



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Friday, February 4, 2022 at 9:30 a.m.

VIA VIDEOCONFERENCE

by

R. Mark Browning

Chief Judge, First Circuit

Bill No. and Title: Senate Bill No. 3207, 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.

Judiciary’s Position:

The Judiciary urges the strong support of Senate Bill No. 3207 to create a Women’s Court pilot program in the First Circuit. The Judiciary appreciates the Legislature’s recognition of the distinct pathways that lead women into the criminal justice system and address their individualized needs.

The Judiciary supports this bill for the following reasons:

1. Historically, criminal justice policies and practices have been designed for men as they account for the overwhelming majority of justice-involved persons. Because of this, the issues relevant to women have been overshadowed. While gender-neutral approaches, if evidenced-based, can be effective for reducing recidivism for both men and women, research has shown that gender-responsive approaches result in far better outcomes for women.¹

¹ Kelley Blanchette, Renee Gobeil, and Lynn Stewart, “A Meta-Analytic Review of Correctional Interventions for Women



2. Women enter the criminal justice system through significantly different ways than men and this is true for Hawai'i. For example, from a Hawai'i sample of 11,823 (9,546 men and 2,277 women from 2014-2018), 32.3 percent of women versus 24.5 percent of men entered the system for a felony property crime and 35.9 percent of women versus 27 percent of men entered the system for a felony drug crime. Men were more likely than women to enter the system for felony violent crimes and felony sex crimes.²
3. Through probation, the Judiciary has several evidence -based practices in place such as the use of a risk assessment to determine supervision level as well as to inform a case plan process to reduce risk by using motivational interviewing, cognitive behavioral interventions, and referral to services to address the needs. This bill supports the use of a gender-responsive lens when probation officers work with women and supports the efficacy of these practices.
4. The bill establishes temporary positions to staff a specific program for women. Gender responsive approaches with women in a justice setting is a specialized knowledge base and providing a specific unit of staff highlights the parity that is being given to this particular approach which tends to be obscured by the sheer numbers of men involved in the justice system.
5. This bill appropriates funds for mental health, substance abuse treatment, and other services. Substance abuse, trauma, and mental health are three critical, interrelated issues in the lives of women offenders. Co-occurring disorders complicate substance abuse treatment and recovery. An integrated program concurrently addresses both disorders through assessment, treatment, referral, and coordination.³
6. The bill establishes the Hawai'i Women's Court as a three-year pilot project and directs the Judiciary to provide annual reports in order to assess if and how the program should move forward. This will allow the Judiciary to determine if the continuation of the program is feasible.

Thank you for the opportunity to testify on Senate Bill No. 3207.

Offenders: Gender-Neutral Versus Gender-Informed Approaches," *Criminal Justice and Behavior* 43, no. 3 (2016): 301-322.

2 Wong, Timothy. "ICIS Presentation: Gender Analysis 2014-2018 Trends." Presentation, Honolulu, HI, January 2021.

3 Barbara Bloom & Stephanie Covington, *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders*, NATIONAL INSTITUTE OF CORRECTIONS (2005).

COMMITTEE ON THE JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

HEARING DATE: February 4, 2022
TIME: 9:30 AM, Via Videoconference

SUPPORT FOR SB3207 RELATING TO WOMEN'S COURT

The Women's Prison Project **strongly supports** the concept of a Women's Court as described in SB3207 and offers recommendations for its implementation.

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%.

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."

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.

"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.

The Women's Court would simultaneously maintain a level of accountability and structure in its oversight of women's progress. We strongly support this movement toward keeping women out of incarceration.

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 Reentry Court in Los Angeles County(WRC) 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. An evaluation of WRC by the County of Los Angeles Department of Public Health found that graduates of the WRC had an 18% recidivism rate compared to 49% for women released from prison the same year.WRC.

There is already 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. The evaluation of that court (*Janet T. Davidson, Lisa Pasko, Meda Cheney Lind, 2011*) offers some "lessons learned" that might be applied in the development of the Women's Court.

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. One Girls Court staff interviewed in the evaluation stated that staff needed commitment to a gender-responsive philosophy, willingness to do things differently, to look at the reasons girls (women) are in the court in the first place, and not be too quick to judge and punish. This philosophy should be reflected in the Women's Court. 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.

