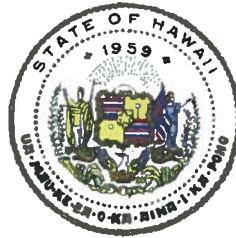


DAVID Y. IGE
GOVERNOR



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 HOUSE BILL 367
RELATING TO CORRECTIONAL FACILITIES**

By
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair

Thursday, February 5, 2015, 9:00 AM
State Capitol, Conference Room 309

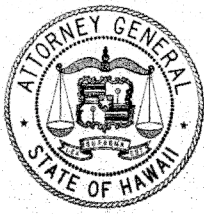
Chair Takayama, Vice Chair Yamashita, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 367, which would establish an earned-time program as part of the paroling process.

The more flexibility provided to PSD and the Hawaii Paroling Authority (HPA) towards alternatives to incarceration are in line with our continued desire to fully implement the Justice Reinvestment Initiative (JRI).

Should this Committee choose to move HB 367 forward, we ask that you amend this bill by allowing PSD/HPA to deduct credits for poor adjustment (misbehavior, drug use, gang activity, etc.). We also ask that you clearly state that inmates do not have the right to the earned time. If such a right is unintentionally established, we anticipate constant litigation by inmates wishing to dispute the amount of time earned.

Thank you for the opportunity to testify on this bill.



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:
H.B. NO. 367, RELATING TO PAROLE.

BEFORE THE:
HOUSE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, February 5, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): RUSSELL A. SUZUKI, Attorney General, or
LISA M. ITOMURA, Deputy Attorney General

Chair Takayama and Members of the Committee:

The Department of the Attorney General opposes this bill. We believe it imposes considerable financial and logistical burdens on the State, and will generate huge amounts of litigation. Additionally, it is redundant as it duplicates current responsibilities and practices especially those begun under Act 139 passed in 2012.

This bill amends (chapter 353) Hawaii Revised Statutes (HRS) by adding a section requiring the Department of Public Safety (PSD) to establish and administer an “earned-time program.” Under this bill, all inmates, no matter what their criminal history, their crimes, the crimes’ effect on victims and their families, or their actions while in custody, are eligible to earn some undefined time if they “demonstrate[e] progress toward rehabilitation” in each of several categories:

1. Work, vocational, or occupational training and skills, including factors such as attendance, promptness, performance, cooperation, care of materials, and safety;
2. Social adjustment, including skills such as group living, housekeeping, personal hygiene, and cooperation;
3. Counseling sessions and self-help groups;
4. Therapeutic and other similar departmental programs; and
5. Education or literacy programs.

This undefined “earned time” would then apparently be subtracted from the inmates’ minimum terms of imprisonment set by the Hawaii Paroling Authority (HPA) so that they would be eligible for release on parole at an earlier date.

By reducing an inmate's minimum term of imprisonment without consideration of the inmate's criminal history, crime(s) committed, the crime(s)' effect on victims and their families, or the inmate's behavior while in custody, this bill not only minimizes the punitive and deterrence aspects of imprisonment, which are two of the factors considered when imposing a sentence under section 706-606, HRS, but also disregards public safety and the feelings of the victims and their families for no reason other than to have an earned-time program like other states have similar programs. Simply because an inmate takes a shower once in a while should not result in an early release on parole.

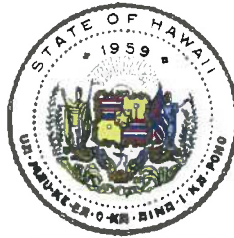
This bill is also redundant, in that the HPA considers the inmate's criminal history, crime(s), the crime(s)'s effect on victims and their families, and their behavior while in custody when setting the inmate's minimum terms of imprisonment or when deciding whether to grant release on parole. The HPA assumes that inmates will behave appropriately and strive to participate in programming and rehabilitation while in custody, and sets the length of the minimum terms accordingly. If an inmate's behavior and rehabilitation progresses as anticipated, the HPA has the discretion to grant release on parole at the expiration of the minimum term; if the inmate behaves poorly or fails to progress in rehabilitation, the HPA has the discretion to not release the inmate on parole. If an inmate finishes his or her programming and demonstrates significant progress in rehabilitation and behavior after serving a third of his or her minimum term, the inmate can request a reduction of the minimum term and the HPA has the discretion to grant the request and grant release on parole. This bill disregards the careful review and judgment the HPA uses in setting minimum terms and severely reduces its discretion.

This bill would also impose considerable financial and logistical burdens on PSD and the State. PSD is given the responsibility of reviewing the earned time of each inmate under its jurisdiction and granting, withholding, withdrawing, or restoring such credit under this bill. The United States Supreme Court has ruled that if a state institutes an earned-time program, inmates have a liberty interest in the time credits protected by the Due Process Clause of the United States Constitution. Once given, such credits cannot be taken away or withheld without a hearing. Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974). Thus PSD will have to hire additional staff to not only record and keep track of each inmate's earned time, but also to hold hearings before withholding or withdrawing any earned time from an

inmate, with each decision subject to legal challenge in court. Inmates will also generate considerable litigation challenging PSD's records on the amount of earned time credit given and taken away.

Based on the considerable financial and logistical problems, we respectfully ask the Committee to hold this bill.

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 HOUSE BILL 367
RELATING TO CORRECTIONAL FACILITIES

By

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair

Thursday, February 5, 2015, 9:00 AM
State Capitol, Conference Room 309

Chair Takayama, Vice Chair Yamashita, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 367, which would establish an earned-time program as part of the paroling process.

The more flexibility provided to PSD and the Hawaii Paroling Authority (HPA) towards alternatives to incarceration are in line with our continued desire to fully implement the Justice Reinvestment Initiative (JRI).

Should this Committee choose to move HB 367 forward, we ask that you amend this bill by allowing PSD/HPA to deduct credits for poor adjustment (misbehavior, drug use, gang activity, etc.). We also ask that you clearly state that inmates do not have the right to the earned time. If such a right is unintentionally established, we anticipate constant litigation by inmates wishing to dispute the amount of time earned.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

BERT Y. MATSUOKA
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MICHAEL A. TOWN
ANNELLE C. AMARAL
FITUINA F. TUA
MEMBERS

TOMMY JOHNSON
ADMINISTRATOR

No. _____

TESTIMONY ON HOUSE BILL 367
RELATED TO PAROLE

By
Bert Y. Matsuoka, Chairman
Hawaii Paroling Authority

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair

Thursday, February 5, 2015; 9:00 a.m.
State Capitol, Conference Room 309

Chair Takayama, Vice Chair Yamashita, and Members of the Committee:

The Hawaii Paroling Authority (HPA) opposes House Bill 367 Relating to Parole, which seeks to establish an "earned-time" program.

Implementation of an earned-time program will require additional staff for the HPA in order to monitor and publish the thousands of adjusted Notices and Orders of Fixing Minimum Term(s) of Imprisonment that will be required annually when adjustments to the expiration of minimum terms are reported. The annual reporting requirements could also expose the State to costly litigation if as a result of an offender is not scheduled for a parole consideration hearing pursuant to Hawaii Revised Statutes 706-670 (Parole procedure; release on parole; terms of parole, recommitment, and reparole; final unconditional release). Implementation of this measure will also expose the State to potentially costly litigation if any offender perceives the process of awarding and/or withdrawal of credits to be inequitable.

This measure does not take into account the current reduction of minimum (ROM) administrative process outlined in Hawaii Administrative Rules 23-700-26 and 23-700-29, which already allows inmates who have completed serving at least 1/3 of the longest minimum (felony) term to apply for an ROM provided the offender is not serving any portion of a court ordered mandatory minimum sentence.

