

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2343
RELATING TO PAROLE

by

Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Public Safety
Senator Will Espero, Chair

Tuesday, January 29, 2008; 2:45 PM
State Capitol, Room 225

Senator Espero, Senator Nishihara, and Members of the Committee:

The Department of Public Safety (PSD) strongly opposes Senate Bill 2343, which seeks to allow incarcerated offenders convicted of class B and class C felony offenses the ability to earn up to 10 days per month (maximum of 25% off the minimum sentence) in good time credits.

If enacted, this measure would reduce an offender's minimum sentence(s) by as much as 25% without regard to the nature of the persons offense(s), the offenders criminal history, the number of offenses committed, nor the degree of loss to person or property of the victim(s).

This measure is unnecessary as the Hawaii Paroling Authority (HPA) already has a reduction of minimum (ROM) sentence process that incarcerated offenders qualify to apply for after they have served at least 1/3 of the longest minimum sentence, and

providing the offender is not serving any portion of a court imposed mandatory minimum sentence(s). Unlike this proposed measure, the HPA does consider the nature of the offenders' crime(s), the offender's criminal history, the degree of loss to person and/or property of the victim(s), and whether or not the offender has made an effort to pay restitution and fines ordered by the court in its deliberations. This is in addition to other factors considered that are stated in this measure.

Further, if enacted, this measure will erode the discretionary authority historically vested in the HPA. SB 2343 also places unusually cumbersome and unnecessary burdens on the PSD to develop, implement, track, a reduction in minimum sentence process when an effective and more thorough system already exists.

In addition, this measure fails to provide the additional staff and automation equipment necessary to develop, implement, and operate a reduction in minimum sentence system statewide. Under this measure, the PSD would be required to award, withdraw, and track good time credits for almost 6,000 inmates, and make almost continuous adjustments to individual records. SB 2343 also fails to consider the litigation ramifications that will occur if a single inmate's "good time" credits are miscalculated and/or not applied in a timely manner.

This measure is unwarranted, too costly, and dramatically increase the state's liability exposure, while simultaneously eroding the discretionary authority of the parole board. It also fails to consider the key criminal elements, and does not consider the suffering and loss of the victim(s) of crime, nor the offender's lack of payment of restitution and fines when reducing an offender's minimum sentence(s).

Thank you for the opportunity to testify on this important matter.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 ALAKEA STREET, GROUND FLOOR
Honolulu, Hawaii 96813

ALBERT TUFONO
CHAIR

DANE K. ODA
MEMBER

ROY W. REEBER
MEMBER

MAX OTANI
A/ADMINISTRATOR

No. _____

TESTIMONY ON SENATE BILL 2343
RELATING TO PAROLE

HAWAII PAROLING AUTHORITY
Alfred Tufono, Chairman

Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Tuesday January 29, 2008; 2:45 p.m.
State Capital, Conference Room 225

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

The Hawaii Paroling Authority (HPA) does not support Senate Bill 2343, establishing a system of earned-time that would allow inmates to earn credit toward their minimum time of imprisonment. HPA and the Department of Public Safety (Department) currently have procedures in place to address reduction of minimum terms.

While HPA acknowledges that reinforcement of positive behavior is important in rehabilitation, SB 2343 as written would be in conflict with minimum term sentencing procedures that are in place today. Under HRS 706-669(7), the prosecuting attorney can be present at the minimum term of incarceration hearing to present testimony to the parole board and victims or their designees have the right to submit testimony at this hearing. Under current procedures, this right is extended each time an inmate submits an application for reduction of minimum term and testimony could be submitted before a decision to reduce the term is made. Under SB 2343, this extended right to the prosecuting attorney and victim would be removed and notification would be made after the term is reduced.

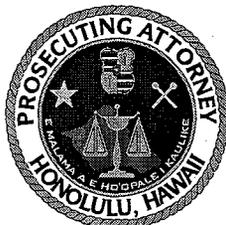
Also under current sentencing practices, information such as length of criminal history, seriousness of the crime, and impact to the community are key factors that the parole board will look at when determining minimum terms. There have been situations where minimum terms were equal to maximum terms due to the parole board's determination that crime was so heinous or the inmates criminal record so lengthy that punishment and public safety was priority in their decision. SB 2343 would diminish the authority and intent of the parole board as the inmate would be able to reduce the minimum term by up to twenty five percent with good behavior.

SB 2343 as written would create a tremendous workload issue for the Department and impact other agencies in the criminal justice system. The daily monitoring of credit time for thousands of inmates would be a difficult task for the Department without additional funding and staff. Failure to comply with this enormous undertaking would increase litigation against the State.

Thank you for this opportunity to testify on this important public safety matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494



PETER B. CARLISLE
PROSECUTING ATTORNEY

DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE WILL ESPERO, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

January 29, 2008

RE: S.B. 2343; RELATING TO PAROLE.

