

# **SCR 122**

REQUESTING THE AUDITOR TO CONDUCT AN AUDIT  
TO DETERMINE THE EXISTENCE OF POTENTIAL  
PATTERNS OF ABUSE IN THE USE OF STATE AND  
FEDERAL LEAVE BENEFITS BY ADULT CORRECTIONS  
OFFICERS OF THE DEPARTMENT OF PUBLIC SAFETY.

**PSM/JDL, WAM**

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
DEPUTY DIRECTOR  
ADMINISTRATION

DEPUTY DIRECTOR  
CORRECTIONS

**Shawn H. Tsuha**  
DEPUTY DIRECTOR  
LAW ENFORCEMENT

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

TESTIMONY ON SENATE CONCURRENT RESOLUTION (SCR) 122  
REQUESTING THE AUDITOR TO CONDUCT AN AUDIT TO DETERMINE THE POTENTIAL  
PATTERNS OF ABUSE IN THE USE OF STATE AND FEDERAL LEAVE BENEFITS  
BY ADULT CORRECTIONS OFFICERS OF THE DEPARTMENT OF PUBLIC SAFETY

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

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 31, 2015, 9:30 AM  
State Capitol, Conference Room 016

Chairs Espero and Keith-Agaran, Vice Chairs Baker and Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of SCR 122.

When viewing the issue of leave abuse in totality and the consequences of it (overtime, staffing shortages, program cancellations, etc.), reasonable people come to apparently rational conclusions on the problem. However, when reviewing individual staff members' attendance data in conjunction with Collective Bargaining and statutory rights granted to each individual, the same all-encompassing rational conclusions are not as readily apparent.

The PSD welcomes any meaningful input that can be provided towards improving disruptive attendance patterns displayed by its staff assigned at our Jails and Prisons statewide.

Thank you for the opportunity to testify.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 29, 2015 11:13 AM  
**To:** PSMTestimony  
**Cc:** conniem@ihs-hawaii.org  
**Subject:** Submitted testimony for SCR122 on Mar 31, 2015 09:30AM

**SCR122**

Submitted on: 3/29/2015

Testimony for PSM/JDL on Mar 31, 2015 09:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Connie Mitchell	IHS, The Institute for Human Services, Inc.	Support	No

Comments: Visitation while an inmate is incarcerated makes a difference in an inmates chances of successful rehabilitation and not re offending after release. Please help surface the abuse of sick leave and hold managers and unions responsible. Social services like ours could be reduced in the long run if families played a larger part in supporting g individuals while incarcerated.

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# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Chair: Sen. Will Espero

Vice Chair: Sen. Rosalyn Baker

## COMMITTEE ON JUDICIARY AND LABOR

Chair: Sen. Gil Keith-Agaran

Vice Chair: Maile Shimabukuro

Tuesday, March 31, 2015

9:30 a.m.

Room 016

### **SUPPORT for SCR 122 - AUDIT RE SICK LEAVE ABUSE OF ACOs**

Aloha Chairs Espero and Keith-Agaran and Members of the Committees!

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.

SCR 122 requests the auditor to conduct an audit to determine the existence of potential patterns of abuse in the use of state and federal leave benefits by Adult Corrections Officers of the Department of Public Safety.

Community Alliance on Prisons thanks you for hearing this bill and we are in strong support.

Community Alliance on Prisons asks the auditor to:

- 1) review other 24/7 essential services, such as police, hospitals, and fire departments to determine if there is abuse of the Family and Medical Leave Act (FMLA) in their agencies, and
- 2) review the certification that is required by the department of public safety at the time the leave is requested or within five business days.

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:

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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/>

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

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.

We sincerely hope that the department of public safety employees are not abusing this well-intended law. There is no aloha in that!

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

Mahalo for this opportunity to testify.

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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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**From:** mailinglist@capitol.hawaii.gov  
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**To:** PSMTestimony  
**Cc:** maukalani78@hotmail.com  
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**SCR122**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
E. Ileina Funakoshi	Individual	Support	No

**Comments:**

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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: Please support the correction of this abuse. Public Safety and Hawaii citizens deserve this.

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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

Comments:

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