This measure attempts to implement an earned-time program where there already exists an administrative ROM process, which "rewards" offenders for participation in programs and good behavior, while at the same time, does not depreciate the seriousness of the offense(s) or promotes disrespect for the law.

Thank you for the opportunity to provide testimony on HB 367.

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai'i

February 5, 2015

RE: H.B. 367; RELATING TO PAROLE.

Chair Takayama, Vice-Chair Yamashita, and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong opposition to H.B. 367.

In essence, this program would subvert the process that the Hawaii Paroling Authority (HPA) already goes through when determining a minimum sentence or when reducing minimum sentences that have been previously set. Moreover, the HPA's current process is significantly more comprehensive than the proposed method, utilizing written guidelines and procedures that consider more extensive input and criteria. For example, the HPA's existing procedures include consideration of victim input, whereas the determinations under this proposal would not. Similarly, the proposed method does not consider any measurement of the prisoner's remorse for their offense, development of victim empathy, or progress in the payment of restitution. Thus, the proposed procedures would be duplicative of, and significantly less-informed than, the HPA's current process.

The Department is also very concerned that this bill appears to apply to offenders sentenced to mandatory minimum terms of imprisonment, life imprisonment without parole, and class A felons. Given that these individuals are among Hawaii's most serious offenders, the Department strongly believes that it would be inappropriate and potentially dangerous to institute the proposed changes, particularly without any consideration of victim input or other victim-related factors; this also raises significant concerns for victim safety and public safety in general.

Across the nation, victims' rights organizations have widely condemned this type of program as substantially diminishing the victim's significance and role in the criminal justice process. Two types of offenders that frequently benefit from this type of bill are sex offenders and domestic violence offenders. In many cases, these offenders are known for their "exemplary

behavior” when incarcerated (thus earning them credits), but the results are devastating to victims upon their release. While this measure appears to include victim notification, it eliminates any meaningful role that victims have in the process, which would represent a huge step backward for our criminal justice system.

For all of the foregoing reasons, we strongly oppose House Bill 367 and respectfully ask that this measure be deferred. Thank you for your time and consideration.



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Vice President
Peter Van Zile

Joanne H. Arizumi

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Dennis Dunn

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Gidget Ruscetta

Joshua A. Wisch

DATE: February 5, 2015

TO: The Honorable Gregg Takayama, Chair
The Honorable Kyle Yamashita, Vice Chair
House Committee on Public Safety

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: Testimony in Opposition to House Bill 367
Relating to Parole

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center, a program of Kapi'olani Medical Center for Women & Children, in opposition to House Bill 367 (H.B. 367).

H.B. 367 would establish an earned-time program under which perpetrators of sexual assault may be eligible for parole prior to the expiration of their minimum terms of imprisonment, based on their showing improved social skills or participation in educational, occupational, or counseling programs while incarcerated.

Sexual Assault is a crime that has far-reaching, often devastating effects on survivors and their loved ones. The impact goes beyond physical injuries to include less obvious emotional and psychological wounds that can affect survivors for decades. The release of a perpetrator from prison can further provoke a wide range of emotional responses: feelings of re-victimization, symptoms of posttraumatic stress disorder, fear for personal safety, and anxiety about whether the perpetrator has been rehabilitated.

H.B. 367 would reduce a perpetrator's minimum term of imprisonment without taking into account survivor-considerate factors that are currently used to decide whether they are eligible for a reduction in sentencing under the existing, more comprehensive process used by the Hawai'i Paroling Authority. These factors include the nature of the crimes committed by the perpetrator and the effect of the crimes on survivors and their families.

Moreover, H.B. 367 would allow for a perpetrator's early release based on actions, such as participation in vocational training or housekeeping, without respect to whether those actions have any relevance to demonstrating the extent of the perpetrator's remorse, level of rehabilitation, and likelihood of recidivism.

Therefore, we request that you oppose H.B. 367 to ensure that reductions in the sentences of perpetrators of sexual assault occur in a manner that is considerate of the survivors of their crimes.

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 02, 2015 3:49 PM
To: pbstestimony
Cc: lorenn@hawaii.edu
Subject: Submitted testimony for HB367 on Feb 5, 2015 09:00AM

HB367

Submitted on: 2/2/2015

Testimony for PBS on Feb 5, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Hawai'i Friends of Justice & Civic Education	Support	No

Comments: Please pass this measure which will make our community safer by helping people in prison rehabilitate: "The National Council of State Legislatures reported in 2011 that Hawai'i is only 1 of 7 states without an earned time/good time program."

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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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



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Kyle Yamashita, Vice Chair

Thursday, February 5, 2015

9:00 a.m.

Room 309

SUPPORT for HB 367 – Earned Time

Aloha Chair Takayama, Vice Chair Yamashita 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.

HB 367 establishes an earned-time program under which a person may be eligible for parole prior to the expiration of the person's minimum term of incarceration. The person must show progress toward rehabilitation with improved social skills or participation in educational, occupational, or counseling programs. The bill requires the department of public safety to review each person's performance annually to determine if the person merits an earned-time deduction.

Community Alliance on Prisons is in SUPPORT of this measure. For more than a decade we have supported providing incentives to those incarcerated persons who have earnestly worked on their rehabilitation and reintegration plans for community reentry.

The National Council of State Legislators cited a Pew report¹ that concluded:

States are creating and expanding earned time programs that reduce the length of stay for certain offenders while maintaining public safety. Among policies that states use to reserve prison beds for the most dangerous offenders, earned time also creates an incentive for motivated offenders to work, take part in rehabilitation, and otherwise prepare to be successful in the community. Earned time is helping states reduce the corrections budget burden and allows funds saved to be invested in

¹ **CUTTING CORRECTIONS COSTS** Earned Time Policies for State Prisoners, By Alison Lawrence, National Council of State Legislatures, Pew Center on the States, July 2009.

http://www.pewcenteronthestates.org/uploadedFiles/Earned_time_report_%20NCSL.pdf?n=6022

programs that reduce recidivism and help build safe communities.

In 2009, the Michigan State Bar Association issued a report on the Restoration of Earned Credits for Prisoners²:

Position:

In 1998, Michigan enacted legislation, known as “truth in sentencing”, which requires that all prisoners serve every day of their minimum sentences, thereby prohibiting any form of earned credit for good conduct, work or participation in treatment, academic or vocational programs. It is the position of the State Bar Prisons and Corrections Section that a system of earned sentence credits should be restored. This system should be given immediate effect and applied, prospectively, to all prisoners currently serving indeterminate sentences who are not already eligible for earned credits because of their conviction dates, as well as to everyone sentenced to an indeterminate term in the future. It is further the position of the Section that judges should be required to place on the record at sentencing the extent to which earned credits may affect the service of the minimum sentence.

Summary of Findings:

The Section’s position is based on the following findings:

1. There is no evidence that permitting earned credits presents a risk to public safety.
2. There are alternate means of promoting transparency in sentencing.
3. Permitting earned credits is a common correctional practice nationally and on the county level in Michigan.
4. The opportunity to earn sentence credits provides a significant incentive to prisoners who currently are penalized for misconduct but rarely rewarded for positive efforts.
5. Permitting earned credits does not require the release of any particular prisoner, make institutional management more difficult or interfere with the discretion of the parole board. On the contrary, it provides the Department of Corrections with a useful tool for managing institutional behavior and promoting participation in rehabilitative programs.
6. The restoration of earned credits would significantly help reduce the prison population and save taxpayers tens of millions of dollars.

A Report of the NCSL Sentencing and Corrections Work Group³ defined Good Time and Earned Time credits as:

Good-time credits generally are granted to inmates for following prison rules and participating in required activities.

Earned-time credits are distinguished from and can be offered in addition to good-time for certain inmates who participate in or complete educational courses, vocational training, treatment, work or other productive activities.

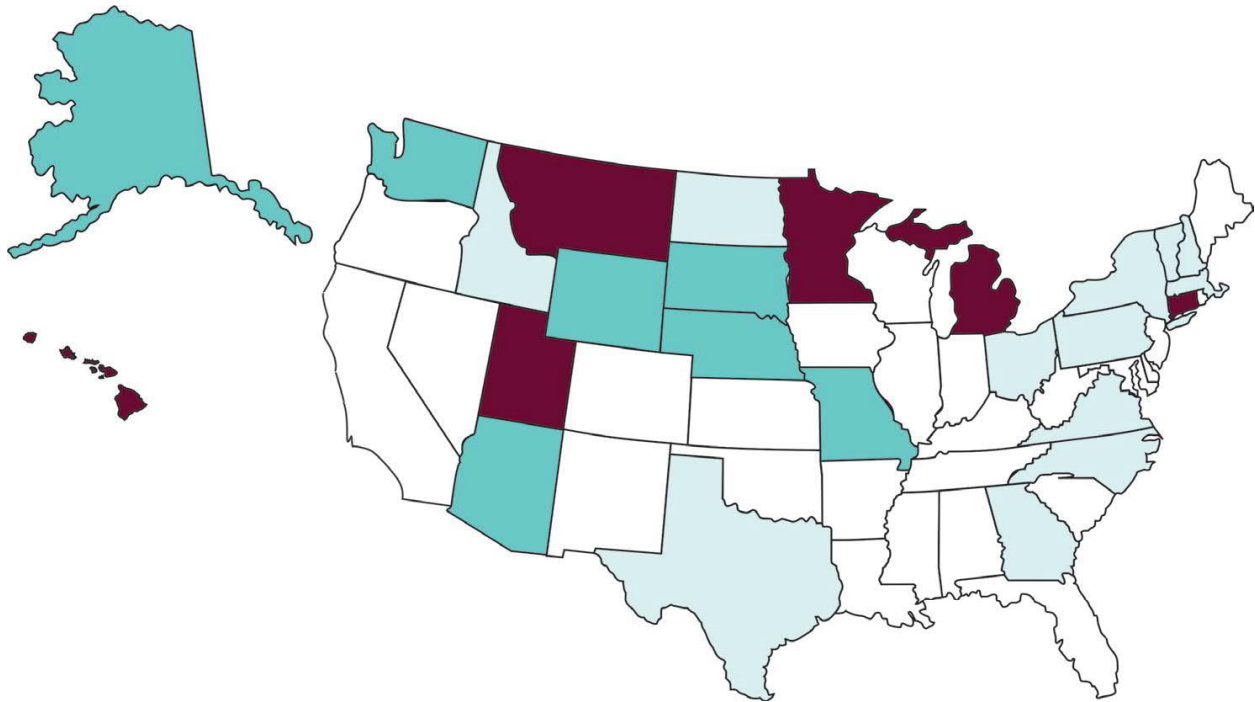
² **Restoration of Earned Credits for Prisoners**, Michigan State Bar, Prisons and Corrections Section, March 21, 2009. <http://www.michbar.org/PRISONS/pdfs/RestoreEarnedCredits.pdf>

³ **Principles of Effective State Sentencing and Corrections Policy** A Report of the NCSL Sentencing and Corrections Work Group, Prepared By Alison Lawrence and Donna Lyons, August 2011. <http://www.ncsl.org/documents/cj/pew/wgprinciplesreport.pdf>

4. Sentencing and corrections policies should be resource-sensitive as they affect cost, correctional populations and public safety. States should be able to effectively measure costs and benefits.

- Consider how state-level policies affect state and local correctional populations, costs, and state local fiscal partnerships.
- Target resources to make the best use of incapacitation, interventions and community supervision.
- Partner with and consider incentives to local jurisdictions as part of adequately funded and accountable community programs and services.
- Take into account how funding reductions to prison services or to state or local supervision programs affect short-term operations and long-term program benefits.