Chair Espero and members of the Senate Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to Senate Bill 2343.

The purpose of this bill is to provide that convicted defendants can receive up to ten days per month credit deducted from their sentence for progress in counseling, therapy, work, vocational, or occupational training and skills, education or literary programs and social adjustment. In addition, this bill prohibits its application to any person sentenced to a mandatory minimum term of imprisonment or a life term without parole or sentenced to a class A felony. The bill also prohibits any earned time reduction that is more than twenty-five per cent of the person's minimum term.

We oppose this bill because it is duplicative of what the Hawaii Paroling Authority (HPA) already considers in determining a minimum sentence or reducing the minimum sentence. Furthermore, in determining the minimum or reducing the minimum sentence, HPA considers utilizes written guidelines and procedures which include more extensive criteria. Moreover, the significant information, such as victim input is included in the HPA's determinations on sentences which would be missing from the determinations made under this proposal. In essence, this proposal would subvert the authority of HPA and its more comprehensive review process.

For this reason, we strongly oppose Senate Bill 2343 and ask that it be held.

Thank you for this opportunity to testify.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai`i 96817

Phone/E-mail: (808) 533-3454/communityallianceonprisons@hotmail.com



COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, January 29, 2008

2:45 PM

Room 225

STRONG SUPPORT - SB 2343 - EARNED TIME PROGRAM

Aloha Chair Espero, Vice Chair Nishihara and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai`i for a decade. I respectfully offer our testimony, always being mindful that Hawai`i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 2343 establishes an earned-time program that provides incentives for inmate rehabilitation by allowing inmates to become eligible for parole when they make consistent progress in completing programs while incarcerated. Appropriates funds.

Community Alliance on Prisons strongly supports this measure. The purpose of earned time originally was to ease overcrowding, but it was then recognized as a management tool. Most states have some variation of earned time programs to incentivize inmates, focus individuals on their rehabilitation, and help prison management. Many of today's prisoners are incarcerated for drugs or drug-related crimes. The data show that incentives work with drug offenders, not sanctions. Earned time is an incentive program. It provides hope - a goal that people can work toward.

The department of public safety's ongoing re-classification project is based on corrections best practices, which involve classifying inmates (determining custody levels) so that they move through the different levels of the system eventually down to community custody and are prepared to safely reenter the community.

Most states have earned-time/early release programs because providing incentives to incarcerated people provides hope and guidance to move individuals through the system. Following this testimony is a paper entitled, "**GOOD TIME AND PROGRAMS FOR PRISONERS (NATIONWIDE)**" from the New Mexico Criminal and Juvenile Justice Coordinating Council - <http://www.unm.edu/~isrnet/cjjcc> on the different types of good time/earned time/early release programs that exist. New Mexico definition of "Good time" refers principally to a prisoner's good conduct while in confinement. "Earned time" signifies active efforts at self-betterment through work, education or treatment for which meritorious deductions are allowable.

Community Alliance on Prisons urges the committee's support for the establishment of an earned-time program for Hawai'i's prisoners. Please pass SB 2343. Keep hope alive.

Mahalo for this opportunity to testify and share this information with the committee.

WORKING PAPER NO.: 3
GOOD TIME AND PROGRAMS FOR PRISONERS
(NATIONWIDE)
Executive Summary

New Mexico Criminal and Juvenile Justice Coordinating Council
<http://www.unm.edu/~isrnet/cjjcc>

Good time was first enacted during the 19th century to control inmate behavior and relieve prison overcrowding by reducing inmates' sentences. Currently, 40 states use the good time credit system as an incentive for inmates to serve disciplinary-free time in prison.

Definition:

There are at least four types of good time early release models used in the US. today:

- statutory or administrative
- earned
- meritorious
- emergency credits

Statutory good time is awarded at the start of the inmate's sentence, and the inmate receives all potential credits at this time. When the inmate misbehaves, the credits are revoked.

Earned credit is an incentive system, where inmates are rewarded with good time credits for positive behavior within the prison. These credits are earned when the inmate participates in prison programs or activities, such as education or vocational training.

Meritorious or special credits are awarded when inmates perform exceptional acts, such as donating blood, exemplary behavior during emergencies, or serving as experimental medical subjects.

The *emergency credit* good time system is used in many jurisdictions to relieve prison overcrowding and court-ordered prison population caps. Eligible inmates are given predetermined numbers of credits to accelerate their discharge dates or parole hearings.

Administration:

Good time credits are usually granted, revoked and restored by corrections officers and staff. Inmates' credits are revoked at disciplinary hearings.

Good time may be revoked for violating prison rules and failing to participate satisfactorily in prison programs.

Most states limit good time forfeitures to credits already earned, but some states allow liens on future good time to be imposed. Also, other states allow for maximum penalties for a single serious violation-- e.g. 360 days for one violation.

