



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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TESTIMONY ON SENATE BILL 2248 SD2 HD2
RELATING TO PUBLIC SAFETY

by
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Tuesday, April 3, 2012; 5:00 P.M.
State Capitol, Conference Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 2248 SD2 HD2 and appreciates the Legislature's efforts to providing a statutory medical release process in the best interest of our ill, geriatric, and disabled inmates. The Department presently provides for a similar "compassionate release" recommendation process and supports the intent of SB 2248 SD2 HD2, but strongly opposes the measure in its present form.

The Department requests the following amendments to the measure:

1. **Page 4 (line 1)** – Delete "~~costly or~~"
2. **Page 4 (line 4)** - Replace "may" with "shall"
3. **Page 4 (line 5)** – Delete "~~, an inmate or the inmate's representative~~"
4. **Page 4 (line 6)** - Replace subsection (c) with "Requests for medical release shall contain the following information:"
5. **Page 5 (line 15)** – Delete subsection (d), "~~(d) If a request is made by an inmate or the inmate's representative, the request shall state the grounds for the requested release and shall contain a statement as to where the inmate will~~"

~~reside if released, who will care for the inmate, and how the inmate plans to obtain medical care.~~

~~All requests initiated by an inmate shall be referred to the director immediately. Within twenty days of receiving the request the department shall submit a medical release report to the paroling authority containing the information under subsection (c)."~~

6. **Page 6 (line 3)** – Relabel section (e) to section (d) "The paroling authority..."
7. **Page 6 (line 6 through 8)** – Delete "The inmate and the inmate's representative shall be permitted to participate in the hearing and submit medical and other evidence in support of the request."
8. **Page 6 (line 17)** – Relabel section (f) to section (e) "The paroling authority..."
9. **Page 6 (line 19)** – Relabel section (g) to section (f) "A denial of..."
10. **Page 7 (line 3)** – Relabel section (h) to section (g) "The director..."
11. **Page 7 (line 7)** – Relabel section (i) to section (h) "The department..."
12. **Page 7 (line 11)** – Relabel section (j) to section (i) "The department ..."

Persons in the custody of the Department are the patients of the Departmental physicians. The Department's physicians become these patients' Primary Care Providers (PCP) and work with community specialists to provide appropriate medical services. Compassionate release recommendations are made in the best interest of these patients and their families and are based on the medical evidence provided by the PCP and consulting specialists. The medical release criteria as defined by this measure will broaden the types of medical, geriatric, and disability cases that would be able to receive a Departmental recommendation.

SB 2248 SD2 HD 2 provides the inmate or inmate's representative with a formal medical release recommendation process, which will result in recommendations that exaggerate and misrepresent the patient's condition to satisfy the medical release criteria. This process will result in requests based on the inmates' desire to be released rather than evidence-based medical decisions. Inmates constantly attempt

to "mislead and scam" the health care providers to receive additional food, medications, and privileges. The health care staff has worked with and experienced many such attempts but with not with the opportunity to be released for medical reasons as the outcome.

The formal inmate recommendation process as defined in this measure, would greatly increase the administrative costs and duties for both the Department and the Hawaii Paroling Authority (HPA) as all recommendations with or without merit would require the same reports and medical review process to be submitted prior to the paroling authority hearing. These additional administrative requirements will divert physician resources from providing direct patient care to dealing with unsupported and unsubstantiated recommendations.

Thank you for the opportunity to present this testimony.



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

BERT Y. MATSUOKA
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MEMBER

MICHAEL A. TOWN
MEMBER

TOMMY JOHNSON
ADMINISTRATOR

No. _____

TESTIMONY ON SENATE BILL 2248, SD2, HD2
RELATING TO PUBLIC SAFETY

BY

HAWAII PAROLING AUTHORITY
Bert Y. Matsuoka, Chairman

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Tuesday, April 3, 2012; 5:00 p.m.
State Capitol, Conference Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports the intent of SB 2248, SD2, HD2, and has concerns/recommendations to several areas of this measure and requests the following amendments:

1. **Page 4 (Line 6) – (c) [H] When** a request for medical release of an inmate is made.....
2. **Page 6 (Line 3 through Line 6) – (e)** The Hawaii paroling authority shall conduct an administrative hearing on all requests **received from the director of the department of public safety** for medical release.

