means that we cannot even compare data sets between counties, let alone measure the problem of violence against māhū (transgender in English) and gender non-conforming people.

Secondly, the absence of transgender and non-binary categories creates the impression that this community does not exist, which can ingrain discrimination and societal transphobia. The State must legitimize transgender identity.

Finally, national data provide evidence that transgender individuals are nearly twice as likely to experience intimate partner violence. Trans women face the additional burden of transmisogyny, which can be and is weaponized by abusive partners. This bill will create a foundation to understand and end transmisogynistic violence.

Thank you for your consideration.

SB-2872

Submitted on: 2/21/2022 6:39:19 AM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	No

Comments:

Rainbow Family 808 supports SB2872.

Mike Golojuch, Sr., Secretary/Board Member, Rainbow Family 808

SB-2872

Submitted on: 2/19/2022 1:50:39 PM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Eileen McKee	Individual	Support	No

Comments:

Aloha,

I support the passage of SB2872 with confidentiality amendment for LGBTQIA+ persons.

Mahalo,

Eileen McKee

Kihei

SB-2872

Submitted on: 2/22/2022 8:06:38 AM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Amanda Martinez	Individual	Support	No

Comments:

I strongly support SB2872, which requires the collection of sexual and gender minority data for people being processed for crimes.

Firstly, this bill is needed to standardize data collection on gender across the State. At present, Honolulu Police Department and Maui Police Department offer male and female categories for sex/gender, while Kaua'i and Hawai'i County collect data on male, female, and transgender people when responding to the public. This means that we cannot even compare data sets between counties, let alone measure the problem of violence against māhū (transgender in English) and gender non-conforming people.

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Finally, national data provides evidence that transgender individuals are nearly twice as likely to experience intimate partner violence. Trans women face the additional burden of transmisogyny, which can be and is weaponized by abusive partners. This bill will create a foundation to understand and end transmisogynistic violence.

Thank you for your consideration.

Amanda Martinez

SB-2872

Submitted on: 2/22/2022 11:21:45 AM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jessica Redford	Individual	Support	No

Comments:

I strongly support SB2872, which requires the collection of sexual and gender minority data for people being processed for crimes.

Firstly, this bill is needed to standardize data collection on gender across the State. At present, Honolulu Police Department and Maui Police Department offer male and female categories for sex/gender, while Kaua‘i and Hawai‘i County collect data on male, female, and transgender people when responding to the public. This means that we cannot even compare data sets between counties, let alone measure the problem of violence against māhū (transgender in English) and gender non-conforming people.

Secondly, the absence of transgender and non-binary categories creates the impression that this community does not exist, which can ingrain discrimination and societal transphobia. The State must legitimize transgender identity.

Finally, national data provides evidence that transgender individuals are nearly twice as likely to experience intimate partner violence. Trans women face the additional burden of transmisogyny, which can be and is weaponized by abusive partners. This bill will create a foundation to understand and end transmisogynistic violence.

Thank you for your consideration.

Jessica Redford

SB-2872

Submitted on: 2/22/2022 2:20:01 PM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rozlyn Calderon	Individual	Support	No

Comments:

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SB-2872

Submitted on: 2/22/2022 5:22:55 PM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lorenzo Perillo	Individual	Support	No

Comments:

I strongly support SB2872, which requires the collection of sexual and gender minority data for people being processed for crimes.

Firstly, this bill is needed to standardize data collection on gender across the State. At present, Honolulu Police Department and Maui Police Department offer male and female categories for sex/gender, while Kaua‘i and Hawai‘i County collect data on male, female, and transgender people when responding to the public. This means that we cannot even compare data sets between counties, let alone measure the problem of violence against māhū (transgender in English) and gender non-conforming people.

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Finally, national data provides evidence that transgender individuals are nearly twice as likely to experience intimate partner violence. Trans women face the additional burden of transmisogyny, which can be and is weaponized by abusive partners. This bill will create a foundation to understand and end transmisogynistic violence.

Thank you for your consideration.

LP

SB-2872

Submitted on: 2/22/2022 7:57:56 PM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Renee Rabb	Individual	Support	No

Comments:

I support SB 2872 which requires that sexual orientation and gender identify be collected for people processed for crimes with appropriate privacy safeguards.

Renee Rabb

Keaau, HI 96749

SB-2872

Submitted on: 2/23/2022 7:10:28 AM

Testimony for JDC on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jaime Stevens, MD, MPH	Individual	Support	No

Comments:

Jaime Stevens, MD, MPH
1177 Queen St. #2707 Honolulu, HI, 96814
February 22, 2022

Hawai'i State Legislature Re: Testimony in Support of SB2872

Aloha Members of the Hawai'i State Senate,

I am a child, adolescent, and adult psychiatrist on O'ahu writing in support of this bill to require that the sexual orientation and gender identity of persons processed for crimes be included in the systems of identification.

This bill is needed to standardize data collection on gender across the State, and to use it to address gender based violence, which studies show disproportionately affects gender diverse persons.

Mahalo nui loa for your consideration in protecting the health and welfare of all of your constituents.

Jaime Stevens, MD, MPH, FAPA