

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

**TESTIMONY ON HOUSE BILL 518
RELATING TO COMMITTED PERSONS**

by

Clayton A Frank, Director
Department of Public Safety

House Committee on Public Safety
Representative Faye P. Hanohano, Chair
Representative Henry J.C. Aquino, Vice Chair

House Committee on Labor & Public Employment
Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Wednesday, February 18, 2009; 2:00PM
State Capitol, Conference Room 309

Representative Hanohana, Representative Rhoads, and Members of the both Committee:

The Public Safety Department (PSD) strongly opposes House Bill 518, which seeks to release non-violent offenders that have been sentenced to prison terms into the community and subject them to electronic monitoring. It should be noted that the court already has discretionary authority to release offenders sentenced under HRS 706-622.5 and 706-622.9 and as a requirement of the release, order the offenders to submit to electronic monitoring.

The Department acknowledges that this measure has some merit, but the appropriate use of this type of enhanced supervision tool should remain at the discretion of the court. Once an offender has been sentenced to prison, the Director of PSD, and the Wardens of each facility already have the discretionary authority to place low risk offenders that are in

community custody on "extended furlough" in the community. This type of discretionary release does not require the use of electronic monitoring devices. Therefore, PSD sees no need to add to the State's fiscal difficulties with an additional long-term expenditure that is both unnecessary and is already being used at the discretion of the court.

The Department appreciates the intent of his measure; however, given the current fiscal difficulties coupled with the fact that this type of enhanced supervision tool is already used as an alternative to incarceration, PSD respectfully request this bill be held.

Thank you for the opportunity to testify on this matter.



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

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CHAIR

DANE K. ODA
MEMBER

ROY W. REEBER
MEMBER

MAX OTANI
ADMINISTRATOR

No. _____

TESTIMONY ON HOUSE BILL 518
RELATING TO COMMITTED PERSONS

HAWAII PAROLING AUTHORITY
Albert Tufono, Chairman

COMMITTEE ON PUBLIC SAFETY
Representative Faye P. Hanohano, Chair
Representative Henry J.C. Aquino, Vice Chair

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Wednesday, February 18, 2009, 2:00pm
Hawaii State Capital, Conference Room 309

Chair Hanohano, Chair Rhoads, and Committee Members

The Hawaii Paroling Authority vehemently objects to the passage of House Bill 518 authorizing the Department of Public Safety and Hawaii Paroling Authority to release nonviolent committed persons subject to wearing electronic monitoring devices. It should first be noted that the Hawaii Paroling Authority considers numerous factors, in addition to the commitment offense, before parole is granted. Factors such as treatment received while incarcerated, prison adjustment, any prior parole history, and supportive parole plan are variables that contribute to whether a parolee will recidivate or not. A decision to release based on the commitment offense could pose a risk to public safety. Options such as drug court, probation and electronic monitoring are often inadequate in providing sufficient rehabilitation resulting in further administrative and supervisory delays and expenses.

Electronic monitoring as an alternative program merely delineates a geographic location but does not restrict the potential for additional criminal activity.

Although the costs of electronic monitoring and other alternative programs may be considerably less than incarceration, the risks of such programs for public safety may be minimized at the probation stage rather than as a direct substitute for incarceration.

Under current sentencing laws, nonviolent first time felons are afforded several sentencing option in lieu of prison. The initiative to divert persons from incarceration proposed in the bill may benefit agencies that supervise these offenders more than the Department or the paroling authority.

It should also be noted that language identifying the parole authority under section (c) and (5) of this bill is not underscored and not present in the current law.

Thank you for this opportunity to testify.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

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COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Wednesday, February 18, 2009

Room 309

2:00 P.M.

STRONG SUPPORT – HB 518 – Electronic Monitoring

PBSTestimony@capitol.hawaii.gov

Aloha Chair Hanohano, Vice Chair Aquino and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 518 authorizes the Department of Public Safety and the Hawai'i Paroling Authority to release nonviolent committed persons subject to wearing electronic monitoring devices.