The department should make all medical release recommendations to the Hawaii paroling authority.

3. **Page 6 (Line 6 through 8) -** Delete the entire sentence [~~The inmate and the inmate's representative shall be permitted to participate in the hearing and submit medical and other evidence in support of the request.~~]

The review process for medical releases would be an administrative process similar to requests for early parole hearings and/or requests for the reduction of minimum term(s) of imprisonment as outlined in HAR 23-700-26 and 23-700-29. During administrative hearings, inmates, legal council, advocates, representatives, prosecutors, etc. are not present. The parole board reviews all appropriate requests, justifications, files, records, etc. and discusses each case prior to rendering a decision. In all such cases, the HPA is required to provide appropriate notification to all concerned parties pursuant to HRS §706-670 and HAR §23-700-31 and written documents are accepted for perusal by the board.

4. Page 7 (Line 11 through Line 12) – (j) The department shall [~~adopt rules in accordance with chapter 91~~] **jointly develop with the Hawaii paroling authority an appropriate policies and procedures to implement the medical release program.**
5. **Page 9 (Line 1 through Line 3) –** The department shall assess and refer inmates to the Hawaii Paroling Authority for possible medical release **pursuant to the jointly established medical release program developed by the two agencies as provided in.....”**

A medical release program can be provided for in Department of Public Safety and HPA policies, not a separate program that needs to be enacted into law.

The HPA believes the recommended amendments to this measure addresses needed changes while simultaneously clarifies the affected areas as they relate to the HPA. The HPA defers to the department of Public safety on all matters that affect that agency that arise out of SB 2248, SD2, HD2 as it is currently written.

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



SB2248 SD2 HD2
RELATING TO PUBLIC SAFETY
House Committee on Finance

April 3, 2012

5:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2248 SD2 HD2, which would clarify the medical release program for terminally ill inmates.

OHA's 2010 report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," indicated that there are deficiencies in the operation of the criminal justice system in Hawai'i. Recently, OHA worked with advocate Robert Merce to assist Delbert Wakinekona, a beneficiary in dire need of medical release.

Years of neglect and inadequate medical treatment brought Mr. Wakinekona to the brink of death. In what should have been a straightforward process, Robert Merce had to struggle with endless bureaucratic barriers to obtain basic information on Mr. Wakinekona's condition and what was needed to obtain his medical release. OHA supports SB2248 SD2 HD2's effort to improve the medical release process and facilitate compassionate release for suffering individuals like Mr. Wakinekona.

Mahalo for the opportunity to testify on this important measure. OHA urges the committee to review Mr. Merce's testimony on this matter and PASS SB2248 SD2 HD2.

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Finance**

April 3, 2012

S.B. No. 2248 SD2 HD1: RELATING TO PUBLIC SAFETY

Chair Oshiro and Members of the Committee:

We support passage of S.B. No. 2248 SD2 HD1 which establishes a procedure by which prisoners who are suffering from a life-threatening illness or a debilitating mental or physical condition and who are no longer considered a danger to the public can apply for "compassionate release" from custody even though their sentences have not expired. The Office of the Public Defender sometimes gets requests from inmates to assist them in the compassionate release process. Oftentimes, the family of the inmates wishes to care for him or her in the final stages of life. Unfortunately, there is no established procedure for the consideration of such a request.

S.B. No. 2248 SD2 HD1 would create a procedure for the consideration of requests for "compassionate release." "Compassionate release" would benefit all those concerned. The family of the prisoner would find peace in caring for their loved one in his/her final days. The state and taxpayers would be relieved of the responsibility of intensive care for a gravely ill or disabled inmate. Finally, the public would be assured that the prisoner would not pose a danger to anyone's safety.

Thank for the opportunity to comment on this measure.



Committee: Committee on Finance
Hearing Date/Time: Tuesday, April 3, 2012, 5:00 p.m.
Place: Room 308
Re: Testimony of the ACLU of Hawaii in Support of S.B. 2248, S.D.2, H.D.2,
Relating to Public Safety

Dear Chair Oshiro and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.B. 2248, SD2, HD2, which seeks to require the Hawaii Paroling Authority to establish a medical release program for inmates.

This smart and compassionate program could provide relief to a prison system dealing with an increasingly older population subject to more medical issues and higher treatment costs. Releasing those inmates who are found to be no-risk to public safety could save the state millions of dollars in health care costs, relieve prison overcrowding, and offer a more dignified and more humane death to those who would otherwise die in prison.

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 FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Tuesday, April 3, 2012

5:00 p.m.

Room 308

STRONG SUPPORT SB 2248 SD2, HD2 - COMPASSIONATE RELEASE

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars, always mindful that almost 1,800 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SD 2248 SD2. HD2 requires the department of public safety to assess and refer inmates to the Hawaii Paroling Authority (HPA) for possible medical release. Provides that an inmate in the custody of the Department shall be eligible to be considered for medical release if the inmate meets specified criteria under certain procedures. Requires HPA to set reasonable conditions on an inmate's medical release. Requires the HPA to promptly order an inmate returned to custody of the Department to await a revocation hearing if the HPA receives credible information that an inmate has failed to comply with any reasonable condition set upon the inmate's release. Effective July 1, 2012.

Community Alliance on Prisons is in strong support of compassionate release as is the medical community, research organizations, and the Bureau of Justice. This bill fixes the broken system that is currently in place.

We have personally known individuals who were suffering from terminal illnesses (bone cancer, stage 4 lung disease, etc.) who begged to spend their last days with their families yet died alone as their paperwork lingered on someone's desk. This should be absolutely unacceptable in the land of aloha.

We also know that our prison population is aging. Our prisons and those with whom we contract are not equipped to handle the problems of chronic diseases and an increasing population of a sick and elderly incarcerated population. We know of individuals who were denied wheelchairs and had to crawl to the pill line to receive their medication.

The Department of Public Safety's own data reveals that between 2009 and 2011 37 compassionate releases were recommended, 22 were approved, yet only 14 were granted.

There is plenty of literature¹ acknowledging the failure of almost all of the existing laws to function in a manner that serves the interest of society or prisoners and the authors made several key recommendations including that compassionate release procedures should be **evidence based**; there should be a completely **transparent** compassionate release process; an **advocate should be appointed** to help inmates navigate the process and represent incapacitated prisoners; there should be a **"fast-track"** option for the **evaluation of rapidly dying prisoners**; and there should be a **well-described and well-disseminated application procedure**.

SB 2248 SD2, HD2 includes all of the foregoing recommendations. It sets out a process by which the Department of Public Safety evaluates all compassionate release requests and makes a written recommendation to the Hawai'i Paroling Authority. The HPA, a quasi-judicial body, then decides whether or not the inmate should be released and makes its decision after an administrative hearing in which the inmate can present evidence of his own. This ensures that the process is completely transparent, that all sides are heard, and that all relevant evidence is considered.

The process provides that physicians determine whether an inmate meets the medical criteria for compassionate release, and correctional officials determine whether the inmate poses a danger to society. Health and safety are evaluated separately by the professionals who have the knowledge, training and experience to make sound judgments. If a physician determines that an inmate meets the medical criteria for release, that inmate would still have to be evaluated by correctional officials to determine whether he poses a risk to public safety. If he poses a risk to public safety he would not be released, regardless of his medical condition.

The most important provision of SB 2248 SD2, HD2 is that the Hawai'i Paroling Authority decides all medical release requests, not just those referred to it by the Department of Public Safety. Currently, the only person who can initiate compassionate release is the prison doctor. If the attending physician makes a mistake regarding the inmate's prognosis and/or whether he or she meets the criteria for compassionate release, there is absolutely nothing the inmate, his family, or his lawyer can do about it. There is no appeal process and no review by an independent third party. The community standard of care calls for second opinions, which is why this is so important. Attending physicians can make serious errors, and under the present system there is no mechanism to correct them. That is why it is absolutely critical that inmates have an opportunity to appeal to the Paroling Authority and persuade them that a mistake has been made and that they do, in fact, qualify for compassionate release.

