

MAR 09 2018

S.R. NO. 71

SENATE RESOLUTION

URGING THE FULL IMPLEMENTATION OF RECOMMENDATIONS FROM THE
NATIVE HAWAIIAN TASK FORCE, PU'UHONUA SUMMIT, AND JUSTICE
CENTER AS A COMPREHENSIVE CRIMINAL JUSTICE REFORM TO REDUCE
THE INCARCERATED POPULATION, INCLUDING THE NATIVE HAWAIIAN
INCARCERATED POPULATION, BY TWENTY-FIVE PERCENT BY 2023.

1 WHEREAS, from 1977 to 2015, the State's incarcerated
2 population increased 1,357 percent, from three hundred ninety-
3 eight prisoners in 1977 to roughly five thousand eight hundred
4 in December 2015; and

5
6 WHEREAS, during the same period, the State's incarceration
7 rate increased eight hundred forty-two percent, from forty-three
8 per one hundred thousand persons to four hundred five per one
9 hundred thousand persons; and

10
11 WHEREAS, numerous studies confirm that criminal justice
12 policies are the main drivers of mass criminalization and
13 incarceration, and that reductions in the correctional
14 population may be achieved through changes in criminal justice
15 policies; and

16
17 WHEREAS, as a result of this stark increase in the
18 incarcerated population, the State's correctional facilities are
19 overcrowded beyond capacity; and

20
21 WHEREAS, as of July 2015, Hawai'i has approximately one
22 thousand three hundred incarcerated persons incarcerated at
23 private, for-profit prisons on the American continent; and

24
25 WHEREAS, the State's incarcerated population also included
26 one thousand five hundred persons on parole supervision as of
27 2016 and twenty-one thousand persons on probation supervision as
28 of 2015; and

29
30 WHEREAS, Hawai'i spends an average of \$50,000 annually to
31 incarcerate a person; and



1 WHEREAS, the average recidivism rate, defined as any new
2 arrest or the revocation of probation or parole within three
3 years from the start of supervision, was over fifty percent in
4 2015; and
5

6 WHEREAS, Hawai'i continues to push for correctional facility
7 construction instead of establishing comprehensive criminal
8 justice reform to solve overcrowding in correctional facilities;
9 and
10

11 WHEREAS, Hawai'i has allocated \$5,000,000 for plans to build
12 a new correctional facility to replace O'ahu Community
13 Correctional Center; and
14

15 WHEREAS, any newly proposed correctional facility is likely
16 to disproportionately incarcerate Kanaka Maoli, or Native
17 Hawaiians; therefore, this body finds that construction of any
18 new correctional facility should consider and incorporate
19 comprehensive criminal justice reform; and
20

21 WHEREAS, incarceration affects not only an individual, but
22 tears families apart, leaves children without parents, and
23 dismantles whole communities; and
24

25 WHEREAS, works such as *A Genealogy of Punishment in Hawai'i:*
26 *The Public Hanging of Chief Kamanawa II*; traces the historical
27 root of criminalization and punishment of Native Hawaiians in
28 Hawai'i through the public hanging of Chief Kamanawa II, the
29 grandfather of King Kalākaua and Queen Lili'uokalani, to modern
30 day times; and
31

32 WHEREAS, studies such as the "Study of Native Hawaiian in
33 the Criminal Justice System" (Alu Like, 1977), "Crime and
34 Justice Related to Hawaiians and Part Hawaiians in the State of
35 Hawaii" (Alu Like, 1981), and "Criminal Justice and Hawaiians in
36 the 1990's: Ethnic Differences in Imprisonment Rates in the
37 State of Hawai'i" (Alu Like, 1994), have independently concluded
38 that Native Hawaiians are over-represented in the criminal
39 justice system; and
40



1 WHEREAS, House Concurrent Resolution No. 27, H.D. 1,
2 Regular Session of 2009 (HCR 27), requested the Office of
3 Hawaiian Affairs to contract for a study to examine the
4 disparate treatment of Native Hawaiians in the State's criminal
5 justice system; and
6

7 WHEREAS, pursuant to HCR 27, on September 28, 2010, the
8 Office of Hawaiian Affairs released a report entitled "The
9 Disparate Treatment of Native Hawaiians in the Criminal Justice
10 System" (Disparate Treatment report); and
11

