



The Judiciary, State of Hawaii

**Testimony to the Senate Committee on Public Safety,
Intergovernmental and Military Affairs**

The Hon. Will Espero, Chair
The Hon. Rosalyn H. Baker, Vice Chair

Tuesday, February 12, 2013
2:45 p.m.
State Capitol, Conference Room 224

by

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Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 1120, Relating to the Maximum Age for Commitment To a Youth Correctional Facility

Purpose: Eliminates the incarceration of a person, 18 years of age, at a youth correctional facility. Provides that that person will be placed on parole. Include provisions under which the person may be transferred to an adult correctional facility.

Judiciary's Position:

The Judiciary respectfully opposes this bill, which places, on parole, any 18 year old who is committed to HYCF, and appears to render adult correctional facilities the only option for an 18 year old whose alleged violation of the terms and conditions of the person's parole constitutes a crime. The reasons for our opposition are:

1. The current statute already allows the Office of Youth Services (OYS)/Hawaii Youth Correctional Facility (HYCF) to utilize adult correctional facilities if the person is 19 yrs old and the alleged violation constitutes a crime. However, the current statute also gives much more discretion to HYCF in choosing the most appropriate treatment of furloughed and paroled youth. This bill widens the "net" of young people who will be exposed to learning



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criminal behavior from older incarcerated persons as well as subjecting youth to possible harm. In 2011, the Legislature agreed with OYS that, in the case of youth, the statute (HRS Section 352-28) that allowed HYCF to detain youth (those persons, age 16 and older, whose behavior was endangering the safety of HYCF) in the adult correctional facility, should be repealed (Act 18 of 2011). In part, the repeal was based upon:

Your Committees find that this measure will ensure that youth committed to the Hawaii Youth Correctional Facility will not be transferred, for disciplinary or other reasons, to adult correctional facilities, where they would be exposed to serious adult offenders and subjected to possible physical, mental, and sexual assault. (Senate Standing Committee Report No. 839, re HB No. 1067, HD 1, March 23, 2011)

2. Increasing the exposure of youth to more experienced criminal behavior would be a disservice to both the youth and the community.

3. Inflating the population of adult correctional facilities seems to be a costly way to deal with wayward youth who are not dangerous.

4. Cutting off OYS's role as guardian of committed youth, who are 18 years of age, will be problematic for all concerned. It will make OYS's supervisory efforts more difficult. Youth will be left to their own resources and/or resources of families that may be marginal.

The family court is very appreciative and admiring of the efforts of the OYS as they continue their difficult work of ensuring that HYCF is effective, efficient, humane, and focused on rehabilitation of youth. We also understand that there will always be some tension about the appropriateness of the use of HYCF for certain teens. Despite this tension, the family court and OYS have a long history of close collaboration and we are confident this history of collaboration and mutual respect will continue. Therefore, we do not take this position of opposition lightly. However, we do not believe that this will, in either the short or long term, be in the best interest of the facility, the youth, and the community.

Thank you for the opportunity to submit testimony on this bill.