



GOV. MSG. NO. 88/

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2546 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2546 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO OFFENDER
REENTRY.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2546

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2546, entitled "A Bill for an Act Relating to Offender Reentry."

The purpose of this bill is to further clarify chapter 353H, Hawaii Revised Statutes, in which the comprehensive offender reentry system is codified, to allow the Department of Public Safety to work with other agencies to develop and provide inmates with services and to require the Department of Public Safety to rotate inmates back and forth if there is not enough room to bring back all inmates on the mainland. This bill also declares that the provisions of Act 8, First Special Session Laws of Hawaii 2007, which established the comprehensive offender reentry system, are mandatory instead of directory.

This bill is objectionable because the Legislature continues to mandate all aspects of offender reentry without consideration for the feasibility, practicality, and fairness of implementing such programs and services.

As an example, Senate Bill No. 2546 requires the Department of Public Safety to implement a quarterly rotation system to return out-of-state inmates with less than one year to serve while transporting inmates with longer sentences to the mainland. The provision does not make any distinction or provide priority for inmates who may benefit most from returning to Hawaii.

Moreover, this measure does little to address the liability issues created by Act 8, Special Session Laws of Hawaii

STATEMENT OF OBJECTIONS
SENATE BILL NO. 2546
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2007, as mentioned in both my veto message for Senate Bill No. 932 and the opinion issued by the Attorney General on July 30, 2007. In addition, this measure also does not provide funding for the programs and services that were required to be implemented by the Department of Public Safety pursuant to this measure and Act 8, Special Session Laws of Hawaii 2007.

It is important that the Department of Public Safety be allowed to make its own judgments on how offender reentry can best be implemented to ensure the welfare of the inmates and protect the public.

For the foregoing reasons, I am returning Senate Bill No. 2546 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO OFFENDER REENTRY.

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

1 SECTION 1. The legislature finds that Act 8, First Special
2 Session Laws of Hawaii 2007 (Act 8), established a comprehensive
3 offender reentry system under the purview of the department of
4 public safety that assists adult offenders with their
5 reintegration back into our communities and offers a full
6 continuum of services that are accessible during and immediately
7 after their incarceration.

8 The intent of the legislature is that the provisions of
9 Act 8 are mandatory, rather than "directory."

10 The purpose of this Act is to further clarify the
11 provisions of chapter 353H, Hawaii Revised Statutes, relating to
12 the offender reentry system.

13 SECTION 2. Section 353H-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[-]§353H-3[-] Offender reentry system plan; creation.

16 (a) The department of public safety shall develop a



1 comprehensive and effective offender reentry system plan for
2 adult offenders exiting the prison system.

3 (b) The department of public safety, in conjunction with
4 appropriate state agencies and private entities, shall develop
5 comprehensive reentry plans and curricula for individuals
6 exiting correctional facilities in order to reduce recidivism
7 and increase a person's successful reentry into the community.
8 The reentry plans shall include, but not be limited to:

9 (1) Adopting an operational philosophy that considers that
10 offender reentry begins on the day an offender enters
11 the correctional system. Each offender entering the
12 system shall be assessed to determine the offender's
13 needs in order to assist the individual offender with
14 developing the skills necessary to be successful in
15 the community;

16 (2) Providing appropriate programs, including, but not
17 limited to, education, substance abuse treatment,
18 cognitive skills development, vocational and
19 employment training, and other programs that help to
20 meet the assessed needs of each individual;



- 1 (3) Developing a comprehensive network of transitional
- 2 programs to address the needs of individuals exiting
- 3 the correctional system;
- 4 (4) Ensuring that all reentry programs are gender-
- 5 responsive;
- 6 (5) Issuing requests for proposals from community-based
- 7 nonprofit programs with experience with offenders in
- 8 the area of reentry; and
- 9 (6) Instituting model reentry programs for adult
- 10 offenders."

