DAVID Y. IGE GOVERNOR





## STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY

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# TESTIMONY ON HOUSE BILL 670 RELATING TO PUBLIC SAFETY.

by Nolan P. Espinda, Director Department of Public Safety

House Committee on Public Safety, Veterans, and Military Affairs Senator Representative Gregg Takayama, Chair Representative Cedric Asuega Gates, Vice Chair

Wednesday, February 6, 2019; 10:00 a.m. State Capitol, Conference Room 430

Chair Takayama, Vice Chair Auega Gates, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 670 and offers comments. PSD welcomes all proactive and prosocial programs that are provided by the community. Department staff would be pleased to meet with the providers to learn more about "Try Think" and its curriculum to insure that the program described in the bill meets the criteria of evidence-based practices in relation to intervention prevention and education initiatives.

PSD notes that furlough programs have utilized a similar intervention prevention and educational initiative, which is cognitively-based and was written with Hawaii's cultural diversity in mind. The curriculum is called, "Flip That Script," and was created by a culturally-based cognitive intervention Kumu "teacher," who is also a certified substance abuse treatment specialist. PSD would therefore welcome the opportunity to review "Try Think" to determine what an appropriate target group(s) would be.

Thank you for the opportunity to present this testimony.





### HB670 RELATING TO PUBLIC SAFETY

House Committee on Public Safety, Veterans, & Military Affairs

<u>February 6, 2019</u> 10:00 a.m. Room 430

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend that the Board of Trustees **SUPPORT** HB670, which would establish a pilot discussion program in Oʻahu correctional facilities to help paʻahao contextualize their behavior and role in society, facilitating their effective rehabilitation and eventual successful reintegration into their communities.

Hawai'i's traditional criminal justice approach has now led to mass incarceration in our State, at tremendous cost to prisoners, their communities, and our society as a whole. Over the last several decades, Hawai'i's prison population has skyrocketed to a historic high. In its recently published 2018 report, the HCR85 Task Force on prison reform noted that the current, retributive approach to justice has contributed to this unprecedented prison population and consequently has broken individuals, families, and communities while failing to yield acceptable outcomes regarding reduced recidivism or public perception. Unfortunately, the Native Hawaiian community has been particularly impacted by our current criminal justice approach, making up nearly 40% of our prison population for at least the past ten years. Accordingly, it is now clear that Hawai'i must seek criminal justice reform as well as implement evidence-based incarceration alternatives to reduce the incarcerated population, more effectively rehabilitate pa'ahao, reduce recidivism, improve public safety, and save taxpayer dollars.

Educational efforts like the "Try Think" discussion program—administered in Hawai'i jails and prisons by the Hawai'i Council for Humanities—offer the State an excellent opportunity to invest in positive, rehabilitative programming. OHA has long advocated for greater investment in rehabilitative models and programs that can help inmates examine their previous poor judgment and its consequences; explore their connection and responsibility to their 'ohana, community, and culture; and cognitively restructure to improve decision-making in the future. Moreover, because they emphasize the development and practice of pro-social skills to prepare inmates for successful reentry, rehabilitative models of incarceration are proven to yield far better recidivism outcomes than punitive ones. Accordingly, the Native Hawaiian Justice Task Force insisted that rehabilitative models should be proactively promoted in our system; the HCR85 Task Force, in its more recent 2018 report, likewise identified as its "primary recommendation [that] Hawai'i begin to transition from a punitive to a rehabilitative correctional system."

HB670 represents an essential first step toward fulfilling these recommendations, investing in a transformation toward a rehabilitative justice system, and realizing the profound potential benefits a rehabilitative model can offer to our criminal justice system.

Therefore, OHA urges the Committee to **PASS** HB634. Mahalo nui loa for the opportunity to testify on this critical measure.

<sup>&</sup>lt;sup>1</sup> From 1978 to 2016, the combined jail and prison populations increased 670% from 727 prisoners to 5,602. E. ANN CARSON & JOSEPH MULAKO-WANGOTA, BUREAU OF JUSTICE STATISTICS, COUNT OF TOTAL JURISDICTION POPULATION (generated using the Corrections Statistical Analysis Tool – Prisoners at www.bjs.gov) (2018).

ii See generally, HCR 85 (2016) Task Force, Creating Better Outcomes, Safer Communities: Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai'i Legislature (2018), AVAILABLE AT HTTPS://190F32X2YL33S804XZA0GF14-WPENGINE.NETDNA-SSL.COM/WP-CONTENT/UPLOADS/HCR-85-Task-Force-on-Prison-Reform Final-Report 12.28.18.pdf.

Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 10 (2010), available at <a href="http://www.oha.org/wp-content/uploads/2014/12/ir final\_web\_rev.pdf">http://www.oha.org/wp-content/uploads/2014/12/ir final\_web\_rev.pdf</a>. Moreover, controlling for many common factors including the type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38. More recently, the HCR85 Task Force noted that Native Hawaiians continue to be overrepresented in our prison system, constituting just 21% of the statewide population, and only18% of the adult population, but 37% of the incarcerated population. HCR 85 (2016) Task Force, Summary and Key Recommendations 2 (2018), available at <a href="https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR85Summary\_FINALv2.pdf">https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR85Summary\_FINALv2.pdf</a>.

The NHJTF recommended several options to address systemic issues resulting in the overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not passed initially or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu'uhonua, and bolstering reintegration programs and services to better prevent recidivism. Office of Hawaiian Affairs, *Native Hawaiian Justice Task Force Report* (2012), http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wpcontent/uploads/2012NHJTF\_REPORT\_FINAL\_0.pdf.

<sup>&</sup>lt;sup>v</sup> Rehabilitative systems have been in place in Western Europe and Scandinavia for over a decade and are achieving recidivism rates as low as 20%, compared to our 3-year rate of 57%. HCR 85 (2016) TASK FORCE, *supra*, note 3 at 3-4.

vi Supra note 4 at 19.

vii Supra note 2 at iii.



## O'ahu County Committee on Legislative Priorities

### **COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS**

Rep. Gregg Takayama, Chair Rep. Cedric Asuega Gates, Vice Chair

DATE: Wednesday, February 6, 2019 TIME: 10:00 a.m. PLACE: Conference Room 430, State Capitol

### HB 670 RELATING TO PUBLIC SAFETY

To the Honorable Gregg Takayama, Chair; the Honorable Cedric Asuega Gates, Vice Chair; and Members of the Committee on Public Safety, Veterans & Military Affairs:

The O'ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai'i (DPH) hereby submits its testimony in **SUPPORT of HB 670 relating to Public Safety.** 

HB 670 establishes a two-year pilot program on the island of Oahu to reduce recidivism through intervention, prevention, cultural support, and education initiatives. HB 670 appropriates \$100,000 for this pilot program.

#### REFORMING OUR CRIMINAL JUSTICE SYSTEM

Instead of investing in more jails and incarceration, we need to invest more in jobs and education and end the school-to-prison pipeline. We will remove barriers to help formerly incarcerated individuals successfully re-enter society by "banning the box," expanding reentry programs and restoring voting rights. "Banning the Box" would allow applicants the opportunity to demonstrate their qualifications before being asked about their criminal records.

The "war on drugs" has led to the imprisonment of hundreds of people in Hawai'i, disproportionately people of color, without reducing drug use. Whenever possible, DPH will prioritize prevention and treatment over incarceration when tackling addiction and substance use disorder. We will build on effective models of drug courts, veterans' courts, and other diversionary programs that seek to give nonviolent offenders opportunities for rehabilitation as opposed to incarceration.

We have been inspired by the movements for criminal justice that directly address the discriminatory treatment of Native Hawaiians, Pacific Islanders and other disadvantaged ethnicities to rebuild trust in the criminal justice system. We require that convicted Native Hawaiians, Pacific Islanders and all other races and ethnicities who reside within the State of Hawai'i remain incarcerated in the State of Hawai'i.

DPH supports reforms to our criminal justice system, including but not limited to bail reform, that encourage the reintegration of formally incarcerated individuals into greater society and reduces their rate of recidivism. *Democratic Party of Hawai`i Platform (2018), p. 8, In. 33-44, 51-54, p. 9, In. 1-2.* 

For the foregoing reasons, i.e., to support reforms to our criminal justice system, including but not limited to bail reform, that encourages the reintegration of formally incarcerated individuals into greater society and reduces their rate of recidivism, OCCLP supports HB 670 and urges its passage out of the Committee on Public Safety, Veterans & Military Affairs.

