



*The Judiciary, State of Hawai‘i*

**Testimony to the House Committee on Human Services**

Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair

Thursday, February 5, 2015 8:30 AM  
State Capitol, Conference Room 329

By  
R. Mark Browning  
Deputy Chief Judge, Senior Family Judge  
Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 165, Relating to Juvenile Justice Information.

**Purpose:** Allows the dissemination of confidential juvenile justice information to law enforcement agencies for law enforcement and law enforcement employment.

**Judiciary's Position:**

The Judiciary respectfully submits this testimony in opposition to House Bill No. 165.

1. This bill does not have the endorsement of the Juvenile Justice Information Committee (JJIC) because it was never proffered to that Committee for such endorsement. From the inception of the Juvenile Justice Information System (JJIS), all of the creators (including then Chief of Honolulu Police Department Keala and then Senior Family Court Judge Vitousek, leaders of the JJIC for many years) understood that this system of sharing information could only have been created based on professional trust and a mutual respect of competing professional positions. This bill is inconsistent with those tenets. The phrase in the preamble of this bill, “clarify that law enforcement agencies may be allowed to access the juvenile justice information system in the performance of their duties” also appears to be inconsistent with this premise and misunderstands the current

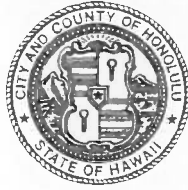
statute, the purposes of the JJIS/JJIC, and the long and short term history of the Committee's work. The current statute is clear about the uses and sharing of juvenile information. The purposes of the JJIS/JJIC include law enforcement but are not exclusive to it. Rehabilitation of youth is also an important purpose. Chief Keala and Senior Judge Vitousek understood this and, although aware that they represented different important community roles, they believed that their work could only be done well if done collaboratively and honestly. The long term history of the JJIC reflects the extreme importance of goodwill and trust. The short term history of the JJIC includes a draft of an opinion letter prepared by the Attorney General's office that clearly speaks against this sort of bill (e.g., use of the information for adult charging). Although then Attorney General Mark Bennett was not able to sign the opinion letter before he left office, it was never repudiated. In fact, the JJIC was under the impression that the signing was forthcoming and imminent at that time.

2. The current statute and practices came about by hard work and collaboration among all the JJIC members, past and present, based on respect, trust, and good faith. This goodwill has been sorely tested throughout the years but, like a family who knows they need each other, the members keep collaborating as much as their professional roles allow. The Judiciary is concerned that this bill could damage this system.

Thank you for the opportunity to testify on this bill.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: [www.honolulu-pd.org](http://www.honolulu-pd.org)



KIRK CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. MCCAULEY  
DEPUTY CHIEFS

OUR REFERENCE

RA-YZ

February 5, 2015

The Honorable Dee Morikawa, Chair  
and Members  
Committee on Human Services  
State House of Representatives  
Hawaii State Capitol, Room 329  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Morikawa and Members:

Subject: House Bill No. 165, Relating to Juvenile Justice Information

I am Raymond Ancheta, Major of the Community Affairs Division, Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 165, Relating to Juvenile Justice Information. This bill will allow the HPD to conduct statewide juvenile background checks on police recruit and civilian applicants that may have committed crimes as a juvenile that would be deemed unsuitable for law enforcement employment as well as other administrative purposes.

The HPD urges you to support House Bill No. 165, Relating to Juvenile Justice Information.

Thank you for the opportunity to testify in support of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Ancheta", written over a horizontal line.

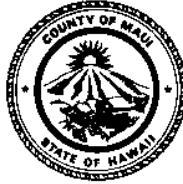
RAYMOND ANCHETA, Major  
Community Affairs Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealohe", written over a horizontal line.

LOUIS M. KEALOHA  
Chief of Police

*Serving and Protecting With Aloha*



DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON  
HB 165- RELATING TO JUVENILE JUSTICE INFORMATION

February 5, 2015

The Honorable Dee Morikawa  
Chair  
The Honorable Bertrand Kobayashi  
Vice Chair  
and Members  
House Committee on Human Services

Chair Morikawa, Vice Chair Kobayashi and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** HB 165, Relating to Juvenile Justice Information. HB 165 will allow the dissemination of information from the Juvenile Justice Information System (JJIS) to law enforcement agencies for purposes of administration of law enforcement and law enforcement agency employment.

