



The Judiciary, State of Hawaii

**Testimony to the
Senate Committee on Judiciary and Labor**
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

And

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz

Tuesday, March 1, 2016, 10:25 a.m.
State Capitol, Conference Room 211

by
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Deputy Chief Judge, District Court of the First Circuit

Bill No. and Title: Senate Bill No. 2569, Relating to the Community Court Outreach Project.

Purpose: Establishes a community court outreach project in the city and county of Honolulu from July 1, 2016, to June 30, 2020. Requires, under the project, the judiciary to convene court at community sites where defendants cited or arrested for nonviolent offenses live or congregate and disposes of the cases after plea agreements have been reached by the Honolulu prosecuting attorney and public defender. Appropriates general funds.

Judiciary's Position:

The Judiciary supports Senate Bill No. 2569.

The district court criminal calendars include numerous cases involving nonviolent offenders, many of whom face multiple life challenges, such as substance abuse, mental health issues and the inability to provide themselves and/or their families with basic needs of food and housing. In an effort to address some of these cases, the community court outreach project



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("community outreach court") would allow the Judiciary to collaborate with the Department of the Prosecuting Attorney, the Office of the Public Defender and various community organizations to provide meaningful solutions to the problems facing these nonviolent offenders and to prevent recidivism.

The Judiciary can provide: 1) staffing for the community outreach court – a judge, court clerk and bailiff; 2) the ability to hold court sessions at locations (other than traditional courthouses) where offenders can more easily access court proceedings without taking time off from work, traveling substantial distances to traditional courtrooms and/or securing necessary child care; and 3) data on the progress of the community outreach court using the Judiciary's Information Management System (JIMS).

However, in order to clarify the types of cases that can be heard by the community outreach court, and to allow for flexibility in negotiating plea agreements by the Prosecuting Attorney and the Public Defender, the Judiciary proposes that Section 4, Subsection (b) be amended to read:

(b) Only cases involving nonviolent, non-felony offenses under state law and city ordinance may be heard and disposed of under the community court outreach project. (See Proposed SD1 attached hereto)

Additionally, safety and security is a concern when taking the court staff to other locations away from traditional courthouses (similar to when hearings are held at the Hawaii State Hospital); therefore, assistance from the Department of Public Safety will be required.

Thank you for the opportunity to provide testimony on this measure.

Report Title:

Community Court Outreach Project; Nonviolent Criminal Offenders

Description:

Establishes a community court outreach project in the city and county of Honolulu from July 1, 2016, to June 30, 2020.

Requires, under the project, the judiciary to operate a mobile court that travels to community sites where defendants cited or arrested for nonviolent offenses live or congregate and disposes of the cases after plea agreements have been reached by the Honolulu prosecuting attorney and public defender. Appropriates general funds.

A BILL FOR AN ACT

RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that hundreds of Honolulu
2 residents are cited or arrested for nonviolent offenses and do
3 not pose a threat to the public. The offenses include drinking
4 liquor in public, being in public parks after hours of closure,
5 and camping on sidewalks, beaches, and other restricted public
6 places. Most of those cited do not come to court, which leads
7 to the issuance of bench warrants for their arrest. Much time
8 and resources are then expended to bring these individuals to
9 court.

10 The legislature also finds that once these minor,
11 nonviolent offenders are brought into court, the sentences
12 imposed are often monetary fines, as the offenses are not
13 serious enough to warrant incarceration. Most of those fined,
14 however, have low or no income and are unable to pay the fines.
15 This noncompliance leads to another bench warrant, which repeats
16 the cycle and keeps the offenders in the system without offering
17 any rehabilitative measures. In addition, the prosecution of

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1 these cases burdens and congests the court system without
2 producing a meaningful resolution that will prevent recurrence
3 of the offenses.

4 The legislature further finds that the prosecuting attorney
5 of the city and county of Honolulu has worked with the judiciary
6 and the public defender on a community court outreach project.
7 The project is described as the criminal justice system's
8 response to the many minor nonviolent offenses that overburden
9 the courts and law enforcement. The goal of the project is to
10 provide judges with more sentencing options for nonviolent
11 offenses and to help nonviolent offenders who face a myriad of
12 problems, such as drug abuse and mental health challenges,
13 obtain basic necessities, such as food and shelter.

14 The community court is intended to function as a mobile
15 justice system that travels to neighborhoods and resolves cases
16 against offenders who are unable to attend a traditional court
17 setting or pay fines imposed against them. The community court
18 is also intended to impose alternative sentences such as
19 community service and mandatory participation in programs deemed
20 appropriate for individual offenders based on their need for
21 specific mental health services, substance abuse treatment,
22 sustenance, and shelter.

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1 The purpose of this Act is to establish a community court
2 outreach project in the city and county of Honolulu to offer
3 combined accountability and treatment options to offenders that
4 will reduce crime and recidivism. The legislature intends to
5 evaluate the community court outreach project during its
6 operational period and determine whether the project should be
7 expanded to other counties of the State.

8 SECTION 2. Community court outreach project;
9 establishment; purpose. (a) There is established the community
10 court outreach project to be administered and operated by the
11 judiciary in the city and county of Honolulu from July 1, 2016,
12 until June 30, 2020, subject to section 5 of this Act.

13 (b) The purpose of the community court outreach project
14 shall be to operate a mobile court that:

15 (1) Travels to communities where defendants who have been
16 cited or arrested for certain nonviolent offenses and do not
17 pose a threat to the public live or congregate; and

18 (2) Disposes of the cases of defendants who enter plea
19 agreements after negotiations between the prosecuting attorney
20 and public defender.

