



STATE OF HAWAII
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TESTIMONY ON SENATE BILL 1540
RELATING TO CORRECTIONS.

by
Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Tuesday, February 5, 2019; 1:15 p.m.
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Public Safety Department (PSD) supports Senate Bill (SB) 1540, which incorporates a key recommendation of the House Concurrent Resolution No. 134 (2017), Criminal Pretrial Task Force. PSD offers the following comments to ensure that the objectives are implemented by providing sufficient resources.

PSD has contracted to conduct a validation study of the Ohio Risk Assessment System's Pretrial Assessment Tool (ORAS-PAT) for Hawai'i pretrial offender population. The new language to require a risk assessment and bail report within two days of admission to a community correctional center will require additional resources, including staff, to be incorporated in Section 27 of this measure.

PSD is limited in verifying the self-reported financial information from offenders; therefore, it is suggested that PSD's Pretrial Service Officers be provide authorization to access for the limited purpose of viewing other State agencies' data related to employment wages and tax information. PSD

recommends adding language to the measure's Section 3, referencing Section 353-10(b)(9)(F) to clarify that the research entity shall be approved and contracted by PSD to protect the confidentiality of the information, as this section specifies that the information is not a public record. PSD welcomes these changes to assist with reducing our offender population within the community correctional centers.

PSD recommends adding a section to include a specific sum to be appropriated from the general revenues of the State of Hawaii, beginning in fiscal year 2019-2020 and continuing in subsequent fiscal years.

Thank you for the opportunity to present this testimony.



SB 1540, RELATING TO CORRECTIONS

FEBRUARY 5, 2019 · SENATE PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
COMMITTEE · CHAIR SEN. CLARENCE K.
NISHIHARA

POSITION: Support.

RATIONALE: IMUAlliance supports SB 1540, relating to corrections, which requires intake service centers to conduct pretrial risk assessments and prepare bail reports within two, instead of three, working days; requires bail reports to include a complete copy of the pretrial risk assessment, including, among other requirements, a written explanation of administrative scoring overrides; requires the pretrial risk assessment to include the defendant's financial circumstances and risk of violence or harm to any person and the general public; and requires the pretrial risk assessment tool and procedures to be reviewed every five years.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 135 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, **many of the victims with whom we work are**

misidentified as so-called “voluntary prostitutes” and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Hawai'i has approximately 5,500 inmates, over, 1,500 of whom are incarcerated overseas, away from their families and homeland. According to a report by the American Civil Liberties Union released last year, pre-trial detainees in Honolulu wait an average of 71 days for trial because they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set money bail as a condition of release in 88 percent of cases, though only 44 percent of those people managed to post the amount of bail set by the court. Moreover, the study found the average bail amount for a Class C felony on O'ahu is set at \$20,000. Even with help from a bail bonding agency, posting bond, in such cases, would require an out-of-pocket expense of roughly \$2,000. Finally, while officials claim that bail amounts are supposed to be based on a consideration of multiple factors—including flight risk, ability to pay, and danger to the community—researchers learned that in 91 percent of cases in Hawai'i, money bail mirrored the amount set by police in arrest warrants, an amount based solely on the crime charged. These injustices led the ACLU to declare that our state's pretrial detention system was and remains unconstitutional.

Furthermore, as the visitor industry reaps record profits and supports expansion of the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, continue to suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, **harsher drug-related punishments than other ethnic groups**. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.

SB-1540

Submitted on: 2/2/2019 8:45:31 AM

Testimony for PSM on 2/5/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

ROBERT K. MERCE

February 4, 2019

TO: Senate Committee On Public Safety, Intergovernmental, and Military Affairs

RE: SB 1540

HEARING DATE: Tuesday, February 5, 2019

TIME: 1:15 P.M

ROOM: 229

POSITION: **SUPPORT**

Dear Chair Nishihara, Vice Chair Wakai, and members of the committee:

My name is Bob Merce. I am a retired lawyer and recently served as vice chair of the HCR 85 Task Force on prison reform. I am also on the Board of Directors of the Native Hawaiian Legal Corp.

I support SB 1540 for the following reasons:

1. Completing pretrial assessments and bail reports in two rather than three days will reduce the length of stay for pretrial detainees, and a shorter length of stay will save the State money (it costs \$152 per day to house an inmate at OCCC).
2. Pretrial detainees have been charged but not convicted, and justice requires that people who have not been convicted of a crime should not be detained for any longer than is absolutely necessary.
3. Pretrial risk assessment instruments play an important role in determining whether a pretrial detainee will or will not be released. Such tools should be validated on regular basis to ensure that they are effective and accurate, and that they do not contain a bias for or against any racial or ethnic group.

Thank you for the opportunity to comment on this bill.

SB-1540

Submitted on: 2/4/2019 10:34:03 AM

Testimony for PSM on 2/5/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine Susan Graham	Individual	Support	No

Comments: