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GOVERNOR



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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1148. SD2  
RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM

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

Thursday, March 19, 2009; 8:30AM  
State Capitol, Conference Room 309

Representative Hanohano, Representative Aquino, and members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill 1148, SD2, which amends several key sections of ACT 8, First Special Session Laws of Hawaii 2007, also known as the Community Safety ACT of 2007, and addresses the wide range of concerns PSD and other Departments have previously expressed to the legislature.

The Department respectfully requests the following amendments to SB 1148:

1. Section 1(c)(Page 7, Line 9 thru Line 11) – Currently reads “By December 31, 2010, the maximum number of Hawaii inmates who are housed in out-of-state prisons shall not exceed two thousand.” **Requested amendments** “Delete the entire last sentence that begins on line 9 and ends on line 11.” At present, the Department’s contract allows at least 2,100 inmates to be housed in the three facilities currently used (Saguaro, Red Rock, and Otter Creek). Any limit placed on the number of Hawaii inmates housed in out-of-state prisons is ill advised.

Given the state's current economic outlook and the potential for an increase in property crimes, theft cases, motor vehicles break ins, motor vehicle thefts, and unfortunately, domestic violence cases, limiting the number of inmates housed in out-of-state prisons would place an even greater burden on our in state correctional facilities.

The

Department is already experiencing an increase in the number of pre-trial detainees across the State in our custody, that either cannot raise the bail required to be released and/or have no place to go if they are released into the community.

At present there are over 19,000 offenders on probation statewide. On any given day, there are thousands of these probationers facing possible revocation and re-sentencing to jail and/or prison terms. If only 5% of the probation population were re-sentenced to jail and/or prison that would equate to an increase of at least 950 offenders being sent to our jails and prisons, which would overwhelm the correctional system.

In addition, there are over 1,900 convicted felons on parole statewide. On any given day, the Hawaii Paroling Authority (HPA) has an average of 180 to 220 outstanding active warrants to retake parolees that pose an undue risk to the public's safety. If executed, each warrant requires the arrest and at least temporary re-incarceration of the parolee pending the outcome of his/her parole violation hearing and/or adjustments to the terms and conditions of parole.

Restricting the number of inmates that can be housed in out-of-state prisons will lead to greater overcrowding and create inhumane living conditions, which only invites intervention from the U.S. Department of Justice. Hawaii's in-state correctional facilities are already operating at or beyond their designed capacity. In an article reported in the Honolulu Advertiser on Tuesday, February 10, 2009, "A special panel of federal judges tentatively ruled on Monday, February 9, 2009, that California must release tens of thousands of prison inmates to relieve overcrowding." In part, the federal judges noted that no other solution would improve conditions. The mandatory release of offenders in California is without regard to completion of rehabilitative programs, the level of risk

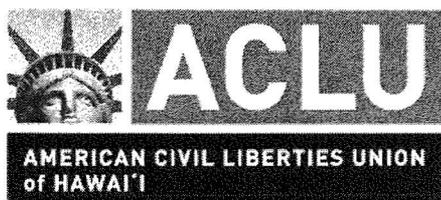
the offender may pose to the community, including the victim(s) of their crimes, etc. It is important to remember that the PSD only takes those persons into custody that we are ordered to by the court and/or parole violators that pose an undue risk to public safety. If enacted, this measure could potentially force the State to ultimately release untreated, unhabilitated dangerous offenders into the very communities they victimized.

2. Section 2(a)(b)(c)&(d) (Page 16, Line 9 thru Page 17, Line 16) – Seeks to establish a reentry commission within the Department of Public Safety effective January 1, 2010, provides provisions for appointing commission members, most of which would likely have little to no experience working in corrections, provides for the frequency of commission meetings, and requires the reimbursement of expenses, including travel expenses, but does not provide any funding to carry out the provisions of this measure. **Requested amendments** “Delete Section 2 in its entirety beginning on page 16, line 9 thru page 17, line 16.” Section 2 is unnecessary, appears to micro manage the Department, and is wasteful.

At present, Department is currently developing a re-entry committee consisting of senior corrections, program, and Hawaii Paroling Authority managers, line staff, and senior managers from both the Judiciary and the Federal Probation Office in Honolulu. It is also our intent to include community-based program managers that provide services to offenders on both probation and paroles, and those that provide services to offenders completing their sentence(s) incarcerated.

Further, the duties and functions of the Department’s proposed re-entry committee may be best served if overseen by the Corrections Population Management Commission (HRS §353F), which is already established and meets quarterly. Therefore, the PSD respectfully requests that this measure be held.

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



Via E-mail: PBSTestimony@Capitol.hawaii.gov  
Committee: Committee on Public Safety  
Hearing Date/Time: Thursday, March 19, 2009, 8:30 a.m.  
Place: Room 309  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 1148, SD2, Relating to the Comprehensive Offender Reentry System

Dear Chair Hanohano and Members of the Committee on Public Safety:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 1148, SD2.