The law currently requires prosecutors to check a person's criminal history, including juvenile records, to make proper charging decisions and sentencing motions. Also, police departments are required to check a person's juvenile records when the person applies for a firearms permit. Furthermore, both police and prosecutors conduct pre-employment background checks for their new job applicants as the normal course of business. These background checks are what the law or personnel policies require.

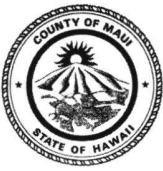
However, it was deemed that these agencies are precluded from using JJIS to conduct such research into a person's background. While these law enforcement agencies can conduct a search of their own records, they are unable to check a person's juvenile record for the rest of the state. For example, the police on Maui would not know that a person has a juvenile record on Kauai that would disqualify him or her from owning a firearm. Put simply, while JJIS was

created to store information, and the law requires that the information be checked under certain circumstances, the information stored is deemed off limits, creating a serious Catch-22.

Last session, House Judiciary Chair Karl Rhoads requested that the matter be addressed by the JJIS committee, and to come back to the legislature if an agreement could not be worked out. Since last session, the JJIS committee has yet to address this issue, and the Department of the Attorney General opined that this matter must be addressed through legislation.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We ask that the committee **PASS** HB 165,

Thank you very much for the opportunity to provide testimony on this bill.



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE

YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
FAX (808) 244-6411



TIVOLI S. FAAUMU  
CHIEF OF POLICE

DEAN M. RICKARD  
DEPUTY CHIEF OF POLICE

February 5, 2015

The Honorable Dee Morikawa, Chair  
and Members of the Committee on Human Services  
House of Representative  
State Capitol  
Honolulu, Hawaii 96813

**RE: House Bill No. 165, Relating to Juvenile Justice Information**

Dear Chair Morikawa and Members of the Committee:

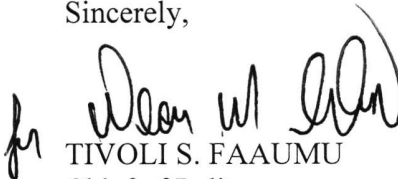
The Maui Police Department supports the current draft of H.B. No. 165 to allow the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

The Maui Police Department is in support of this bill as it will assist law enforcement by allowing the sharing of JJIS information within the State of Hawaii. With more access we will be able to conduct more thorough checks in areas like firearms permits and pre-employment background checks for new job applicants. Overall, this will allow our department and other law enforcement agencies to make better employment decisions for personnel that will ultimately serve our community.

The Maui Police Department asks for you to support H.B. No. 165.

Thank you for the opportunity to testify.

Sincerely,

  
TIVOLI S. FAAUMU  
Chief of Police

**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766  
808-241-1888 ~ FAX 808-241-1758  
Victim/Witness Program 808-241-1898 or 800-668-5734

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**TESTIMONY IN SUPPORT OF  
H.B.165 – RELATING TO JUVENILE JUSTICE INFORMATION**

Justin F. Kollar, Prosecuting Attorney  
County of Kaua'i

House Committee on Human Services  
February 5, 2015, 8:30 a.m., Conference Room 329

Chair Morikawa, Vice Chair Kobayashi, and Members of the Committee:

The Office of the Prosecuting Attorney, County of Kaua'i, **STRONGLY SUPPORTS** H.B.165 – Relating to Juvenile Justice Information.

The purpose of H.B. 165 is to allow the dissemination of information from the Juvenile Justice Information System (JJIS) to law enforcement agencies.