A 2019 review of problem solving courts for the Centre for Justice Innovation by Brown and Whitehead, while raising concerns about many specialty courts said of the emerging practice of specialty courts for women, especially those in the United Kingdom, "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."

The Women's Prison Project strongly supports the intent of SB3207 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. If I can answer any questions, please contact me at richl001@hawaii.rr.com

Linda Rich

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 SENATE COMMITTEE ON JUDICIARY
ON
SENATE BILL NO. 3207

February 4, 2022
9:30 a.m.
Via Videoconference

RELATING TO WOMEN'S COURT

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

Senate Bill No. 3207 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 seven temporary, full-time positions including one Social Worker (SW) V, four SW IVs, one Circuit Court Clerk II, and one Judicial Clerk.
- Requires the Judiciary to submit a report on its findings and recommendations to 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.

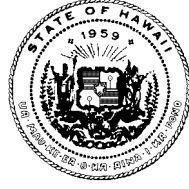
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- 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.

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

February 3, 2022

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **SB 3207 – RELATING TO WOMEN'S COURT.**

Hearing: February 4, 2022, 9:30 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this measure, defers to the Judiciary, and offer comments.

PURPOSE: The purpose of the bill is to establish a three-year women's court pilot program in the circuit court of the first circuit. Establishes temporary positions. Requires a report.

Incarceration of women in jail or prison systems often results in family separations. Parental incarceration is a cause of multi-generational trauma and is an Adverse Childhood Experience (ACE) that disproportionately impacts children of color and children in poverty. In Hawaii, native Hawaiian and pacific islander children bear the disproportionate impacts of parental incarceration.

The department supports the development of a women's court that will reimagine women and mothers' experience of the criminal justice system, recognizing the physical and sexual abuse histories of many women involved in the justice system. DHS encourages implementing trauma-informed, gender-responsive programs and services, cultural responsiveness, and a multi-generational approach that includes children and their caregivers.

However, many culturally responsive and multi-generational programs and services are yet to be considered evidence-based; therefore, as drafted, this measure limits the evidence-based practices available to employ. The department suggests flexibility to encourage the innovation and evaluation of practices and programs developed for Hawaii's incarcerated and jailed women and suggests incorporating a forensic peer specialists component to inform the Women's Court and provide needed peer support to participants and their families.

Thank you for the opportunity to testify on this measure.



TESTIMONY

Senate Committee on Judiciary

Hearing: Friday, February 4, 2022 (9:30 a.m.)

TO: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair

FROM: Shannon S. Sheldon
HSBA President

RE: Senate Bill No. 3207
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 services to be offered have been raised, discussed, and verified as needed by numerous community service and educational organizations throughout the 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 sponsor and co-sponsoring Senators are to be commended for their foresight and leadership.

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

OFFICERS

Shannon S. Sheldon, President
Rhonda L. Griswold, President-Elect
Jesse K. Souki, Vice-President
Lanson K. Kupau, Secretary
Alika L. Piper, Treasurer

DIRECTORS

Jocelyn W.C. Chang
Steven J.T. Chow
Vladimir Devens
Jessica R. Domingo
William A. Harrison
Geraldine N. Hasegawa (East Hawaii)
Kristin E. Izumi-Nitao
Carol S. Kitaoka (West Hawaii)
Erin M. Kobayashi
Jacob K. Lowenthal (Maui)
Emiko Meyers (Kauai)
Mark K. Murakami
Paul W. Naso
Zale T. Okazaki
Mark G. Valencia

YLD PRESIDENT

Jasmine Wong

IMMEDIATE PAST PRESIDENT

Levi Hookano

HSBA/ABA DELEGATE

Leslie A. Hayashi

EXECUTIVE DIRECTOR

Patricia A. Mau-Shimizu

SB-3207

Submitted on: 2/2/2022 12:38:27 AM

Testimony for JDC on 2/4/2022 9:30:00 AM

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

Comments:

Aloha Chair and members,

This will go a long way towards fulfilling the law/program that the 2006 Hawaii State Legislature mandated through Hawaii Revised Statutes (HRS) §367D-2 that the Department of Public Safety (PSD) foster a gender responsive environment by providing model gender-responsive programs for female offenders.

Mahalo,

Ann S. Freed

Life-time feminist in Mililani

SB-3207

Submitted on: 2/2/2022 12:11:25 PM

Testimony for JDC on 2/4/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.