11 SECTION 3. Section 353H-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§353H-4[+] Model programs; department of public
14 safety. Subject to funding by the legislature, the department
15 of public safety, Hawaii paroling authority, department of
16 health, department of human services, and the judiciary, shall
17 enhance the State's comprehensive offender reentry system by
18 developing model programs designed to reduce recidivism and
19 promote successful reentry into the community. Components of
20 the model programs shall include but are not limited to:

- 21 (1) Highly skilled staff who are experienced in working
- 22 with offender reentry programs;



1 (2) Individualized case management and a full continuum of
2 care to ensure successful reentry;

3 (3) Life skills development workshops, including
4 budgeting, money management, nutrition, and exercise;
5 development of self-determination through education;
6 employment training; special education for the
7 learning disabled; social, cognitive, communication,
8 and life skills training; and appropriate treatment
9 programs, including substance abuse and mental health
10 treatment;

11 (4) Parenting and relationship building classes. The
12 department shall institute policies that support
13 family cohesion and family participation in offenders'
14 transition to the community, and, where possible,
15 provide geographical proximity of offenders to their
16 children and families; and

17 (5) Ongoing attention to building support for offenders
18 from communities, community agencies, and
19 organizations."

20 SECTION 4. Section 353H-5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[+] §353H-5~~ Children of incarcerated parents; families.

2 The director of public safety shall:

3 (1) Establish policies or rules that parent inmates be
4 placed in correctional facilities, consistent with
5 public safety and inmate security, in the best
6 interest of the family, rather than on economic or
7 administrative factors;

8 (2) Consider as a factor, where appropriate, an offender's
9 capacity to maintain parent-child contact when making
10 prison placements of offenders;

11 (3) ~~[Conduct, coordinate, or promote research that~~
12 ~~examines]~~ Promote research in collaboration with
13 impacted state agencies, interested individuals, and
14 organizations, including but not limited to the
15 department of human services and other state agencies,
16 community partners who are impacted by, or provide
17 services to, children of incarcerated parents, and the
18 University of Hawaii or other organization with
19 experience and expertise in gathering and analyzing
20 information and data to examine the impact of a
21 parent's incarceration on the well-being of the
22 offender's child that shall include both direct



1 contact with an offender's child, as well as reports
2 of caregivers; and

- 3 (4) [~~Conduct, coordinate, or promote research that focuses~~
4 ~~on the relationship of incarcerated fathers with their~~
5 ~~children and the long term impact of incarceration on~~
6 ~~fathers] Promote research in collaboration with
7 impacted state agencies, interested individuals, and
8 organizations, including but not limited to the
9 department of human services and other state agencies,
10 community partners who are impacted by, or provide
11 services to, children of incarcerated parents, and the
12 University of Hawaii or other organization with
13 experience and expertise in gathering and analyzing
14 information and data to examine the relationship of
15 incarcerated parents with their children and the long-
16 term impact of incarceration on parents and their
17 children."~~

18 SECTION 5. Section 353H-6, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The director of labor and industrial relations, the
21 department of public safety, and the Hawaii paroling authority
22 shall [~~take the necessary steps~~] work together to ensure



1 offenders and ex-offenders are included and involved in
2 utilizing state and private resources for employment and
3 training opportunities as well as life skills and educational
4 opportunities."

5 SECTION 6. Section 353H-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§353H-7[+] Return of out-of-state inmates. (a) The
8 director of public safety shall return Hawaii inmates held in
9 out-of-state prisons at least one year prior to the inmate's
10 parole or release date in order for these inmates to participate
11 in programs preparing them for reentry on the island where they
12 have the most support; provided that inmates participating in
13 reentry programs at the mainland facility in which they are
14 incarcerated consent to the return.

15 (b) The provisions of subsection (a) shall not prevent the
16 return of other Hawaii inmates held in out-of-state prisons with
17 less than one year left of their sentence from being returned in
18 preparation for reentry to the island where they have the most
19 support.

20 (c) If the department of public safety lacks sufficient
21 space in correctional facilities in the State to which to return
22 prisoners from out-of-state, the department shall exchange



1 prisoners through a quarterly rotation system, with long-term
2 inmates sent to out-of-state prisons and prisoners with less
3 than a year to serve brought back from out-of-state prisons to
4 the State.

5 ~~(e)~~ (d) The department of public safety shall provide a
6 report to the legislature at the end of each calendar year on
7 any inmates not returned pursuant to this section with an
8 explanation of the reasoning and circumstances for
9 noncompliance."