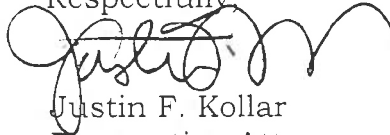
Currently, the law requires prosecutors to conduct a person's criminal history background check, including juvenile records as it relates to appropriate charging decisions and sentencing motions. In addition, police are required to check a person's juvenile records upon receipt of an application for a firearms permit. Furthermore, both the prosecutors and police must conduct pre-employment background checks as it relates to new job applicants; however, the prosecutors and police are precluded from utilizing JJIS to complete additional research into a person's background.

While these law enforcement agencies may conduct research within their own records, they are unable to check a person's juvenile record within the rest of the State of Hawai'i. For instance, a background check conducted on Kaua'i would not indicate a person's juvenile record on Maui that would potentially disqualify them from an employment opportunity or owning a firearm.

*An Equal Opportunity Employer*

It is important to note that last session, House Judiciary Chair Karl Rhoads, requested the matter be addressed by the JJIS committee and to return back to the legislature if an agreement could not be met. However, this issue has yet to be addressed by the JJIS Committee, therefor we are seeking to have this matter be addressed through legislation.

Accordingly, we are in STRONG SUPPORT of H.B.165. We request that your Committee PASS the Bill.

Respectfully,  
  
Justin F. Kollar  
Prosecuting Attorney



# HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 702 Honolulu, Hawaii 96813

Phone: (808) 531-2198 Fax: (808) 534-1199

Web site: <http://www.hysn.org> E-mail: [info@hysn.org](mailto:info@hysn.org)

Daryl Selman, President  
Judith F. Clark, Executive Director  
Aloha House  
American Civil Liberties Union of Hawaii  
Bay Clinic, Inc.  
Big Brothers Big Sisters of Honolulu  
Big Island Substance Abuse Council  
Blueprint for Change  
Bobby Benson Center  
Catholic Charities Hawaii  
Child and Family Service  
Coalition for a Drug Free Hawaii  
Courage House Hawaii  
Domestic Violence Action Center  
EPIC, Inc.  
Family Programs Hawaii  
Family Support Hawaii  
Hale Kipa, Inc.  
Hale 'Opio Kauai, Inc.  
Hawaii Behavioral Health  
Hawaii Student Television  
Healthy Mothers Healthy Babies Coalition  
Hina Mauka Teen Care  
Hui Malama Learning Center  
Kaanalike  
Kahi Mohala Behavioral Health  
KEY (Kualoa-Heeia Ecumenical Youth)  
Project  
Kids Hurt Too  
Kokua Kalihi Valley  
Life Foundation  
Marimed Foundation  
Maui Youth and Family Services  
Palama Settlement  
P.A.R.E.N.T.S., Inc.  
Parents and Children Together (PACT)  
Planned Parenthood of Hawaii  
REAL  
Salvation Army Family Intervention Svcs.  
Salvation Army Family Treatment Svcs.  
Sex Abuse Treatment Center  
Susannah Wesley Community Center

February 2, 2015

To: Representative Dee Morikawa, Chair  
And members of the Committee on Human Services

## **TESTIMONY IN OPPOSITION TO HB 165 RELATING TO JUVENILE JUSTICE INFORMATION**

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, opposes HB 165 Relating to Youth.

Youth in the juvenile justice system do not appear in criminal court; they are served through Family Court. The State of Hawaii made the decision to seal juvenile records so that youthful indiscretions do not follow someone for the rest of his/her life. This was the correct choice and we should continue to follow these guidelines.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark  
Executive Director

The Catalyst Group  
The Children's Alliance of Hawaii  
Waikiki Health Center  
Women Helping Women  
YWCA of Kauai

While much of the network is already in place, funding is needed to ensure 24-hour crisis response capability, provide training of youth workers, and ensure coordination of services among the various providers.

The 24-hour crisis response will follow the National Safe Place model, in which community partners, such as fire stations and public bus systems are recruited as places where young people can go in an emergency. It may include local businesses and stores, enabling them to provide a valuable community service to youth and their families. Staff in those companies are trained and provided with a 24-hour number to call. Workers from the 24-hour site assess the situation, notify parents, and can arrange emergency shelter, make reports to Child Protective Service, or provide other appropriate responses to the situation.