Sentence Credits Sentence credit laws — commonly known as good-time and earned-time — exist in at least 44 states and provide opportunities for some inmates to accelerate their release date.



BLUE = Good-time

LIGHT BLUE = Earned-time

WHITE = Both good- and earned-time

Maroon = No time

Good-time credits generally are granted to inmates who follow prison rules and participate in required activities. At least 32 states have good-time policies. **Earned-time credits are available in at least 37 states for certain inmates who participate in or complete educational courses, vocational training, treatment, work or other programs.** Earned-time credits are distinguished from and can be offered in addition to good-time credits.

These release incentives not only trim inmate time served and lower costs of incarceration, but also provide programs that improve offender success in the community and reduce recidivism. Even though some earned-time laws offer inmates a fairly small reduction in prison terms, those few days can add up to a significant cost savings when applied to hundreds or thousands of inmates. Mindful that any policy involving release of inmates must consider public safety, it is noteworthy that recidivism rates in states with earned-time provisions either remain unchanged or actually drop. This is attributed in large part to the benefits of prison-based programs inmates must complete to earn time off their sentences. More savings are captured when offenders who are better prepared to be in the community do not violate their supervision conditions or commit new crimes that create new crime and punishment costs.

A case study: Kansas⁴:

In 1996 Kansas had an incarcerated population of 7,455 individuals. If they continued doing the same thing, their projection for 2016 was an incarcerated population of 11, 231 – an estimated cumulative cost over 10 years of \$500 million.

Kansas' solutions to this dilemma:

- Grant program to local community corrections to reduce revocations by 20%
- 60-day credit for risk-reduction programs
- **Restore earned time for non-violent inmates**

Kansas' results:

- Prison population down 3.8%
- Parole revocations down 46%
- Probation revocations down 28%
- Costs averted and counting...\$80 million

The research is clear: Incentives work; sanctions don't for drug offenders. The majority of Hawai'i's incarcerated population is nonviolent drug offenders.

Let's do what works. Prison is for those people we are afraid of, not for those we are just mad at. The data is clear; prisons should be used for violent criminals. Earned time provides incentives and hope to those who are working to change their lives. The one thing *we do not want* to see if a sign at our correctional facilities that reads: **"abandon hope, all ye who enter here"**.

Hope is the power that gives us the power to step out and try.

We urge the committee to give hope to our incarcerated people by passing this bill so they will step out and try!

⁴ **Smarter Choices, Safer Communities**, Pew Center on the States, Richard Jerome.

<http://www.nga.org/files/live/sites/NGA/files/pdf/1109CJPAJEROME.PDF>

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 02, 2015 9:08 PM
To: pbstestimony
Cc: kalele33@aol.com
Subject: *Submitted testimony for HB367 on Feb 5, 2015 09:00AM*

HB367

Submitted on: 2/2/2015

Testimony for PBS on Feb 5, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Jaramillo	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 02, 2015 3:04 PM
To: pbstestimony
Cc: theede@hawaii.rr.com
Subject: *Submitted testimony for HB367 on Feb 5, 2015 09:00AM*

HB367

Submitted on: 2/2/2015

Testimony for PBS on Feb 5, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

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Public Safety Committee
Gregg Takayama, Chair
Kyle Yamashita, Vice Chair
HB 367, RELATING TO PAROLE
Feb. 5, 2015
Rm 209, 9:00 am

Dear Chair Takayama, Vice Chair Yamashita and Committee Members:

I STRONGLY SUPPORT HB 367. For many years I have submitted testimony supporting measures of this nature.

Whether in the educational system or employment sector, there are rewards to motivate people to do better, but in our prison system there is no such incentive. There are only penalties for unacceptable behavior.