Community Alliance on Prisons is in strong support of HB 518. The data confirms that long prison sentences, especially for non-violent lawbreakers, are counter-productive. These austere economic times present us with a great opportunity to re-think what we are doing and analyze what is working and what isn't. The majority of Hawai'i's lawbreakers are non-violent and are incarcerated for drugs or drug-related crimes. Again, the data show that what works for drug offenders are incentives, not sanctions. Knowing this, electronic monitoring presents an incentive for non-violent individuals to stay on track.

This bill also can help our ailing economy because it would save more than a million dollars a year if we released 100 nonviolent felons and put them into the electronic monitoring program. This would give individuals a chance to reenter the community, rebuild their lives and reunify with their families. It would also enable us to build a strong programming component for Hawai'i facilities, enabling us to bring back our people to refurbished prisons and improved programming.

Let's try every available option to help individuals safely and successfully reenter the community. Please pass HB 518 in the interest of reducing recidivism, protecting public safety, and assisting individuals who are working to rebuild their lives.

Mahalo for this opportunity to testify.

HB 518 RELATING TO COMMITTED PERSONS

Authorizes department of public safety and Hawaii paroling authority to release nonviolent committed persons subject to wearing electronic monitoring devices.

COMMITTEE ON PUBLIC SAFETY

Rep. Faye P. Hanohano, Chair

Rep. Henry J.C. Aquino, Vice Chair

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair

Rep. Kyle T. Yamashita, Vice Chair

DATE: Wed., February 18, 2009

TIME: 2:00 p.m.

PLACE: Conference Room 309

Hawaii Substance Abuse Coalition (HSAC)

Aloha, Chairs Hanohano and Rhoads, Vice Chairs Aquino and Yamashita, and distinguished members. My name is Alan Johnson, Chairperson of the Hawaii Substance Abuse Coalition, which is a hui of 22 treatment agencies throughout the state.

HSAC supports HB 518 with Recommendations

Electronic Monitoring combined with proper assessments and PSD/community partnerships can reduce costs and improve outcomes. HSAC recommends that such plans include systems integration at all levels of planning and implementation. Cooperative networks can reduce costs and improve outcomes.

Electronic monitoring helps ease jail overcrowding, saves money, and protects the public.

As our economy continues to decline and crime is on the rise, many states are examining ways to address the seemingly mutually exclusive goals of better protecting the public – while having to manage more offenders with less money.

The expense of housing record numbers of people is crippling state budgets and costing taxpayers millions of dollars. Between 1987 and 2007, the national prison population nearly tripled. Today, 1 in every 100 adults in the U.S. is incarcerated in a jail or prison. The sheer volume of their prison populations has forced states to shift budget priorities, and many are now spending more on incarceration than on education.

One point to consider is that there is a significant link between alcohol, substance abuse and crime. Despite the passage of laws incorporating significant jail and prison terms, Americans continue to use illegal drugs and alcohol at an alarming rate because the underlying cause of the problem – addiction – is not being adequately addressed.

Electronic monitoring in partnership with treatment, reentry programs, vocational rehabilitation and other community based programs can work together to reduce the prison population, protect the public from crime, and lead to productive, tax paying citizens.

Advantages:

- Effectively and remotely monitor those offenders who are not a threat to the community when clean and sober, and can be released under electronic supervision
- Provide a bridge to help offenders safely re-enter the community
- Ensure rehabilitation when coupled with appropriate treatment
- Allow the offenders to maintain family obligations, hold jobs, and contribute positively to the community while being monitored
- Save a significant amount of money, as it is much cheaper than jail or prison

Recommendations:

Create a Task Force to Develop Partnerships for Systems Integration

A coordinating task force comprising of all stakeholders at the local level can be a key element in systems integration. This coordinating task force will work with staff providing re-entry planning to identify and remove barriers to successful re-entry.

Tilling the Soil for Re-entry: System Integration

Re-entry or transition planning can only work if justice, substance abuse systems, and community have a capacity and a commitment to work together.

Good re-entry planning for inmates requires a division of responsibility among prison, substance abuse providers and community providers that starts with proper screening and assessments of appropriate offenders including identifying potential intervention points and stabilization issues in the transition planning.

The results will only be as good as the correctional-behavioral health partnership in the community.