After the immediate crisis response, youth-serving agencies will help families resolve the issues that led the youth to seek help from a Safe Place site.

The Safe Places for Youth Network will help youth and families resolve problems before they get out of control.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH  
Executive Director



# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON HUMAN SERVICES

Rep. Dee Morikawa, Chair

Rep. Bertrand Kobayashi, Vice Chair

Thursday, February 5, 2015

8:30 a.m.

Room 329

## **OPPOSE HB 165 – SHARING JUVENILE JUSTICE INFORMATION**

Aloha Chair Morikawa, Vice Chair Kobayashi 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 for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 165 allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

Community Alliance on Prisons **OPPOSES** this legislation.

## **JUSTICE INFORMATION SHARING AND THE ROLE OF THE GOVERNANCE STRUCTURE<sup>1</sup>**

Broadly defined, JIS is a process that enables the components of states' justice systems – including state and local law enforcement, courts, prosecutors, and corrections agencies – to share justice information easily and effectively. Information is shared both vertically (among different levels of government, such as state, local, tribal, and federal entities) and horizontally (across agencies and branches of government).<sup>1</sup> The types of information shared includes individuals' criminal history, parole and probation status, and court case data.

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<sup>1</sup> NGA Center for Best Practices, Issue Brief, July 2009.

<http://www.nga.org/files/live/sites/NGA/files/pdf/0907JUSTICEINFOSHARING.PDF>

## WHY JUVENILE RECORDS ARE SEALED

Juvenile justice information is sealed for a reason: The state made a decision that juvenile cases are to be heard in Family Court and that those records are sealed so that youthful indiscretions do not foreclose an individual's future.

## THE SCIENCE OF BRAIN DEVELOPMENT

Scientists are now utilizing advances in magnetic resonance imaging (MRI) to create and study three-dimensional images of the brain without the use of radiation (as in an x-ray). This breakthrough allows scientists to safely scan children over many years, tracking the development of their brains.<sup>2</sup>

Researchers at Harvard Medical School, the National Institute of Mental Health, UCLA, and others, are collaborating to "map" the development of the brain from childhood to adulthood and examine its implications.

Jay Giedd, a researcher at the National Institute of Mental Health, explains that during adolescence the *"part of the brain that is helping organization, planning and strategizing is not done being built yet.... It's sort of unfair to expect [adolescents] to have adult levels of organizational skills or decision making before their brain is finished being built."*<sup>3</sup>

Ruben Gur, MD, PhD, Director, University of Pennsylvania Medical Center said: *"The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.... Indeed, age 21 or 22 would be closer to the 'biological' age of maturity."*

Deborah Yurgelun-Todd, PhD of the Brain Imaging Laboratory of McClean Hospital at Harvard University Medical School said, *"Just because they're physically mature, they may not appreciate the consequences or weigh information the same way as adults do. So, [although] somebody looks physically mature, their brain may in fact not be mature."*

Adolescence is a transitional period during which a child is becoming, but is not yet, an adult. An adolescent is at a crossroads of changes where emotions, hormones, judgment, identity and the physical body are so in flux that parents and even experts struggle to fully understand.

As a society, we recognize the limitations of adolescents and, therefore, restrict their privileges to vote, serve on a jury, consume alcohol, marry, enter into contracts, and even watch movies with mature content. Each year, the United States spends billions of dollars to promote drug use prevention and sex education to protect youth at this vulnerable stage of life.

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<sup>2</sup> For an excellent overview, see Elkhonon Goldberg, *The Executive Brain: Frontal Lobes and the Civilized Mind*, Oxford University Press (2001).

