LATE TESTIMONY

For: **RELATING TO PROBATION.** Clarifies the permissible divulging of adult probation records by probation officers to treatment service providers.
To: COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS:
Representative Henry Aquino, Chair; Representative Ty Cullen, Vice Chair
Time: Thursday, March 17th, 2011, 8:30: AM, Conference Room 309

Aloha House, Inc. – Paia, HI 96779

TO: Chair Aquino, Vice Chair Cullen and Distinguished Committee Members: My name isJud Cunningham, speaking on behalf of Aloha House, Inc. , a provider of substance abuse treatment and prevention services.

Aloha house, Inc. supports SB 1067:

Summary: Substance abuse treatment providers want to receive offender risk information from the Judiciary as part of admission. Currently, providers receive the risk information from the Judiciary after treatment, which often results in some weeks after. Given that providers already receive much more sensitive information during admission such as psychiatric evaluations, medical reports, history of use and other reports, there are confidentiality practices already in place. However, offender risk information is also needed during admission to determine high risk vs. low risk since the criminogenic needs are different, requiring different treatment objectives and behavioral approaches that need to be started at the beginning of treatment. Also, it is not best practices to mix high risk offenders with low risk offenders and not all agencies provide high risk offender treatment so the information is needed to match offenders with the most appropriate programs and services.

Explanation: While a multitude of sensitive medical information about a potential offender seeking admission to treatment agencies is shared during the intake process, a law prevents the sharing of criminal risk information by the Judiciary to treatment agencies until after admission. This risk instrument, LSI-R, is used by the Judiciary to determine level of risk for criminality – high, moderate and low.

This information is critical during admission (not after) to determine applicability for the particular treatment agencies, and if applicable, is used to immediately design the individualized treatment plan. Not having this information, the offender may be admitted to a treatment program that is not best suited for their needs or else if appropriate, the lack of information results in a substandard treatment plan.

Currently, treatment agencies receive extensive medical information, psychiatric diagnosis, and other information. During the assessment, the intake counselor gathers volumes of data about behavioral history, work history, drug use history, and personal relationship history. All of this information is used to determine whether to admit the person and if admitted, to determine level of care as well as design the individualized treatment plan.

While the Judiciary is allowed to share this risk information after admission, it is much later, which means the offender may be admitted to a program that is not best suited for their needs. Also, according to the Judiciary, it is better in treatment to not mix a high risk offender with lower risk offenders. To discharge a client as inappropriate from a program because the Judiciary risk information determines them to be high risk in a low risk program is hurtful to the offender.

Also, to not have this information during admission, a treatment plan can not address risk factors such that the offender does not receive programmed approaches that could have helped the offender cope with their risk tendencies such as aggression and dominance. Typically, offenders are either not aware of their risk factors or may not be forthcoming during the initial interview. Moreover, probation officers may be overwhelmed and many do not have the time to submit risk information after admission.

All information, whether received during admission or after admission, is protected under federal confidentiality laws including HIPAA and federal regulations 42CFR Part 2. There are enforcement provisions if a provider is not compliant. Such laws apply whether the offender is admitted or not.

Conclusion: In summary, the risk information is shared already. Other information that is much more sensitive is already shared during admission. This change in law is a matter timing – the information would be shared during admission as opposed to after admission. There are compelling treatment reasons to disclose such information during admission as a means to improve treatment services. Such information, whether during or after admission, is already heavily protected by Federal confidentiality laws.

We appreciate the opportunity to provide this written testimony.