Studies done on the effects of disciplinary hearings found that the revocation of good time credit was often the sanction for breaking prison infractions; however, the time was usually restored to the inmate at a later date in order to free up prison beds.

An inmate's release date is also shortened if good time credits are used in combination with determinate sentencing (no parole). In a determinate sentencing state, the good time credits are the only method whereby the inmate may be released early because there are no other early release methods in effect.

In a state with indeterminate sentencing and parole, the good time credits may not affect the release date because the inmate's parole date is probably earlier than the release date with good time credits.

However, one third of the indeterminate sentencing states subtract good time from the minimum as well as the maximum sentences. This method accelerates first parole eligibility and expands the power of parole by giving good time credit to the parole date rather than the sentencing date.

Good Time may be credited in a lump sum at the beginning of the prison sentence or it may be credited monthly as the inmate earns the time. Crediting in a lump sum is less of a burden on prison administration.

Allowance:

Good time allowances vary among jurisdictions. Some states provide for as much as a 50% reduction in sentence for good behavior, while other states provide no good time credits. The most common good time allowance is one day of good time for every three days of good behavior (equivalent to ten days per month).

Good time is often calculated based on the inmate's offense, sentence, tenure, and disciplinary and work records. Calculations may depend on whether the state has a fixed schedule, straight time or graduated good time.

In a "no fixed schedule" state the department of corrections determines the good time credits available for an inmate up to a maximum percentage of the inmate's sentence.

In a "straight time" state, all inmates are automatically credited with the same amount of good time credits. These credits are then lost for violations of prison rules.

In a "graduated good time" state, the good time credits depend on the inmate's offense, sentence length, time served or institutional placement.

Some states assign the prisoner to the highest good time earning class when they enter the prison and then they are reclassified to a lower class for disciplinary violations.

Some states do not award good time credits, or they define classes of ineligible, for example, sex offenders, offenders with a life sentence.

Most states do not credit good time while the inmate is in jail as opposed to prison. This is because good time credits are linked to the notion of rehabilitation and there are rarely rehabilitation programs in jails.

Effects of Good Time:

The general assumption is that good time systems are necessary for the maintenance of order and discipline in the prison. However, there are no systematic data to support this belief.

Studies have confirmed that good time helps control prison population management by releasing inmates earlier than their actual sentence date.

Rehabilitating the Offender:

There have been no studies that confirm that good time contributes to inmate reform. However, research has shown that inmates released early presented only a small risk to public safety. These inmates were no more likely to commit crimes than inmates released either by parole or at their sentence completion date.

Bad Time:

There is very little literature on "bad time" policies in the US. Kansas proposed a "bad time" policy whereby good behavior was the expected norm and negative behavior would be punished by an increase of up to 20% of the inmate's prison sentence. However, this proposal was not implemented.

Prison Programs:

Prison programs are an important aspect of prison life. Inmates who keep active not only improve themselves but are also easier to control. Furthermore, prison programs are proving to be effective and economically viable.

The effectiveness of the educational and vocational skills programs are most notable. By teaching inmates skills in prison, we may be decreasing the likelihood that they will commit new crimes when released. Also, studies show that educational skills tend to increase inmate self-esteem.

Industrial programs can also be very effective. Sales of the inmate's products generate money that can be used to defray some of the prison costs in the state. Prison industries may also teach the inmates skills that can be used after they leave prison.

Programs that focus on the family are very important in maintaining significant relationships for the inmate while in the prison. They may also help the inmate to adjust to life after leaving prison.

COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, January 29, 2008 2:45 PM Room 225

SUPPORT – SB 2343 - RELATING TO PAROLE. PBS.WAM

My name is Ka`iana Haili I am an instructor at Hawai`i Community College and have worked in several fields of rehabilitation for nearly twenty years, including Vietnam Veterans PTSD program, Domestic Violence, Substance Abuse, Mental Health Jail Diversion and Care A Van Homeless programs here in Hilo. I teach Transitional Preparation, Cognitive Skills and Hawaiian Culture at Kulani Correctional Facility and at Hale Nani here on Hawai`i Island.

I am the director of Ke Kahua Pa`a providing rehabilitation programs with cultural and spiritual based curriculum and facilitators. I work with Nā Maka Hāloa 501c3 non profit organization that obtains grants and funding for these programs. In addition, we work with numerous individuals and organizations implementing these programs in Hawai`i and mainland facilities.

We strongly support this bill 6.SB 2343 Earned time is an incentive program, incentive is encouragement and inmates need to be encouraged to succeed. The purpose of earned time originally was to ease overcrowding, but was then recognized as a management tool. Most states have some variation of earned time programs to incentive inmates, focus individuals on their rehabilitation, and help prison management through cooperative innovation.