21 SECTION 3. Definitions. For the purpose of this Act:

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1 "Community court outreach project" or "project" means the
2 community court outreach project established by this Act.

3 "Prosecuting attorney" means the prosecuting attorney of
4 the city and county of Honolulu.

5 "Public defender" means the public defender of the State.

6 SECTION 4. Community court outreach project process. (a)
7 Under the community court outreach project, the court shall hold
8 hearings at community sites to dispose of cases for which the
9 prosecuting attorney and public defender have negotiated and
10 reached plea agreements on the disposition of the defendants.

11 (b) [~~The chief justice shall identify the~~] Only cases
12 involving nonviolent, non-felony offenses under state law and
13 city ordinance [~~, the cases for which~~] may be heard and disposed
14 of under the community court outreach project. [~~Before~~
15 ~~identifying the offenses, the chief justice shall consult with~~
16 ~~the prosecuting attorney and public defender.~~]

17 (c) The public defender shall engage a social service or
18 health care professional to provide outreach services to
19 defendants charged with the identified offenses who:

20 (1) Are willing to participate in the community court
21 outreach project;

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1 (2) Are willing to be represented by the public defender;
2 and

3 (3) May benefit from participation in the project.

4 After consulting with the social service or health care
5 professional, the public defender shall develop a list of the
6 defendants who are potential participants in the project and
7 transmit the list to the prosecuting attorney.

8 (d) The prosecuting attorney shall review the list and may
9 select from the list those defendants who the prosecuting
10 attorney determines may be appropriate for participation in the
11 project. The prosecuting attorney shall enter into plea
12 agreement negotiations with the public defender for disposition
13 of those defendants.

14 (e) The plea agreement for a defendant may include a
15 proposed fine, community service, court-ordered treatment, or
16 other court-ordered condition, but shall not include
17 imprisonment.

18 The court shall not hear or dispose of a case in which the
19 plea agreement for the defendant proposes any imprisonment.

20 (f) At the hearing, the court may finalize the plea
21 agreement by court order or judgment; provided that the court

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1 shall not be bound by the proposed disposition in the plea
2 agreement, except that the court shall not order imprisonment.

3 SECTION 5. Community court outreach project; subject to
4 the availability of funds and memoranda of agreement with the
5 prosecuting attorney and public defender. (a) The judiciary
6 shall administer and operate the community court outreach
7 project during a fiscal year if:

8 (1) The chief justice determines that sufficient funds are
9 available to administer and operate the project, either through
10 a specific appropriation for the project, another appropriation
11 in the judiciary budget act, or a federal or other grant;

12 (2) The chief justice and prosecuting attorney enter into
13 a memorandum of agreement specifying the terms and conditions of
14 the prosecuting attorney's participation in the project and the
15 funding to be provided by the judiciary to the prosecuting
16 attorney for the project; and

17 (3) The chief justice and public defender enter into a
18 memorandum of agreement specifying the terms and conditions of
19 the public defender's participation in the project and the
20 funding to be provided by the judiciary to the public defender
21 for the project.

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1 If all of the conditions under paragraphs (1) to (3) are
2 not met for a fiscal year, the chief justice shall not
3 administer or operate the project during that fiscal year.

4 (b) The chief justice shall transfer the entire amount of
5 funds for a fiscal year specified in the memoranda of agreement
6 with the prosecuting attorney and the public defender to each of
7 them by September 1 of that fiscal year.

8 If the entire amount of funds for a fiscal year is not
9 transferred to the prosecuting attorney or public defender by
10 the deadline set under this subsection, the prosecuting attorney
11 or public defender, as applicable, may choose to decline
12 participation in the project.

13 If, despite not receiving the entire amount of funds by the
14 deadline, the prosecuting attorney or public defender
15 participates or continues to participate in the project, the
16 prosecuting attorney or public defender may collect the amount
17 in accordance with any remedies set forth in the applicable
18 memorandum of agreement.

19 (c) If the project is not operated during a fiscal year,
20 any specific appropriation to the judiciary for the project for
21 that fiscal year shall not be expended, and the entirety of the

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1 specific appropriation shall lapse on June 30 of that fiscal
2 year.

3 SECTION 6. Annual report. The chief justice shall submit
4 a report on the community court outreach project to the
5 legislature and the governor at least twenty days prior to the
6 convening of the regular sessions of 2017, 2018, 2019, and
7 2020. The report shall include a quantification and discussion
8 of program measures and outcomes. In any report, the chief
9 justice may recommend that this Act be amended, expanded to
10 other counties through June 30, 2020, or made permanent with
11 expansion to other counties. The report shall also include
12 separate chapters or sections containing the comments and
13 recommendations of the prosecuting attorney and public defender.

14 SECTION 7. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$612,610 or so much
16 thereof as may be necessary for fiscal year 2016-2017 for the
17 establishment, administration, and operation of the community
18 court outreach project.

19 The sum appropriated shall be expended by the judiciary for
20 the purposes of this Act; provided that the chief justice shall
21 transfer:

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1 (1) \$170,000 to the prosecuting attorney for the
2 participation of the prosecuting attorney in the project during
3 fiscal year 2016-2017; and

4 (2) \$200,000 to the public defender for the participation
5 of the public defender in the project during fiscal year 2016-
6 2017.

7 Notwithstanding section 5(b) of this Act, for fiscal year
8 2016-2017, the chief justice shall transfer the funds to the
9 prosecuting attorney and public defender within thirty days of
10 entering into the latter dated of the memoranda of agreement
11 with each of them.

12 SECTION 8. This Act shall take effect on July 1, 2016, and
13 shall be repealed on June 30, 2020.

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4 SECTION 2. Statutory material to be repealed is bracketed

5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

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