The ACLU of Hawaii supports every effort to develop a comprehensive reentry system. In general, reentry programs are far more cost-effective – and far more effective at reducing recidivism – than incarceration. Every effort should be made to provide Hawaii’s inmates with the support and services they need to become productive and responsible community members. Reorganizing the Department of Public Safety to ensure a clear focus on reentry and reintegration is a tangible step towards that goal.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
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## COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, March 19, 2009

8:30 AM

Room 309

### SUPPORT with Amendment

**SB 1148 SD2 - Relating to Hawai'i's Comprehensive Reentry System**

[PBSTestimony@capitol.hawaii.gov](mailto: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.

SB 1148 SD2 clarifies various provisions of the comprehensive offender reentry system; mandates written reentry plans; limits the maximum number of Hawaii inmates housed in out-of-state prisons to 2,000 by 12/31/2010; establishes a reentry commission; sunsets the legislative oversight committee on July 1, 2009.

Community Alliance on Prisons supports this measure with one small-kine amendment that would add an eleventh member to the Reentry Commission. This member would be a formerly incarcerated person who has successfully reintegrated into the community. We believe that this member would be an asset to the Commission.

Mahalo for this opportunity to testify in support of SB 1148 SD2.



the  
**Drug Policy  
Forum**

March 19, 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: SB 1148 SD2 Relating to Offender Reentry System  
Hearing: March 19, 2009, 8:30 a.m., Conference Room 309

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii. Thank you for this opportunity to testify in support of SB 1148 SD2 which amends and clarifies the comprehensive offender reentry system.

This measure establishes limits on the number of Hawai'i inmates housed in out-of-state prisons. With this limit established, the Department of Public Safety would need to ensure that effective programs are implemented, that recidivism is reduced, that persons with community level status are placed in community-based programs, and that reentry programs are fully implemented. These alternatives save money.

DPFH supports the Reentry Commission which provides input from the community, law enforcement and a formerly incarcerated person.

Difficult economic times behoove policymakers and state agencies to implement programs that are cost-effective and beneficial. Placing non-violent drug offenders into treatment programs costs less than medium-security incarceration and provide for better outcomes. We cannot continue to house drug offenders and not provide them with needed treatment.

In 2004, a report by the Department of Health to the Joint House-Senate Ice Taskforce reported that less than 7% of those under the jurisdiction of Hawai'i's criminal justice system received the drug treatment that they needed. Focus must be placed on the right programs so that incarcerated men and women can return successfully into society.

Strong reentry programs help individuals rebuild their lives, restore their families, and revitalize their communities. We urge passage of SB 1148 SD2.

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**SB1148 RELATING TO COMPREHENSIVE OFFENDER REENTRY SYSTEM**  
Clarifies various provisions of the comprehensive offender reentry system; mandates written reentry plans; establishes limits on the maximum number of Hawaii inmates housed in out-of-state prisons; establishes a reentry commission; sunsets the legislative oversight committee on July 1, 2010.

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

DATE: Thursday, March 19, 2009  
TIME: 8:30 a.m.  
PLACE: Conference Room 309

## **Hawaii Substance Abuse Coalition (HSAC)**

Aloha, Chair Hanohano, Vice Chair Aquino 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 SB1148 SD2**

HSAC applauds the Legislature for recognizing that huge cost savings could be realized by diverting low risk, non-violent drug addicts into treatment.

*Essential will be a partnership among community-based providers and Public Safety to include the use of proper assessment tools to ensure there is minimal risk and to ensure that the reentry systems have treatment for criminality as well as continuity of care for treatment for addiction.*

### **Cost Saving Ideas**

Communications, cooperative planning, the use of peers, volunteers, and mentors, and other creative strategies need not be expensive and can be effective ways to fill the service gaps.

*An excerpt from SAMHSA TAP 24 "Specific Treatment Approaches for Women Offenders, pg. 35 follows:*

## **Community-based Systems Models that are available resources to help PSD Systems**

# 1 Treatment Accountability for Safer Communities (TASC) TASC,

begun during the 1970s by the Bureau of Justice Assistance, is now a widely used model for bridging the gap between criminal justice agencies (courts and probation) and the treatment providers.

# 2 Integrated Management Information Systems CSAT, through its Target

Cities initiative, provides discretionary funding to develop infrastructure planning in major metropolitan areas. The approach of the CSAT Target Cities program is to develop an infrastructure that will support coordination, communications, and information sharing across the network. The projects focus on developing such integrating mechanisms as centralized intake units (CIUs) and management information systems.

# 3 Community Networks Late in 1995, CSAT awarded eight cooperative

agreements to develop and implement a sophisticated new concept— criminal justice treatment networks. This demonstration program involves consortia led by a local court or community corrections agency, which also include substance abuse treatment agencies and a range of health and mental health organizations. This holistic approach represents an intensive effort to build and strengthen networks made up of diverse organizations and systems that have conflicting goals, varied management and operating philosophies, and differing realities. Each network is developing an automated management information tracking system to document the progress of both programs and individual offenders. The most effective models—those that expand services in a cost-effective way and show enhanced treatment outcomes in reduced drug use, lower recidivism, and improved social functioning—will be appropriate for replication. The models selected for replication will include intake screening and assessment and will provide a continuum of care that includes case management, primary health and mental health care, and other supportive services.

