

JAN 25 2012

A BILL FOR AN ACT

RELATING TO PRISON LITIGATION.

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

1 SECTION 1. Chapter 661, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

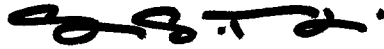
4 "§661- Exhaustion of administrative remedies; action by
5 prisoners, when limited. (a) No action shall be brought in any
6 state court with respect to prison conditions, under any state
7 or federal law, by a prisoner confined in any jail, prison, or
8 other correctional facility until such administrative remedies
9 as are available are exhausted.

10 (b) As used in this chapter, the term "prisoner" means any
11 person incarcerated or detained in any facility who is accused
12 of, convicted of, or sentenced for violations of criminal law or
13 the terms and conditions of parole, probation, pretrial release,
14 or diversionary program. The term does not apply to juveniles
15 incarcerated in youth correctional facilities."

16 SECTION 2. New statutory material is underscored.
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S.B. NO. 2735

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

2 INTRODUCED BY: 

3 BY REQUEST

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5

S.B. NO. 2735

Report Title:

Prison Litigation

Description:

Requires prisoners to exhaust administrative remedies before bringing a civil court action.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: ATTORNEY GENERAL

TITLE: A BILL FOR AN ACT RELATING TO PRISON LITIGATION.

PURPOSE: The bill creates a state law equivalent to a portion of the Prison Litigation Reform Act of 1995 (PLRA), Pub. L. No. 104-134, 110 Stat. 1321, relating specifically to the portion of the PLRA codified as 42 U.S.C. § 1997e(a), that requires prisoners to exhaust the administrative remedies available to them before they can bring an action based on prison conditions in state court.

MEANS: Add a new section to chapter 661, Hawaii Revised Statutes.

JUSTIFICATION: Congress enacted the Prison Litigation Reform Act of 1995 (PLRA) in 1996 in the wake of a sharp rise in prisoner litigation in federal courts. The PLRA contains a variety of provisions designed to bring this litigation under control. One of those provisions requires that a prisoner exhaust all available administrative remedies for any suit challenging prison conditions. The purpose of this provision was to allow the correctional facilities the time and opportunity to address complaints internally before allowing the initiation of a federal lawsuit. In some instances, the corrective action taken in response to an inmate's grievance would satisfy the inmate as well as improve prison administration, obviating the need for litigation. It was also recognized that, in some cases, internal review would filter out some frivolous claims.

This bill would similarly require inmates to avail themselves of the internal administrative process to allow the

correctional facility to address the inmates' complaints before a lawsuit can be filed in state court. Inmates would still be allowed to file suit, but only after they have completed the available administrative review process and were dissatisfied with the result. In this way, lawsuits can be avoided if an inmate is satisfied with the result of the administrative process.

Impact on the public: Since lawsuits will be reduced, the public in general will benefit from the savings of public funds.

Impact on the department and other agencies: This bill will reduce the number of lawsuits filed against the State and the Department of Public Safety since it will require prisoners to attempt to first seek a resolution to their complaints through the administrative process rather than immediately filing a lawsuit.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	Department of Public Safety and the Judiciary.
EFFECTIVE DATE:	Upon approval.