We all require incentives weather it is through a job offer, a raise, a promotion or education we need to support one another, and research in this area confirms that for today's incarcerated population, incentives are more effective in moving people through the system by providing programming and rewarding people who actively work on their rehabilitation.

Please support this bill and provide support, encouragement and incentive not only to inmates but to all of Hawai`i that our legislation is moving toward innovative rehabilitation.

Mahalo for your conscience determinations

Ka`iana Haili
PO Box 4001
Hilo, HI 96720

khaili@hawaii.edu
808-895-5511

COMMITTEE ON PUBLIC SAFETY

Chair: Sen. Will Espero

Vice Chair: Sen. Clarence Nishirara

Tuesday, January 29, 2008

2:45 PM

Room 225

Bill # SB 2343

Position: Strong Support

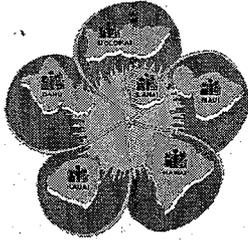
Hello Chair Espero , Vice Chair Nishihara and Members of the Committee

My name is Cathy Tilley and I am a member of the Community Alliance on Prisons and my son is an inmate at Saguaro Correctional Facility in Arizona.

I am strongly in support of SB2343 establishing an earned-time program that provides incentive for inmate to become eligible for parole when they make consistent progress in completing programs while incarcerated.

Many states already do incentive programs. This gives the inmate something to work toward and gives them hope of reuniting with their loved ones sooner. By making people eligible for parole sooner we are also cutting the cost of paying for that inmate to be in the system. It is a win win. The state saves money and the inmate who has worked hard to improve his or her life is reunited with their family sooner.

Sincerely,
Cathy Tilley
621 Pauku St.
Kailua HI 96734 261-3170



**Maui Economic
Opportunity, Inc.**

Est. 1965

99 Mahalani Street
Wailuku, Hawai'i 96793
808-249-2990
Fax: 808-249-2991



**BEST Reintegration Program
Being Empowered
and Safe Together**



COMMITTEE ON PUBLIC SAFETY

Senator Wil Espero, Chair

Senator Clarence K. Nishihara, Vice Chair

Tuesday, January 29, 2008

2:45 PM in Room 225

Re: SB 2343 - Relating to Parole
Earned Time Program is Beneficial to Successful Reintegration

Aloha Chair Espero, Vice Chair Nishihara, and Members of the Committee:

My name is Ken E.K. Hunt, and I am the Program Director of Maui Economic Opportunity's Being Empowered and Safe Together (BEST) Reintegration Program. Over the past five years, BEST has demonstrated that providing comprehensive training and support services to individuals during their incarceration and upon their release into the community is critical to successful reentry.

The BEST Program, in partnership with Maui Community Correctional Center and other community based agencies, provides a broad range of training at Maui Community Correctional Center – from pre-employment training, cognitive skills, hula, culture, family reunification, the Reading Circle (literacy), substance abuse group discussions, HIV/HEP/STD prevention, and more to help men and women develop insight into the circumstances and choices that led to their crimes and to provide them the tools to rebuild their lives. The majority of these classes are not mandatory; yet, participation rates continue to soar year after year. This demonstrates that men and women in prison have a strong desire to better themselves and look for opportunities that will enhance their education, employment, parenting, and life skills to better prepare for their transition home.

The enactment of the Earned Time Program provides an additional incentive for individuals to remain misconduct free and complete as many programs as possible. For those with long minimum sentences imposed by the Hawaii Paroling Authority, Earned Time gives individuals a sense of hope, establishes personal goals, leading to changes in behavior and an earlier chance at freedom. Research has demonstrated that effective programming and treatment, begun early, reduces recidivism and is cost effective. Therefore, providing incentives and granting credit for individuals with good behavior and who have completed their schooling, treatment and/or work release will ultimately have greater opportunities for success, and becoming productive members of a safer community

Mahalo for this opportunity to testify on SB 2343.

Sincerely,
Ken E. K. Hunt
BEST Program Director

LATE TESTIMONY

Andy Botts
Poi Dog Publishers
1920 Ala Moana Blvd. #1104
Honolulu, Hawaii, 96815
www.poi-dogpublishers.com
January 28, 2008

COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, vice chair

Tuesday, January 29, 2008

2:45 PM

Room 225

SUPPORT – Bill SB 2343

Relating to Parole

My name is Andy Botts, author of Nightmare In Bangkok. I strongly support this long overdue incentive. As a regular practice in most U.S. prisons, time off for good behavior is an instrumental tool vital to alleviate overcrowding and recidivism.

Passage of this Bill will satisfy the public attitude of “Do the crime, do the time,” while reducing recidivism. It will also endorse a broader range of re-entry options for the Department of Public Safety, and generate a selection of programs now being considered for the individual needs of prisoners.