HPA should not become a rubber stamp for the limited number of cases that successfully wind their way through the Department of Public Safety's badly flawed compassionate release system.

Community Alliance on Prisons urges the committee to pass this important and compassionate legislation to fix our broken system.

Mahalo for this opportunity to share our experience and mana`o on this measure.

¹ BA Williams, RL Sudore, R Greifinger, and RS Morrison. Balancing Punishment and Compassion for Seriously Ill Prisoners. *Ann Intern Med.* 2011; 155:122-126.



NATIVE HAWAIIAN LEGAL CORPORATION

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HOUSE COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro Chair

Rep. Marilyn B. Lee, Vice Chair

Tuesday, April 3, 2012

Conference Room 308

5:00 p.m.

RE: SB 2248, SD 2, HD 2

Dear Chair Oshiro, Vice Chair Lee, and committee members:

Aloha. My name is Moses K. N. Haia III. I am the executive director of the Native Hawaiian Legal Corporation. The Native Hawaiian Legal Corporation strongly supports SB 2248, SD 2, HD 2. The purpose of the bill is to provide compassionate release for elderly, terminally ill, and profoundly debilitated inmates who do not pose a danger to public safety. Last year the Native Hawaiian Legal Corporation handled a compassionate release case on behalf of a 67-year old Native Hawaiian gentleman who had been in prison for 41 years and was dying of end stage liver disease. That experience confirmed for us that a fair, efficient, and transparent procedure is needed to ensure that inmates who are suffering from conditions such as cancer, kidney failure, and end stage liver disease will have the opportunity to receive appropriate end of life care and die surrounded by their families rather than alone in prison. SB 2248, SD 2, HD 2 will fairly and efficiently provide that opportunity.

Mahalo for allowing me to testify.

Services made possible with major funding from the Office of Hawaiian Affairs.

Niolo. Upright, straight, stately, tall and straight as a tree without branches; sharply peaked, as mountains. Fig., righteous, correct.



DAPHNE E. BARBEE

ATTORNEY AT LAW

1188 BISHOP STREET, SUITE 1909, HONOLULU, HAWAII 96813
TELEPHONE (808) 533-0275

Representative Marcus Oshiro, Chair

Representative Marilyn Lee, Vice Chair

Finance Committee

Hearing Date: 4-3-12

Room 308, 5:00 pm.


RE: SUPPORT SB 2248/ SD2, COMPASSIONATE RELEASE

FAX: 586-6201

Dear Representative Oshiro, Chair and Representative Lee, Vice Chair Finance Committee:

My name is Daphne Barbee-Wooten and I am an attorney in private practice in Hawaii. I very much support compassionate release of inmates who are disabled, permanently infirmed and have a debilitating illness or disease. SD2 seeks to streamline and define the conditions for compassionate release, which is much needed in Hawaii. Other State's have compassionate release for ill and disabled and elderly inmates and have successfully used the releases. However, unchecked discretion to the Hawaii Paroling Authority, inability to appeal and to obtain an independent medical exam are a concern. I urge you to add provisions allowing an appeal and ability for an independent medical exam. If an inmate's request for compassionate release is denied, there should be an explanation and an ability to appeal or reconsider.

I am familiar with inmates who are suffering serious debilitating illnesses requiring dialysis and chemotherapy who are at Halawa Correctional Facility. I also know of inmates from Hawaii who are suffering serious illnesses such as cancer at Saguaro Correctional Facility. I also am aware of inmates who are elderly. Inmates are disabled in wheelchairs, bedridden and unable to care for themselves without medications, injections of insulin, chemotherapy and other forms of life sustaining medical needs. I requested compassionate release for an infirm inmate and was told that although the doctors supported the release, someone in the Dpt. of Public Safety did not. This leaves the decision to persons who do not have medical knowledge about the illness and how debilltating it is on the inmate. For example, how many lay persons know the affect dialysis has on the body or chemotherapy. Doctors specialize in various medical conditions. Before a request which is supported by medical expertise is denied, there should be consultation with a doctor who specializes in the specific disease or medical condition. An inmate should be able to select a physician of their choosing as an Independent Medical Examiner if the DPS Doctor opines that the medical condition is not debilitating. Please support this bill which provides for an avenue of appeal in the event a non medical lay person decides to deny compassionate release. Thank you.