In general, integration of criminal justice, mental health and substance abuse systems can reduce duplication of services and administrative functions, freeing up scarce resources that can be used to provide transition planning and assist inmates in their re-entry to community. Mechanisms for creating this interconnected network will include the following:

- new relationships among service organizations to coordinate the provision of services,
- the accurate recording of service provision,
- management information systems (with information sharing as permitted confidentiality requirements), and

- staff training.

Working partnerships among probation, neighborhood businesses, and service providers can also develop opportunities for the ex-inmates to participate in restorative and therapeutic activities and community service projects.

The APIC Model, as defined by SAMHSA, is a model that could provide infrastructure for reentry programming.

The APIC Model	
Assess	<i>Assess the inmate's clinical and social needs, and public safety risks</i>
Plan	P lan for the treatment and services required to address the inmate's needs
Identify	I dentify required community and correctional programs responsible for post-release services
Coordinate	C oordinate the transition plan to ensure implementation and avoid gaps in care with community-based services.

System integration is not an event, a document, or position. It is an ongoing process of communicating, goal setting, assigning accountability, evaluating and reforming. Most important is collaboration among providers and understanding that some ex-inmates will return to custody, and thus re-entry can be seen as part of a cycle of care.

Fred Osher, M.D., Henry J. Steadman, Ph.D., Heather Barr, J.D., M.A (2002).; "A Best Practice Approach to Community Re-entry" Funded by Substance Abuse Mental Health Services Administration, SAMHSA's Center for Substance Abuse Treatment, CSAT, and Center for Mental Health Services, CMHS. The APIC Model: Delmar, NY, The National GAINS Center.

We appreciate the opportunity to provide information and are available for questions, if needed.



the
**Drug Policy
Forum**
of hawai'i

February 18, 2009

To: Representative Faye Hanohano, Chair
Representative Henry Aquino, Vice Chair
And Members of the Committee on Public Safety

From: Jeanne Ohta, Executive Director

RE: HB 518 Relating to Committed Persons
Hearing: February 18, 2009, 2:00 p.m., Room 309

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in support of HB 518 which establishes a pilot program on Oahu that electronically monitors committed persons who are permitted to live and work in the community in lieu of continued incarceration.

This proposal is an alternative to our expensive and failed policy of incarceration. Since a majority of the prison population is non-violent and classified as minimum or community custody, this is a way to place sanctions, restrict movement, but allow participation in the community and the workplace.

As our state faces difficult financial times, it is an opportunity for us to examine and implement programs other than medium and maximum security prisons. Incarceration is extremely expensive, costs are growing, and the rates of incarceration are also growing. Since a large part of those costs are for prison security, methods such as electronic monitoring would place restrictions on non-violent offenders, while not increasing the threat to public safety.

Please pass HB 518. This pilot program deserves the chance to be implemented.

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COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Wednesday, February 18, 2009

2:00 PM

Room 309

SUPPORT WITH AMENDMENT: HB 518 RELATING TO COMMITTED PERSONS Electronic Monitoring of Persons under Legal Supervision

Aloha Chair Hanohano, Vice Chair Aquino, and Members of the Committee:

My name is Carrie Ann Shirota, and I am writing in support of HB 518. I am an attorney on the island of Maui and have previously worked as a Public Defender, Civil Rights Enforcement Attorney, and staff member of a reentry program on Maui. I am also an active member of Community Alliance on Prisons. These experiences have shaped my advocacy efforts to promote accountability and transparency within our correctional system.

HB 518 authorizes the Department of Public Safety and Hawaii Paroling Authority to release nonviolent committed persons subject to wearing electronic monitoring devices.

It is refreshing to see the introduction of criminal justice bills that focus on diversion rather than prison expansion. This bill rests on the premise that prison expansion is not prison reform. Reducing the number of people locked up is the key to reform. *See The State of Sentencing 2007: Developments in Policy and Practice.* The Report highlights state legislative efforts to “address prison overcrowding, reform parole and probation supervision, expand drug sentencing diversion and establish reentry assistance” and most effectively allocate resources to maximum public safety.