<sup>3</sup> PBS Frontline, Inside the Teen Brain. See Interview with Jay Giedd, online at [www.pbs.org/wgbh/pages/frontline/shows/teenbrain/](http://www.pbs.org/wgbh/pages/frontline/shows/teenbrain/)

Justice Elena Kagan, writing for the majority in *Miller v. Alabama*, 567 U.S. (2012), said the decision was consistent with the past findings of the court that children lack maturity and have an underdeveloped sense of responsibility; that they are more vulnerable to outside pressure and that their character is less formed and more open to rehabilitation. *“Our decisions rested not only on common sense – on what ‘any parent knows’ – but on science and social science as well,”* Kagan wrote, adding *“the mandatory penalty schemes at issue here prevent the sentencer from taking account of these central considerations.”*

### **THIS BILL IS NOT NEEDED**

Hawai'i has its own system for juvenile information sharing called HIJIS (Hawai'i Juvenile Information Sharing) to which we have been told that law enforcement already has access.

This bill did not pass either Senate or House last session.

This bill contravenes everything Hawai'i is now doing to rethink, retool, and reinvest in our youth and our juvenile justice system. We need to stop greasing the pipeline that runs from the juvenile to the adult system.

Community Alliance on Prisons respectfully asks this committee to stand for our youth by holding this measure.

Mahalo for this opportunity to share our research and thoughts on this measure.

*If we don't stand up for children, then we don't stand for much.*

*Marian Wright Edelman*

**kobayashi2-Lynda**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 02, 2015 3:14 PM  
**To:** HUS testimony  
**Cc:** hokuokekai50@msn.com  
**Subject:** \*Submitted testimony for HB165 on Feb 5, 2015 08:30AM\*

**Categories:** Yellow Category

**HB165**

Submitted on: 2/2/2015

Testimony for HUS on Feb 5, 2015 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Oppose	No

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## kobayashi2-Lynda

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 02, 2015 4:45 PM  
**To:** HUS testimony  
**Cc:** theede@hawaii.rr.com  
**Subject:** \*Submitted testimony for HB165 on Feb 5, 2015 08:30AM\*

**Categories:** Yellow Category

### **HB165**

Submitted on: 2/2/2015

Testimony for HUS on Feb 5, 2015 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Oppose	No

### Comments:

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**kobayashi2-Lynda**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 02, 2015 9:03 PM  
**To:** HUS testimony  
**Cc:** kalele33@aol.com  
**Subject:** \*Submitted testimony for HB165 on Feb 5, 2015 08:30AM\*

**Categories:** Yellow Category

**HB165**

Submitted on: 2/2/2015

Testimony for HUS on Feb 5, 2015 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Jaramillo	Individual	Oppose	No

**Comments:**

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## kobayashi2-Lynda

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2015 1:21 PM  
**To:** HUS testimony  
**Cc:** mauicrowe@gmail.com  
**Subject:** Submitted testimony for HB165 on Feb 5, 2015 08:30AM

**Categories:** Yellow Category

### **HB165**

Submitted on: 2/3/2015

Testimony for HUS on Feb 5, 2015 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
james crowe	Individual	Oppose	No

Comments: Youth have privacy rights. Juveniles, because they are in their formative years have a very strong ability to change their behavior and even life direction with even a little positive reinforcement. Passing out listings of negative information is contrary to efforts toward positive reinforcement. Most often they just need a hand-up rather than a put-down

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**kobayashi2-Lynda**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 04, 2015 9:24 PM  
**To:** HUS testimony  
**Cc:** blawaiianlvr@icloud.com  
**Subject:** Submitted testimony for HB165 on Feb 5, 2015 08:30AM

**Categories:** Yellow Category

**LATE**

**HB165**

Submitted on: 2/4/2015

Testimony for HUS on Feb 5, 2015 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: We are an Empowerment organization, that seeks to empower people. This bill is simply a repeated attempt to allow law enforcement to have unfettered authority to punish our citizens for their youthful indiscretions. It is a sad commentary upon those who claim to work for the protection of the public, to be the very ones to target our children for future deprivations in employment. Our juvenile justice system has made great strides in drastically reducing the population of juveniles incarcerated for crimes/status offenses. The youth facility no longer poses as the preparation grounds for a life of crime and prison confinement. This bill is a step backward and is counter-rehabilitative. This bill needs to go the way of the dinosaurs. We strongly oppose this bill!

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