Daphne Barbee-Wooten
Attorney at Law

Robert K. Merce
2467 Aha Aina Place
Honolulu, Hawai'i 96821

Phone: (808) 732-7430
Cell: (808) 390-9594

April 2, 2012

HOUSE COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro Chair
Rep. Marilyn B. Lee, Vice Chair
Tuesday, April 3, 2012
Conference Room 308
5:00 p.m.
SB 2248, SD 2, HD 2
Strongly Support

Dear Chair Oshiro, Vice Chair Lee, and committee members:

My name is Robert Merce. I practiced law in Hawai'i for over 25 years before retiring in 2007. Last year I worked with the Native Hawaiian Legal Corporation on a compassionate release case involving a 67-year old Hawaiian man who had been in prison for 41 years and was dying from end stage liver disease. It took us almost six months to get him released. We found that the Department of Public Safety's policies and the Hawaii Paroling Authority's antiquated rules (adopted in 1992) were ambiguous and often in conflict with each other. The rules and policies do not prescribe time limits for prison personnel to act on compassionate release matters, and relevant procedures were so vague that medical and non-medical prison personnel could pretty much do what they wanted, when they wanted. Although our client was ultimately released, it became clear to me that the policies and procedures of the Department of Public Safety and the Hawaii Paroling did not serve the best interest of inmates, the government, or the people, and that a "compassionate" release statute was needed to correct the myriad problems we encountered.

I strongly support SB 2248 SD 2, HD 2. It addresses the problem we encountered and institutes a fair and transparent process that will save money and go a long way toward ensuring that inmates who are suffering from terminal and profoundly debilitating illness and are not a danger to society will be able to receive appropriate medical care and die surrounded by their families rather than alone in prison. As Senate Standing Committee Report No. 2494 notes, the bill and its underlying purpose are "pono", meaning good, upright, just, the right thing to do.

Let me highlight a few of the most important provisions of the bill:

Best Practices. There are no agreed upon "best practices" for compassionate release, but in May, 2011, a group of distinguished physicians co-authored a seminal article on the subject that was

published in the *Annals of Internal Medicine*, the journal of the American College of Physicians¹. It was the first time in many years that compassionate release was examined in-depth from the perspective of the medical community. After reviewing relevant literature, examining state and federal statutes, *and candidly acknowledging the failure of almost all of the presently existing laws to function in a manner that serves the interest of society or prisoners*, the authors made five key recommendations:

1. Compassionate release procedures should be evidence based;
2. There should be a completely transparent compassionate release process
3. An advocate should be appointed to help inmates navigate the process and represent incapacitated prisoners;
4. There should be a “fast-track” option for the evaluation of rapidly dying prisoners; and
5. There should be a well-described and well-disseminated application procedure.

SB 2248 SD 2, HD 2 incorporates all five recommendations and to my knowledge is the first medical release bill in the nation to do so. It is as close as any state can come to instituting best practices.

SB 2248, SD 2, HD 2 Will Save Money. It will not require any new funds because it can be fully implemented within the present administrative structure and without new personnel or equipment. And if there are any minor unanticipated expenses, they will surely be offset by the savings realized by the release of inmates who are extremely ill and thus in need of the most intensive, chronic, and costly care.

A Clear and Transparent Process. SB 2248 SD 2, HD 2 sets out a process by which the Department of Public Safety evaluates all compassionate release requests and makes a written recommendation to the Hawai‘i Paroling Authority. The Authority then decides whether or not the inmate should be released. The HPA makes its decision after a hearing in which the inmate can present evidence of his own. This ensures that the process is completely transparent, that all sides are heard, and that all relevant evidence is considered.