12 WHEREAS, the Disparate Treatment report shows that the
13 disproportionate impact of the criminal justice system on Native
14 Hawaiians is represented by the fact that while Native Hawaiians
15 make up twenty-four percent of the general population of Hawai'i,
16 Native Hawaiians make up twenty-seven percent of all arrests,
17 thirty-three percent of people in pretrial detention, twenty-
18 nine percent of people sentenced to probation, thirty-six
19 percent of people were admitted to prison in 2009, thirty-nine
20 percent of the incarcerated population, thirty-nine percent of
21 releases on parole, and forty-one percent of parole revocations;
22 and
23

24 WHEREAS, in her doctoral dissertation entitled *The Colonial*
25 *Carceral and Prison Politics in Hawai'i*, Dr. RaeDeen Keahiolalo-
26 Karasuda asserts that the firsthand accounts of prisoners,
27 families, advocates, and prison industrial complex professionals
28 suggest that Native Hawaiians actually represent more than sixty
29 percent of imprisoned people in the State; and
30

31 WHEREAS, the Disparate Treatment report recommended the
32 formation of administrative or governmental resolutions to
33 address the problem, which led to the passage of Act 170,
34 Session Laws of Hawaii 2011, and the statutory creation of the
35 Native Hawaiian Justice Task Force; and
36

37 WHEREAS, the Native Hawaiian Justice Task Force released a
38 report in 2012 that included forty-eight findings and thirty-
39 eight recommendations to address the disproportionate
40 representation of Native Hawaiians in the criminal justice
41 system; and
42



1 WHEREAS, the Native Hawaiian Justice Task Force
2 recommendations have not been fully implemented to date, and
3 Native Hawaiians continue to be overrepresented in the criminal
4 justice system; and
5

6 WHEREAS, under Act 117, Session Laws of Hawaii 2012 (Act
7 117), the Department of Public Safety, in cooperation with Ohana
8 Ho'opakele and other restorative justice groups, was directed to
9 plan for the creation of a pu'uhonua, or a wellness center, on
10 lands owned or controlled by the State; and
11

12 WHEREAS, the Pu'uhonua Summit held in November 2012 in
13 furtherance of Act 117 resulted in the following
14 recommendations:
15

- 16 (1) Divert non-violent offenders from the current system
17 and fund the creation of pu'uhonua on every island;
18
- 19 (2) Establish a pu'uhonua on every island;
20
- 21 (3) Preference for Native Hawaiians or those who have
22 Hawaiian or part-Hawaiian dependents;
23
- 24 (4) Pilot projects that should be considered:
 - 25 (A) Kulani Correctional Facility;
26
 - 27 (B) Ho'omau Ke Ola;
28
 - 29 (C) Women's Community Correctional Center; and
30
 - 31 (D) Other programs identified by their island's
32 communities; and
33
- 34 (5) Develop a plan for the return of Native Hawaiian
35 pa'ahao to the Hawaiians. Adequately fund the
36 pu'uhonua. The State should designate land, not ceded
37 land, and water for the pu'uhonua; and
38
39



1 WHEREAS, many states have independently pursued criminal
2 justice reform policies resulting in significant reductions in
3 their correctional population and crime rates; and
4

5 WHEREAS, from 2006 to 2012, California, under federal
6 oversight, reduced its incarcerated population from 173,942 to
7 134,211, a decrease of 39,731 persons, while simultaneously
8 decreasing its violent crime rate by twenty-one percent and
9 property crime rate by thirteen percent; and
10

11 WHEREAS, from 1999 to 2012, New York reduced its prison
12 population from 72,896 to 54,268, a decrease of 18,628 persons,
13 while simultaneously decreasing its violent crime rate by
14 thirty-one percent and property crime rate by twenty-nine
15 percent; and
16

17 WHEREAS, from 1999 to 2012, New Jersey reduced its prison
18 population from 31,493 to 23,225, a decrease of 8,268 persons,
19 while simultaneously decreasing its violent crime rate by thirty
20 percent and property crime rate by thirty-one percent; and
21

22 WHEREAS, the Council of State Governments Justice Center
23 (Justice Center) is a national nonprofit organization that
24 serves policymakers at the local, state, and federal levels from
25 all branches of government in order to increase public safety
26 and strengthen communities; and
27