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



COMMITTEE ON PUBLIC SAFETY  
Rep. Faye P. Hanohano, Chair  
Rep. Henry J.C. Aquino, Vice Chair  
Thursday, March 17, 2009  
8:30am  
Room 309

COMMENTS  
SB 1148 SD1 RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM

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

My name is Carrie Ann Shirota, and I am writing to share comments on SB 1148 SD1 Relating to the Comprehensive Offender Reentry System. My experiences as a former Public Defender and staff member of a reentry program on Maui, and member of Community Alliance on Prisons have shaped my advocacy efforts to promote accountability and transparency within our correctional system. Each of us has a stake in providing rehabilitation opportunities to help individuals better prepare for their release from prison as law-abiding, contributing members of their `ohana and community.

**Facility Space.** The bill clarifies that there must be facility space before bringing individuals back home. My concern is that the Department of Public Safety will rely upon this provision to justify their failure to return our people home in a timely manner under Act 8, unless more prisons are built at home. We know from experience that building more prisons is NOT the solution. Yet, PSD has continued to advocate for new prisons in the form of "tents" rather than diverting those funds for alternatives to prison and treatment, and early release for low risk individuals – solutions that have proven to work by independent research.

**Reentry Commission.** As drafted, the bill provides the Governor the ability to appoint the majority of members of the Reentry Commission. My concern is that the Reentry Commission will just add another layer of bureaucracy, particularly since the members are not required to have any special expertise or knowledge of reentry. Rather than creating a Reentry Commission, I believe it would be more cost effective to establish an **INDEPENDENT OVERSIGHT COMMISSION.**

Significantly, a growing number of United States jurisdictions have established independent Oversight Committees to ensure public and private facilities which confine individuals for alleged or adjudicated crimes meet their legal obligation to ensure constitutional conditions of confinement. See "Opening Up a Closed World: What Constitutes Effective Prison Oversight" Conference sponsored by the Lyndon B. Johnson School of Public Policy at the University of Texas-Austin, <http://www.utexas.edu/lbj/prisonconference/index.php>. Additionally, the Report of the Commission on Safety and Abuse in America's Prisons (June 2006) included a call for oversight and accountability through external oversight. See [http://www.prisoncommission.org/pdfs/Confronting\\_Confinement.pdf](http://www.prisoncommission.org/pdfs/Confronting_Confinement.pdf).

Similarly, in August 2008, the American Bar Association approved a policy recommendation requesting federal and state governments to establish public entities independent of any correctional agency to regularly monitor and report publicly on the conditions in all correctional facilities.

An Independent Oversight Committee will help to achieve transparency of public and private institutions and accountability for the operation of safe and humane jails and prisons for both incarcerated persons and staff. In addition, the Committee would help to ensure that public officials meet their legal obligations to provide conditions of confinement that comply with state and federal laws.

**Capping the Number of Out of State Transfers.** The proposed bill limits the maximum number of Hawaii prisoners housed in out of state prisons to 2,000 by 2010. That number is too high! We should aim to reduce the number of transfers, rather than giving PSD permission to increase the number of transfers. A number of States have reduced out of state prisoner populations by taking a multi-faceted approach – diverting individuals to substance abuse programs, early release, and building more prisons (which I oppose). PSD should consult with other states, such as Wisconsin and Washington, that have comprehensive plans to return their prisoners home. If we have the will, we will find a way to do what is right – and that is providing reentry services and programs at home, where individuals will be closer to their families and sources of support.

Thank you for the opportunity to submit comments on SB 1148 SD1.

Respectfully submitted,

Carrie Ann Shirota, Esq.  
Wailuku, Hawai'i 96793  
(808) 269-3858

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday March 19, 2009

Room 309

8:30 am

Aloha Chair Hanohano, Vice Chair Aquino, and members of the committee,

My name is Peter Gellatly. I am the president of Better Media and represent the local community on the state's Corrections Population Management Commission. I also am honored to be working on public safety issues within the Interagency Council on Intermediate Sanctions.

My greatest value in this and any public safety discussion, if there is any, lies in my orientation as a results-driven businessman. There are differences, of course, between private and public sector concerns, but both require business plans featuring goals and deadlines. In this context, we need to ask a simple question:

Is the Legislature and/or the Department of Public Safety going to pay attention to, and act upon, what the Reentry Commission proposes?

If so, this is an excellent bill which should become law. Ideally there would be an odd number of participants, including an ex-offender.

If not, don't waste time creating a baby-sitting service for the Department of Public Safety. There is a law on the books. PSD needs to follow it. The Legislature needs to make sure it is followed.

We are in a time of crisis, when economic conditions handicap individuals exiting prison more than ever. The correct way to protect them -- and our community -- is by following the common-sense, results-oriented path laid out in Act 8. There is no ambiguity in the law, nor should there be excuses for not following it. If the Commission is necessary to achieve this aim, please pass this bill ... and then honor it.

Thank you very much.

aloha,

Peter Gellatly