SB 2248 SD 2, HD 2 also provides that physicians determine whether an inmate meets the *medical* criteria for compassionate release, and correctional officials determine whether the inmate *poses a danger to society*. Health and safety are evaluated separately by the professionals who have the knowledge, training and experience to make sound judgments. Under SB 2248 SD 2, HD 2 if a physician determines that an inmate meets the **medical criteria** for release, that inmate would still have to be evaluated by correctional officials to determine whether he poses a

¹ BA Williams, RL Sudore, R Greifinger, and RS Morrison. Balancing Punishment and Compassion for Seriously Ill Prisoners. *Ann Intern Med*. 2011;155:122-126.

risk to public safety. If he poses a risk to public safety he would not be released, irrespective of his medical condition.

The most important provision of SB 2248 SD 2, HD 2 is that the Hawai'i Paroling Authority decides **all** medical release requests, not just those referred to it by the Department of Public Safety. Let me explain why this is so important.

Currently, the only person who can initiate compassionate release is the inmate's attending physician (i.e. the prison doctor). See Dept. Pub. Safety Policy COR. 10.1G.11, *Compassionate Release for the Terminally Ill* (February 2, 2011). If the attending physician makes a mistake regarding the inmate's prognosis and/or whether he or she meets the criteria for compassionate release, there is absolutely nothing the inmate, his family, or his lawyer can do about it. There is no appeal process and no review by an independent third party.

And I know for a fact that attending physicians make mistakes because one occurred in the case I worked on. Our client had cirrhosis of the liver secondary to chronic hepatitis C and clearly met the diagnostic criteria for refractory ascities – an accumulation of fluid in the tissues that is resistant to treatment. The medical literature states that 50% the patients who have refractory ascites die within 6 months and 75% die within one year², and therefore our client clearly met the Department of Public Safety's medical criteria for compassionate release. Yet his attending physician at the Saguaro Correctional Center refused to initiate the compassionate release process. That error of judgment almost precluded our client from being released. Fortunately, we were able to have our client's medical records reviewed by an independent expert (Dr. Robert G. Gish of the University of California at San Diego who is widely regarded as one of the country's leading authority of Hepatitis) and after receiving Dr. Gish's report the Department of Public Safety decided to bring our client back to Hawai'i and have him examined by Dr. Steven DeWitt, the physician at the Halawa Correctional Facility. Dr. DeWitt immediately recognized that our client had an extremely poor prognosis and initiated the compassionate release process.

We were lucky. But the point is that attending physicians make serious mistakes, and under the present system there is *no mechanism to correct them*. That is why is absolutely critical that inmates have an opportunity to apply to the Paroling Authority, submit relevant evidence, and argue them that a mistake has been made and that they do in fact qualify for compassionate release. The Paroling Authority should not become a rubber stamp for the limited number of cases that successfully wind their way through the Department of Public Safety's badly flawed compassionate release system.

The process set out in SB 2248 SD 2, HD 2 will not result in a flood of frivolous medical release claims. In most cases the Department of Public Safety will initiate timely medical release

² See e.g. K. Cenrio, A. Choure, and W. Carry, Cleveland Clinic. *Complications of Cirrhosis Ascites, Hepatic Encephalopathy, and Variceal Hemorrhage*. Retrieved from <http://www.clevelandclinicmeded.com/medicalpubs/diseasemanagement/hepatology/complications-of-cirrhosis-ascites/>

requests for inmates who meet the medical release criteria, and those individuals will be referred to the Paroling Authority and released as a matter of course just as they are now.

I do not believe that inmates who are healthy or have minor medical problems will seriously contend that they are profoundly incapacitated or dying, but if they do, the DPS will simply have to write a very short report—probably no more than a few sentences - stating that the inmate is healthy or has one or more benign medical conditions that do not meet the criteria for medical release and forward it to the HPA. Unless there is contrary evidence, the HPA hearing on that type of request would be extremely brief. The only cases that will take a little time are those where there are genuine issues regarding the inmate's condition, and those cases deserve whatever time is required to resolve them properly.

In conclusion, SB 2248 SD 2, HD 2 provides a fair process for terminally ill and profoundly disabled inmates to be compassionately released while at the same time protecting the public from an unreasonable risk of harm. It is a good bill and I urge you to pass it.

