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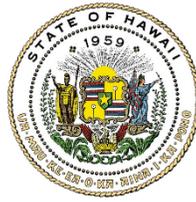
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March 16, 2026

HB 1247, HD1: RELATING TO CRIMINAL PROCEEDINGS

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee On Judiciary

The Office of the Public Defender (OPD) supports and offers suggested amendments to HB 1247 HD1, which, gives prisoners the right to counsel to challenge their minimum terms set by the Hawai'i Paroling Authority (HPA).

As drafted, the bill penalizes prisoners who appear *pro se* before the HPA for their minimum hearings. Prisoners often forgo counsel in order to expedite the process, and they should have the same right to petition and appellate counsel as prisoners who were represented by counsel. The OPD respectfully suggests the following amendments to the bill:

~~“(9) In instances where the prisoner has been represented by counsel in the minimum term proceedings, the p~~Prisoners shall continue to have the right to representation by counsel in any petition challenging ~~those~~ the minimum term proceedings”

The OPD has practical concerns about the bill that parallel the ones raised by the Judiciary's February 7, 2025, testimony. The OPD expects a large number of prisoners will ask their counsel to file petitions challenging their minimum terms because there is no penalty for doing so. Unlike prisoners, attorneys have ethical obligations to the courts. Within a 90-day timeframe, counsels will have to obtain transcripts of the HPA hearings, perform reasonable investigations, and draft and file petitions with supporting evidence in order to submit good faith declarations to the circuit courts. Each petition denied comes with the right to appeal, again, with

no penalty for the prisoner. In FY23-24 the HPA fixed minimum terms for 916 prisoners, the same number of prisoners with minimum terms fixed in FY22-23.¹

This bill will require additional resources for the OPD at the circuit court and appellate court levels. The OPD respectfully requests that appropriations be included for three (3) additional Deputy Public Defender III positions and a paralegal and expenses necessary to fulfill the purposes of this bill. The OPD also requests that any appropriations that may be added to this bill not supplant the OPD's existing funding and current budget requests.

In addition, the bill does not remedy some of the concerns stated in the bill's preamble. Challenges to HPA fixed minimum terms will continue to proceed via Hawai'i Rules of Penal Procedure Rule 40 (Rule 40) petitions filed in the circuit courts. The circuit courts will continue to be the gatekeepers to meritorious claims. Rule 40 does not require the courts to conduct hearings, and there is no timeframe for rulings on Rule 40 petitions. Furthermore, it is unclear whether filing Rule 40 petitions contesting HPA minimum terms will have the knock-on effect of waiving other potential Rule 40 claims.²

Thank you for the opportunity to comment on this measure.

¹ https://dcr.hawaii.gov/wp-content/uploads/2025/06/2024-Annual-Report_Corey-Reincke.pdf.

² HRPP Rule 40(a)(3).



The Judiciary, State of Hawai‘i
Ka ‘Oihana Ho‘okolokolo, Moku‘āina ‘o Hawai‘i

Testimony to the Thirty-Third Legislature, 2026 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, March 17, 2026, 9:55 a.m.
State Capitol, Conference Room 016

By

Jeannette Castagnetti
Chief Judge, First Circuit

Peter Cahill
Chief Judge, Second Circuit

Wendy DeWeese
Chief Judge, Third Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1247, H.D. 1, Relating to Criminal Proceedings.

Purpose: Allows a party aggrieved by the judgment of a circuit court on a minimum term order to appeal to the Intermediate Appellate Court. Requires prisoners to continue to be represented by counsel in any petition challenging minimum term proceedings. Requires the Supreme Court to establish rules. Establishes grounds for challenging a minimum term order. Effective 7/1/3000. (HD1)

Judiciary's Position:

The Judiciary takes **no position** on the intent of the proposed legislation. The Judiciary does acknowledge that the House Committee on Judiciary & Hawaiian Affairs adopted the language suggested by the Judiciary to effectuate the stated purpose of the bill to provide a process, outside of Rule 40 of the Hawai‘i Rules of Penal Procedure (“HRPP”), for judicial review of minimum term orders issued by the Hawai‘i Paroling Authority (“HPA”). The



House Bill No. 1247, H.D. 1, Relating to Criminal Proceedings
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Judiciary respectfully requests that this amendment to section 706-669 of the Hawai‘i Revised Statutes not be effective until June 30, 2027, to permit the Judiciary time to promulgate rules to effectuate the provisions of this measure.

Further, given the testimony of the HPA before the House Committee on Judiciary and Hawaiian Affairs stating that in fiscal year 2023 – 2024 the HPA conducted over 1,100 minimum term hearings, the Judiciary would require additional resources at the circuit level in order to meet that demand. The Judiciary is currently determining the positions and amounts necessary to meet the obligations to implement this measure, which could include additional judge positions and related staff. The Judiciary requests that any appropriations that may be added to this bill not supplant the Judiciary’s existing funding and current budget requests.

Thank you for the opportunity to testify on House Bill No. 1247, H.D. 1.



TESTIMONY IN SUPPORT OF HOUSE BILL 1247 HD1
RELATING TO CRIMINAL PROCEEDINGS

Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo
(Senate Committee on Judiciary)

Ke Kapitala ‘o Hawai‘i
(Hawai‘i State Capitol)

Malaki 17, 2026

9:55 AM

Lumi 016

Aloha e Chair Rhoads, Vice Chair Gabbard, a me Members of Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo:

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB1247 HD1** which establishes a clearer and more appropriate process for judicial review of minimum term orders issued by the Hawai‘i Paroling Authority and ensures continued representation by counsel for incarcerated individuals challenging those proceedings.

OHA supports policies that strengthen fairness, due process, and accountability within Hawai‘i’s criminal legal system. Minimum term determinations have major consequences for an incarcerated person’s liberty, family stability, and pathway to reentry. Yet under current practice, individuals seeking judicial review of those decisions are often forced into a difficult and ill-fitting process through Rule 40 petitions, even though that mechanism was not designed for routine review of minimum term proceedings. For indigent incarcerated individuals in particular, the existing process can be daunting, slow, and inaccessible.

This measure addresses that problem by creating a more workable avenue for review and by preserving access to counsel in petitions challenging minimum term proceedings. Continued legal representation is especially important where the issues involve procedural fairness, statutory compliance, or legal error in proceedings that directly affect the length of incarceration. A more defined review process can also improve consistency and transparency in minimum term decision-making.

This bill is also important from an equity perspective. Native Hawaiians remain disproportionately represented in Hawai‘i’s correctional system and therefore bear a disproportionate share of the burdens created by inaccessible or overly complex post-sentencing review processes. When legal review is difficult to access, the resulting harms fall most heavily on communities already overrepresented at multiple points of system

contact. Ensuring meaningful access to judicial review helps promote fair treatment and greater confidence in the integrity of parole-related proceedings.

Importantly, this measure does not eliminate the Hawai‘i Paroling Authority’s role in setting minimum terms. Rather, it helps ensure that when legal errors or due process concerns arise, there is a clearer and more just mechanism for review, promoting both individual fairness and better system functioning. For these reasons, the Office of Hawaiian Affairs respectfully urges this Committee to **PASS HB1247 HD1**.

Mahalo nui for the opportunity to provide testimony on this important measure.

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary

From: Veronica Moore, Individual Citizen

Date: March 15, 2026

RE: House Bill 1247 HD1
Measure Title: RELATING TO CRIMINAL PROCEEDINGS.
Report Title: Minimum Terms; Judicial Review

To All Concerned,

My name is Veronica Moore and I support House Bill 1247 HD1. Thank you for your consideration.

Sincerely,

Veronica M. Moore