

# **HCR 10, HD1**

REQUESTING THE AUDITOR TO REVIEW AND REPORT ON STATE  
CORRECTIONAL FACILITIES' LEAVE POLICIES AND CORRECTIONAL  
OFFICERS' LEAVE USAGE RATES.

**PSM, WAM**

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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DEPUTY DIRECTOR  
LAW ENFORCEMENT

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

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 10, HOUSE DRAFT 1  
REQUESTING THE AUDITOR TO REVIEW AND REPORT ON STATE  
CORRECTIONAL FACILITIES' LEAVE POLICIES AND CORRECTIONAL  
OFFICERS' LEAVE USAGE RATES

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Monday, April 20, 2015, 1:15 PM  
State Capitol, Conference Room 312

Chair Espero, Vice Chair Baker, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of House Concurrent Resolution (HCR) 10, House Draft (HD) 1.

The PSD is mandated to administer programs according to Federal and State statutes (FMLA, SFLL, etc.) and collective bargaining agreements between the State and the public employee unions.

The proposed audit will provide the PSD with an external set of eyes to evaluate our current practices to assist in resolving various issues of concern.

Thank you for the opportunity to testify on this measure.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Chair: Sen. Will Espero

Vice Chair: Sen. Rosalyn Baker

Monday, April 20, 2015

1:15 p.m.

Room 312

### SUPPORT for HCR 10 HD1- Audit Of Leave Correctional Officer Leave Policies

Aloha Chair Espero, Vice Chair Baker and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai`i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai`i individuals who 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.

HCR 10 HD1 requests the auditor to review and report on state correctional facilities' leave policies and correctional officers' leave usage rates.

Community Alliance on Prisons is in strong support of this resolution and thanks the committee for hearing it. The FMLA<sup>1</sup>, enacted in 1993, entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or

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<sup>1</sup> U.S. Department of Labor, Wage & Hour Division, Family and Medical Leave Act, <http://www.dol.gov/whd/fmla/>

Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

**Your employer may require proof of the serious health condition.**<sup>2</sup> This can be a touchy issue when it comes to your own health and that of your family. It's not written in the law that you must always garner proof of the reason you need to take leave, but your boss is entitled to ask for it, and if he or she does, you must obtain certification from a health care provider. "It is a sensitive issue, and a private issue. But still, for extended leave, I counsel my employers that yes, they should seek certification. Just go about it in a responsible manner," Grant says.

The Department of Labor website states that an employer should request certification at the time you request the leave or within five business days. After that, you're allowed at least 15 calendar days to obtain proof. An employer may also contact your health care provider for authentication or clarification, but breathe easy -- employers are not allowed to ask providers for additional information beyond what is contained in the certification form.

The lack of visitation at many of our facilities has prompted this audit, which is sorely needed. The overtime expenditures as reported in the resolution are outrageous:

- \$6,330,501 in Fiscal Year 2010;
- \$5,816,032 in Fiscal Year 2011;
- \$8,700,706 in Fiscal Year 2012;
- \$7,069,404 in Fiscal Year 2013; and
- \$9,101,109 in Fiscal Year 2014

**This has cost taxpayers \$37,017,752 since 2010.**

We sincerely hope that the department of public safety employees are not abusing this well-intended law and putting their colleagues, the incarcerated people for whom they are responsible, and the community at great risk. There is no aloha in that!

Community Alliance on Prisons respectfully asks the committee to pass this measure.

Mahalo for this opportunity to testify.

*It is not enough that we do our best; sometimes we must do what is required."*

Winston Churchill

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<sup>2</sup> 6 Things You Need to Know About the Family and Medical Leave Act - Many employees aren't aware of how FMLA works, by Jada A. Graves, US News and World Report, April 4, 2013.

<http://money.usnews.com/money/careers/articles/2013/04/04/6-things-you-need-to-know-about-the-family-and-medical-leave-act>

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**HCR10**

Submitted on: 4/14/2015

Testimony for PSM on Apr 20, 2015 13:15PM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	No

Comments:

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**HCR10**

Submitted on: 4/14/2015

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Lacques	Individual	Support	No

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**HCR10**

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Testimony for PSM on Apr 20, 2015 13:15PM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileana Funakoshi	Individual	Support	No

Comments: PSM COMMITTEE Chair Will Espero Vice Chair Rosalyn Baker Dear Chair Espero, Vice Chair Baker, and Committee Members: As a private citizen of the State of Hawai'i, I cannot understand why we continue to fund the high cost of correctional officers' sick-out leave. Not only the present cost, but, if I'm not mistaken, it is factored into their retirement benefits. So, it may be approximately \$37 million at face value, but all things considered, it will cost us taxpayers more. Thank you for the opportunity to submit my comments, and your time for considering this very necessary resolution. With mahalo and aloha, e. ileina funakoshi

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
james crowe	Individual	Support	No

Comments: HCR10 will lead to large savings for Public Safety and to more humane service to Hawaii's inmates

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**HCR10**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lezlie Kiaha	Individual	Support	No

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