Thank you for allowing me to testify.

Robert K. Merce

April 2, 2012

COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Strong Support of: SB 2248 SD2, HD2 - COMPASSIONATE RELEASE

Dear Chair Oshiro, Vice-Chair Lee and Members of this Committee,

I am testifying to ask your support on **SB 2248 SD2, HD2 - COMPASSIONATE RELEASE**.

After witnessing the death of my first husband to cancer of the colon and now witnessing the slow demise of my second husband to stomach cancer I know first hand how difficult it is to live in this pain and misery. In my second husband's condition he would not even survive in a prison cell for two months. I could not even imagine how an incarcerated person is able to live with a terminal illness or disease without physical/emotional support and needed medical care.

I have worked with individuals on Maui that were incarcerated through a previous employer and I have heard how difficult it can be to receive needed medical services in a prison facility. I ask you to support this bill because no one should suffer in a prison cell when they need to be around their family and needed medical services as they need them. This is the time when we need to be compassionate and look at these individuals as people in our community not as individuals who deserve to be punished. We take great pride to live in Hawaii as a place of love and aloha but we cannot preserve an incarcerated dying person's dignity or be compassionate to him. Again I urge you to support this bill!

Thank you for your time and attention.

Sincerely,

Thelma Akita-Kealoha
2694 Akalani Place
Pukalani, Hi 96768

COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair
Tuesday, April 3, 2012
5:00 p.m.
Room 308

STRONG SUPPORT SB 2248 SD2, HD2 – COMPASSIONATE RELEASE

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee,

I am writing as a concerned citizen who believes that our criminal justice system must be both effective and humane.

Bill SB 2248 SD2, HD2 requires the Department of Public Safety to assess and refer inmates to the Hawaii Paroling Authority (HPA) for possible medical release. It provides that inmates will be eligible to be considered for medical release if they meet specified criteria. If it is determined that an inmate has failed to comply with reasonable criteria set by the HPA, he/she will be returned to custody of the Department.

There are many aspects of the Hawaii criminal justice system that need to be reformed, and lack of a compassionate release law is one aspect that cannot be overlooked any longer. Confining aging and terminally or chronically ill inmates does nothing to improve public safety.

According to 2009-2011 Department of Public Safety data, out of 37 recommendations for compassionate release, only 14 inmates were actually released on compassionate release terms. Given that prisons are mandated to provide community standards of care, it is essential to provide the best possible medical determinations, and second opinions should be allowed.

Please support bill SB 2248 SD2, HD2.

Mahalo,

Diana Bethel

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 02, 2012 1:59 PM
To: FINTestimony
Cc: rkanui@yahoo.com
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: R. Kawehi Kanui
Organization: Na Aha Maluhia (Councils of Peace)
E-mail: rkanui@yahoo.com
Submitted on: 4/2/2012

Comments:
Aloha,

Na Aha Maluhia supports this measure to assist inmates who are too old, sick and overdue to be released be able to come out of prison to spend what time they have with their loved ones, who can take care of them and give them proper diet and love that they need to be around their family...which is the greatest healing they need.

Mahalo Nui Loa,
R. Kawehi Kanui-Gill, Po'o
Na Aha Maluhia (Councils of Peace)

FINTestimony

m: mailinglist@capitol.hawaii.gov
nt: Sunday, April 01, 2012 9:03 PM
To: FINTestimony
Cc: minister@unitariansofhi.org
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Rev. Dr. Jonipher Kwong
Organization: First Unitarian Church of Honolulu
E-mail: minister@unitariansofhi.org
Submitted on: 4/1/2012

Comments:
To Whom It May Concern:

On behalf of the First Unitarian Church of Honolulu, I would strongly encourage you to pass SB 2248, calling for compassionate release of individuals who are at the end of their lives.

As a religious community with values aligned toward compassion and principles that call us to do justice, we would not want an individual to have prolonged suffering, but be able to die with dignity and grace.

Therefore, we strongly support this measure that would allow people at the final stage of their life to choose a peaceful way of transitioning. Mahalo for your consideration.