28 WHEREAS, the Justice Center developed the Justice
29 Reinvestment project to address increases in state spending on
30 correctional facilities while recidivism rates continue to
31 remain high; and
32

33 WHEREAS, the Justice Center helps state policymakers in
34 jurisdictions where elected leaders demonstrate bipartisan,
35 inter-branch interest in participating in the Justice
36 Reinvestment project, a willingness to provide access to data,
37 and a financial commitment to support the costs associated with
38 technical assistance; and
39

40 WHEREAS, Justice Reinvestment project staff members, with
41 the help of expert consultants, work closely with state
42 policymakers to advance fiscally-sound, data-driven criminal



1 justice policies to break the cycle of recidivism, avert prison
2 expenditures, and make communities safer; and

3
4 WHEREAS, twenty-seven states have worked with the Justice
5 Center to develop state-specific, data-driven policies that save
6 taxpayer dollars and direct some of those savings to strategies
7 that can decrease crime and strengthen neighborhoods; and

8
9 WHEREAS, many states working with the Justice Center have
10 averted anticipated prison growth and reinvested the savings to
11 expand the capacity of substance abuse, mental health treatment,
12 and diversion programs; and

13
14 WHEREAS, in June 2011, former Governor Neil Abercrombie,
15 Chief Justice Mark E. Recktenwald, and legislative leaders
16 requested technical assistance from the Justice Center to employ
17 a data-driven justice reinvestment approach to improve public
18 safety, reduce corrections spending, and reinvest savings in
19 strategies that can decrease crime and reduce recidivism in
20 Hawai'i; and

21
22 WHEREAS, from June 2011 to January 2012, the Justice Center
23 staff conducted extensive data analyses of the State's criminal
24 justice system to identify criminal justice population and cost-
25 drivers in the State; and

26
27 WHEREAS, the Justice Center proposed policy options to the
28 Hawai'i State Legislature that were projected to help reduce the
29 State's inmate population by more than nine hundred inmates by
30 the end of fiscal year 2016 and by one thousand ten inmates by
31 fiscal year 2018; and

32
33 WHEREAS, the Justice Center estimated that the
34 recommendations, if fully adopted, would lead to savings of more
35 than \$150,000,000 by the end of fiscal year 2018 and allow the
36 State to reinvest \$42,000,000 into strategies that promote
37 rehabilitation and reduce recidivism; and

38
39 WHEREAS, Hawai'i has yet to fully implement recommendations
40 from the Native Hawaiian Justice Task Force, Pu'uhonua Summit,
41 and Justice Center; and



1 WHEREAS, Native Hawaiians continue to be overrepresented at
2 every stage of the criminal justice system in Hawai'i; now,
3 therefore,
4

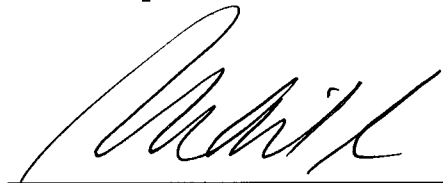
5 BE IT RESOLVED by the Senate of the Twenty-ninth
6 Legislature of the State of Hawaii, Regular Session of 2018,
7 that this body urges the full implementation of the
8 recommendations of the Native Hawaiian Task Force, and Pu'uho
9 Summit, and Council of State Governments Justice Center as a
10 comprehensive criminal justice reform to reduce the incarcerated
11 population, including the Native Hawaiian population, by twenty-
12 five percent by 2023, with technical assistance from the Justice
13 Center or national and local criminal justice reform experts;
14 and
15

16 BE IT FURTHER RESOLVED that the reduction of spending on
17 corrections spending be directed to strengthening Native
18 Hawaiian communities; and
19

20 BE IT FURTHER RESOLVED that the Department of Public Safety
21 is requested to take into consideration the comprehensive
22 criminal justice reform when building the new correctional
23 facility to replace the O'ahu Community Correctional Center; and
24

25 BE IT FURTHER RESOLVED that certified copies of this
26 Resolution be transmitted to the Governor, Director of Public
27 Safety, Deputy-Director for Corrections, Chief Justice of the
28 Hawaii Supreme Court, Attorney General, Mayors of each county,
29 and Chief of Police of each county.
30
31
32

OFFERED BY:


Clarence K. Richardson