It is difficult for inmates to complete programs required before they're released because those programs are not available to them until two years before their parole date. In other words, they're in a Catch 22 situation.

In our effort to reduce the population in prison which will decrease the cost of incarceration, we need to find ways that will be a win-win situation, and I believe this measure will do that.

Thank you for this bill and for the opportunity to submit my testimony.

Aloha,
e.Ileina funakoshi

To: Representative Gregg Takayama, Chair- House Committee on Public Safety;
Representative Kyle T. Yamashita, Vice Chair; and members of the Committee

From: Nonohe Botelho

Date: Thursday, February 05, 2015

Re: House Bill 367: Relating to Parole; Earned-Time Program

Aloha, my name is Nonohe Botelho. I am representing myself, my family and my son, Joel Kealiinoa Botelho, who was gunned down and murdered, the day after his 27th Birthday.

On January 2, 2011, Joel was shot and killed in front of our home in Kaneohe. Months later we found out that Joel was actually executed after being ordered, by the gunman, to “get on his knees and beg for his life”. Evidence by the medical examiner concluded that Joel was on his knees when he was shot at close range into his chest. The bullet traveled at a downward motion, suggesting the shooter was standing above him. The bullet cut across all his vital organs and lodged in his hip. He died instantly. After the gunman executed Joel he shot at my younger son, just missing him. The defendant was convicted of seven of eight charges, including Second Degree Murder and Attempted Second Degree Murder.

I am writing to say that I strongly oppose the passing of House Bill 367 as it relates to the “*earned-time program under which a person may be eligible for parole prior to the expiration of the person’s minimum term of incarceration.*” I oppose this bill for many reasons, the first and foremost is that the idea of the earned-time program gives absolutely no thought or consideration to victims and their families.

In most cases victims and their families wait several years to have their case tried in a court of law, hoping for justice that may, or may not come. IF they are fortunate enough to get a conviction they will proceed to the sentencing phase. The sentencing phase may take another year or more, depending on the numerous motions on appeal. Once they get to the sentencing, victims have the opportunity to address the court and the defendant in the form of a victim impact statement. For many families the victim impact statement helps to bring “closer” to a long, traumatic process. After the sentencing a family may begin to heal and regain a sense of safety, knowing that the offender will serve out their sentence behind bars.

As a mother of a murdered child, I cannot imagine going through the entire court process only to be told that the offender could “earn” his way out of prison prior to serving the minimum sentence! The reality is, this could be ME! If this Bill passes I could expect that the person who executed my son, a convicted felon, could be let out early for good behavior!

Why should a convicted felon be allowed to earn his way out of prison for doing what is REQUIRED while in prison? Does a convicted felon “demonstrate progress toward rehabilitation” by showing up to work, including consideration for attendance, being on time, performance and caring for materials?

Should a convicted felon be rewarded for adjusting to prison life, including keeping their area clean and practicing good hygiene? These are not only basic requirements of any prison system; these are basic requirements of ANY system of commerce or domestic exchange. Moreover, receiving an education and participating in counseling is NOT an indicator of rehabilitation. And, reducing the “budget burden” is not a REASON to excuse crimes committed by the offender. Who is this offender anyway? The Bill says, “certain offenders”. Does this mean murderers, rapist, child molesters, and repeat offenders? Finally, who is responsible to assess these offenders? The Bill does not include psychological or psychiatric assessments as part of the release criteria, but instead says, “the department will review performance of each person, including a review of certified records.” This is not enough when considering early release of a murderer or rapist!

As this time Bill 367 is dubious at best. There is nothing in this Bill that increases public safety or insures personal safety of victims and their families. After all the tears, emotional and psychological pain we have been through I can’t imagine being told that the person the executed my son can be out in 6 years, for a total of 10 years served. This would be absolutely devastating!

I ask this committee to oppose Bill 367. Support victims and families of violent crimes. Help families to heal and maintain their sense of safety. Thank you for your time and consideration.