Aloha me pumehana,
Rev. Dr. Jonipher Kwong
Minister, First Unitarian Church of Honolulu

FINTestimony

m: mailinglist@capitol.hawaii.gov
nt: Saturday, March 31, 2012 9:01 PM
To: FINTestimony
Cc: ja@malu-aina.org
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Jim Albertini
Organization: Malu 'Aina
E-mail: ja@malu-aina.org
Submitted on: 3/31/2012

Comments:

We all (individuals and institutions) need to do better in narrowing the gap between word and deed. This bill on COMPASSIONATE RELEASE is a step forward for everyone. Please support.
Mahalo.
Jim Albertini for Malu 'Aina

FINTestimony

From: baltemus@aol.com
ent: Monday, April 02, 2012 2:34 PM
To: FINTestimony
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Barbara Altemus
E-mail: baltemus@aol.com
Submitted on: 4/2/2

Comments:

Aloha,

I support this measure to assist inmates who are too old, sick and overdue to be released be able to come out of prison to spend what time they have with their loved ones, who can take care of them, emotionally, mentally, physically and spiritually—the greatest kind of healing they need.

Barbara Altemus

(Author, Filmmaker, Therapist

www.thegiftofpain.com

FINTestimony

n: mailinglist@capitol.hawaii.gov
t: Sunday, April 01, 2012 12:23 PM
To: FINTestimony
Cc: maukalani78@hotmail.com
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: elaine funakoshi
Organization: Individual
E-mail: maukalani78@hotmail.com
Submitted on: 4/1/2012

Comments:

Dear Chair Oshiro, Vice Chair Lee, and Members of the Finance Committee:

SUPPORT: SB2248, SD2, HD1. As the general public ages, so are those incarcerated and, at a greater rate; and like so many of us, some not so gracefully and are in need of medical help beyond what the prisons can offer. Others have just reached a point in their lives where they need to be among family members to spend time with before they leave this planet. Most of us have aging parents and many of us give up working to care for them. If they were incarcerated, we cannot give them the care that every human being deserve. Hawai'i is a state full of compassion and love for their kupunas. May the committee consider passage of this bill.

First of all, thank you for scheduling this bill for a hearing, and also the opportunity to submit my testimony for your consideration.

Mahalo and Aloha,
elaine funakoshi

FINTestimony

m: mailinglist@capitol.hawaii.gov
t: Saturday, March 31, 2012 8:32 PM
To: FINTestimony
Cc: Puuhonua2@gmail.com
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Renwick (Uncle Joe) Tassill
Organization: Individual
E-mail: Puuhonua2@gmail.com
Submitted on: 3/31/2012

Comments:

Aloha Mr Chairman and members of the finance committee. This bill is very much like SB3016, The Puuhonua Bill, both treat the individual with compassion. When the individual needs compassion both bills can provide it not only to the individual but also to the family. When it comes to compassion the Hawaiian people has a level of compassion like no other, their level of compassion is centered around Aloha for this reason I strongly support SB2248.
Mahalo Nui Loa
Renwick (Uncle Joe) Tassill

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 31, 2012 8:36 PM
To: FINTestimony
Cc: Puuhonua2@gmail.com
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: June Y. Toguchi-Tassill
Organization: Individual
E-mail: Puuhonua2@gmail.com
Submitted on: 3/31/2012

Comments:

Aloha Mr Chairman and members of the finance committee, I am in strong support of SB2248

Mahalo June Y. Toguchi-Tassill

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Monday, April 02, 2012 12:08 PM
To: FINTestimony
Cc: myjetnil@yahoo.com
Subject: Testimony for SB2248 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2248

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: yolanda jetnil
Organization: Individual
E-mail: myjetnil@yahoo.com
Submitted on: 4/2/2012

Comments:

My brother spent 20-30yr of his life in prison shortly after coming out of prison our family found out he was dying with pancreas cancer he was in kaiser moanaloa pass 11/23/2011 this news was not the greatest news but not being able to care for him has cause our family ugly feelings because we weren't told to help care for him now he is gone. i have a son who has pychitafrinia and not on he's meds in OCCC not fair family should be given a option to care for love ones who is incarcerated to give them peace and love.