According to PSD’s Classification Report relating to the new Classification System, females are projected to comprise 44% of the community custody designation, and males are projected to comprise 30.1% community custody. The proposed bill would allow individuals that pose little risk to reside in the community while under legal supervision and electronic monitoring. This would also allow individuals to work in the community and care for their families, and reduce the astronomical costs associated with warehousing men and women in prison (approximately \$40,000 per person annually).

AMENDMENT. This bill only authorizes PSD and HPA to release nonviolent committed persons subject to wearing electronic monitoring devices. The reality is that individuals convicted of “violent crimes” will also be released into the community after serving lengthy sentences. Rather than focusing on the type of crime, the focus should be on releasing individuals that are deemed “low risk” as identified by criminogenic instruments and other factors (i.e. gender responsive considerations, reentry support, etc.). Accordingly, PSD should have the authority to release all persons using electronic devices as an alternative to sentencing. Similarly, PSD and HPA should have the authority to release all persons, including persons convicted of violent crimes identified as “low risk” in

preparation for work furlough, extended furlough or parole supervision, as part of a comprehensive strategic approach to reduce prison overcrowding.

The Legislature should also consider expanding this bill to mandate the Department of Public Safety and Hawaii Paroling Authority to grant early discharge to those individuals that pose little risk and have demonstrated a commitment to living in the community as law-abiding members while under parole supervision. This approach would be one component of a comprehensive plan to reduce prison overcrowding and return individuals home to Hawai'i.

Mahalo for this opportunity to submit testimony in support of HB 518, with the proposed amendment.

Respectfully submitted,

Carrie Ann Shirota, Esq.
Wailuku, Hawai'i 96793
cashirota@aol.com

Respectfully submitted,

Carrie Ann Shirota, Esq.
Wailuku, Hawai'i
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COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Wednesday, February 18, 2009

Room 309

2:00 P.M.

STRONG SUPPORT

HB 518 – Electronic Monitoring Devices

PBSTestimony@capitol.hawaii.gov

Chair Hanohano, Vice Chair Aquino and Committee Members:

I am writing in strong support of HB 518 which initiates an electronic monitoring pilot project as an alternative to incarceration for nonviolent offenders.

Especially in these difficult economic times, electronic monitoring would be a cost-effective way to save taxpayer dollars and at the same time provide nonviolent offenders with a certain degree of oversight.

Through the electronic monitoring pilot project, nonviolent offenders will have a chance to become contributing members of their communities with guidance from criminal justice personnel. Since institutionalization would only serve to estrange inmates from their communities, it is good public policy to provide a more effective alternative.

Mahalo for considering this innovative and promising project.

Sincerely,

Diana Bethel

1441 Victoria St.

Honolulu, Hawaii 96822

TO: COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair
Rep. Henry Aquino, Vice Chair
Wednesday, February 18, 2009
2:00 PM
Room 309, Hawaii State Capitol

RE: Testimony in Support of HB 518 Relating to Electronic Monitoring Devices

FROM: Atty Daphne Barbee-Wooten, African-American Lawyers Association
1188 Bishop Street, Suite 1909, Honolulu, Hawaii 96813, (808) 533-0275

Dear Chair Hanohano and Committee Members:

My name is Attorney Daphne Barbee-Wooten and I am testifying on behalf of the African-American Lawyers Association in support of HB 518 to release nonviolent committed inmates in the community with electronic monitoring devices. The prison population is bursting at the seams as recent testimony by the Department of Public Safety indicates. Instead of continuing to lock up persons who have committed nonviolent offenses such as trespassing, homeless in the park, sleeping in the park, shoplifting food to eat, and other nonviolent offenses, electronic monitoring is an effective and cost-efficient way to punish a person. For example, if a person is found guilty of trespassing, instead of locking him/her up in jail for one year, electronic monitoring will ensure the person will not go back to the premises trespassed and is more cost-efficient, especially when the person has a job and is working and paying taxes. The Department of Public Safety could charge the cost of the electronic monitoring to the person who has to wear it. This saves the State money and assists in easing the overcrowding of the prisons. Please pass this bill.

Dated: Honolulu, Hawaii

2-17-2009



Daphne Barbee-Wooten
Attorney at Law