10 SECTION 7. Section 353H-31, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~{}~~§353H-31~~{}~~ **Adult offender reentry programs and**
13 **services.** (a) The director of public safety may authorize
14 purchase of service contracts, in accordance with chapter 103F,
15 subject to legislative or other appropriate funding, for adult
16 offender reentry programs and services that establish or improve
17 the offender reentry system and in which each adult offender in
18 state correctional custody is provided an individualized reentry
19 plan.

20 (b) Subject to funding by the legislature or other
21 appropriate sources, the department of public safety shall
22 authorize the purchase of service contracts for activities that:



- 1 (1) [Coordinate] With the assistance of the department of
2 human services, the Hawaii paroling authority, the
3 department of education, the University of Hawaii and
4 its community colleges, and other appropriate public
5 and private entities, coordinate the supervision and
6 services provided to adult offenders in state custody
7 with the supervision and services provided to
8 offenders who have reentered the community;
- 9 (2) Coordinate efforts of various public and private
10 entities to provide supervision and services to
11 ex-offenders after reentry into the community,
12 including the Hawaii paroling authority, department of
13 human services, and other stakeholders, with the
14 offenders' family members;
- 15 (3) Provide offenders awaiting reentry into the community
16 with documents, such as identification papers,
17 referrals to services, medical prescriptions, job
18 training certificates, apprenticeship papers,
19 information on obtaining public assistance, and other
20 documents useful in achieving a successful transition
21 from prison;



- 1 (4) Involve county agencies whose programs and initiatives
2 strengthen offender reentry services for individuals
3 who have been returned to the county of their
4 jurisdiction;
- 5 ~~(5) [Allow ex-offenders who have reentered the community~~
6 ~~to continue to contact mentors who remain incarcerated~~
7 ~~through the use of technology, such as~~
8 ~~videconferencing, or encourage mentors in prison to~~
9 ~~support the ex-offenders' reentry process;~~
- 10 +6] Provide structured programs, post-release housing, and
11 transitional housing, including group homes for
12 recovering substance abusers, through which offenders
13 are provided supervision and services immediately
14 following reentry into the community;
- 15 ~~+7] (5) Assist offenders, with the assistance of the~~
- 16 Hawaii paroling authority, Hawaii public housing
17 authority, and the department of human services, in
18 securing permanent housing upon release or following a
19 stay in transitional housing;
- 20 ~~+8] (7) Continue, with the assistance of the department~~
- 21 of health and the Hawaii paroling authority, to link
22 offenders with health resources for health services



1 that were provided to them when they were in state
2 custody, including mental health, substance abuse
3 treatment, aftercare, and treatment services for
4 contagious diseases; provided that offenders who have
5 completed their sentence shall be solely responsible
6 for addressing their continued healthcare needs with
7 the department of health, department of human
8 services, or any other appropriate entity;

9 [~~9~~] (8) Provide education, job training, English as a
10 second language programs, work experience programs,
11 self-respect and life-skills training, and other
12 skills needed to achieve self-sufficiency for a
13 successful transition from prison;

14 [~~10~~] (9) Facilitate collaboration among corrections
15 administrators, technical schools, community colleges,
16 and the workforce development and employment service
17 sectors so that there are efforts to:

18 (A) [~~Promote,~~] With the assistance of the department
19 of labor and industrial relations, department of
20 taxation, department of education, and the
21 University of Hawaii and its community colleges,
22 promote, where appropriate, the employment of



1 persons released from prison, through efforts
2 such as educating employers about existing
3 financial incentives, and facilitate the creation
4 of job opportunities, including transitional
5 jobs, for such persons that will also benefit
6 communities;

7 (B) [~~Connect~~] With the assistance of the department
8 of labor and industrial relations, Hawaii
9 paroling authority, trade unions, and other
10 stakeholders, connect offenders to employment,
11 including supportive employment and employment
12 services, before their release to the community;
13 and

14 (C) Address barriers to employment, including
15 obtaining a [~~driver's license~~] a state
16 identification card, social security card, or
17 other standard and acceptable personal
18 identification documents;

19 [~~(11)~~] (10) Assess the literacy and educational needs of
20 offenders in custody and provide appropriate services
21 to meet those needs, including follow-up assessments
22 and long-term services;



- 1 ~~(+12)~~ (11) Address systems under which family members of
2 offenders are involved with facilitating the
3 successful reentry of those offenders into the
4 community, including removing obstacles to the
5 maintenance of family relationships while the offender
6 is in custody, strengthening the family's capacity to
7 establish and maintain a stable living situation
8 during the reentry process where appropriate, and
9 involving family members in the planning and
10 implementation of the reentry process;
- 11 ~~(+13)~~ (12) Include victims, on a voluntary basis, in the
12 offender's reentry process;
- 13 ~~(+14)~~ (13) Facilitate visitation and maintenance of family
14 relationships with respect to offenders in custody by
15 addressing obstacles such as travel, telephone costs,
16 mail restrictions, and restrictive visitation
17 policies;
- 18 ~~(+15)~~ ~~Identify~~ (14) Where appropriate, identify and
19 address barriers to collaborating with child welfare
20 agencies in the provision of services jointly to
21 offenders in custody and to the children of those
22 offenders;



1 ~~(16)~~ (15) Collect information, to the best of the
2 department's ability, regarding dependent children of
3 incarcerated persons as part of intake procedures,
4 including the number of children, age, and location or
5 jurisdiction for the exclusive purpose of connecting
6 identified children of incarcerated parents with
7 appropriate services and compiling statistical
8 information;

9 ~~(17)~~ (16) Address barriers to the visitation of children
10 with an incarcerated parent, and maintenance of the
11 parent-child relationship, such as the location of
12 facilities in remote areas, telephone costs, mail
13 restrictions, and visitation policies;

14 ~~(18)~~ (17) Create, develop, or enhance prisoner and family
15 assessments curricula, policies, procedures, or
16 programs, including mentoring programs, to help
17 prisoners with a history or identified risk of
18 domestic violence, dating violence, sexual assault, or
19 stalking reconnect with their families and
20 communities, as appropriate, and become mutually
21 respectful;



- 1 family-based comprehensive treatment services for
2 parents and their children as a complete family unit;
- 3 ~~[(21)]~~ (20) Conduct studies to determine who is returning to
4 prison and which of those returning prisoners
5 represent the greatest risk to community safety;
- 6 ~~[(22)]~~ (21) Develop or adopt procedures to ensure that
7 dangerous felons are not released from prison
8 prematurely;
- 9 ~~[(23)]~~ (22) Develop and implement procedures to assist
10 relevant authorities in determining when release is
11 appropriate and in the use of data to inform the
12 release decision;
- 13 ~~[(24)]~~ (23) Utilize validated assessment tools to assess the
14 risk factors of returning offenders to the community
15 and prioritizing services based on risk;
- 16 ~~[(25)]~~ (24) Facilitate and encourage timely and complete
17 payment of restitution and fines by ex-offenders to
18 victims and the community;
- 19 ~~[(26)]~~ (25) Consider establishing the use of reentry courts
20 to:
- 21 (A) Monitor offenders returning to the community;
- 22 (B) Provide returning offenders with:



- 1 (i) Drug and alcohol testing and treatment; and
- 2 (ii) Mental and medical health assessment
- 3 services;
- 4 (C) Facilitate restorative justice practices and
- 5 convene family or community impact panels, family
- 6 impact educational classes, victim impact panels,
- 7 or victim impact educational classes;
- 8 (D) Provide and coordinate the delivery of other
- 9 community services to offenders, including:
- 10 (i) Housing assistance;
- 11 (ii) Education;
- 12 (iii) Employment training;
- 13 (iv) Children and family support;
- 14 (v) Conflict resolution skills training;
- 15 (vi) Family violence intervention programs; and
- 16 (vii) Other appropriate social services; and
- 17 (E) Establish and implement graduated sanctions and
- 18 incentives; and
- 19 [~~27~~] (26) Provide technology and other tools necessary to
- 20 advance post-release supervision."



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect upon its approval.