Mahalo nui loa Me ka `oia`i`o

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i

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## COMMUNITY ALLIANCE ON PRISONS

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### COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair Rep. Cedric Asuega Gates, Vice Chair Wednesday, February 6, 2019 10 am **Room 430** 

### STRONG SUPPORT HB 670 - PILOT PROGRAM TO REDUCE RECIDIVISM

Aloha Chair Takayama, Vice Chair Gates 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 in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE as well as the approximately 5,400 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 670 establishes and appropriates funds for a two-year pilot program on the island of Oahu to reduce recidivism through intervention, prevention, cultural support, and education initiatives.

Community Alliance on Prisons is in strong support of this measure. It is about time that Hawai'i realize that incarceration IS the punishment and starts working on rehabilitating or habilitating individuals who have lost their way or never found it.

Education is the route out of poverty and incarceration. San Quentin Prison is part of The Bard Prison Initiative (BPI)<sup>1</sup> works to redefine the availability, affordability, and expectations typically associated with higher education in America.

Since 2001, BPI has created groundbreaking opportunities for college within America's prison systems. These programs transform the negative impacts of criminal punishment and create radical inroads of access and opportunity to higher learning.

Today, BPI enrolls over 300 incarcerated students full-time in programs that culminate in degrees from Bard College; it offers extensive support for its alumni in and around New York

<sup>&</sup>lt;sup>1</sup> Bard Prison Initiative - https://bpi.bard.edu/

City; and, it has developed a nationwide network of leading universities and colleges to catalyze a transformation in the relationship between education and criminal justice in the United States. BPI's newest initiative, the Bard Microcollege, expands yet further the scope and impact of this work, delivering high-quality liberal arts education to isolated communities outside of prison through partnerships with community-based institutions.

### By The Numbers

Number of BPI courses offered each year - 165 Percentage of BPI graduates who leave prison and never come back – 97.5% Number of colleges partnering in Consortium - 12

Here are excerpts from an article about San Quentin's debate team<sup>2</sup>:

San Quentin Prison, a debate team of three inmates with violent criminal records defeated a team of three Harvard University undergraduates. It sounds like an underdog story plucked from the pages of a yet unwritten Walt Disney screenplay — and in some ways, it is.

But it's also worth pointing out the fallacy of our underlying assumptions about such a matchup — the first (and most pernicious) being that criminals aren't smart. If a definitive link between criminality and below-average intelligence exists, nobody has found it.

The debate took place last month at the Eastern New York Correctional Facility, a maximum-security prison about an hour southwest of Bard College. The hosts beat a Harvard team that had won three of four American Parliamentary Debate Association national championships.

"There are few teams we are prouder of having lost a debate to than the phenomenally intelligent and articulate team we faced this weekend," the Harvard College Debating Union <u>wrote on Facebook</u> after the defeat, "and we are incredibly thankful to Bard and the Eastern New York Correctional Facility for the work they do and for organizing this event."

What makes the victory over Harvard impressive is less about who pulled it off than how they did it.

To prepare for the competition, the inmates, members of <u>Bard's Prison Initiative</u>, were forced to acquire knowledge the old-fashioned way: Without access to the Internet, <u>according to the Wall Street Journal</u>. In 2015, can you seriously imagine preparing for anything – purchasing a movie ticket, looking up directions or researching basically anything – without going online.

Complicating their challenge, the Journal noted, was the fact that research requests for books and articles had to be approved by the prison administration, something that could take weeks.

<sup>&</sup>lt;sup>2</sup> Why you shouldn't be surprised that prisoners crushed Harvard's debate team, By Peter Holley, October 7, 2015. https://www.washingtonpost.com/news/grade-point/wp/2015/10/07/why-you-shouldnt-be-surprised-that-convicted-criminals-crushed-the-harvard-debate-team/

When people are respected and treated humanely amazing things can happen. Imagine a program in Hawai`i correctional facilities where graduate students in different disciplines went into different facilities each month to meet with interested people to discuss their work. This would help incarcerated people learn about subjects such as marine science, sustainability, philosophy, geography, political science, etc. It would open up the world outside of prison for people to help them develop a variety of interests and pathways to more fulfilling lives than the ones that landed them behind bars.

There was a program at Waiawa that linked up with Leeward Community College where the men could take college classes and upon release, would just pick up the class there they left off. This is a great way to reduce recidivism...it is seamless transition that helps keep folks on a more successful track! That program ended and I have been seeking to find out why.

There are many graduate students who would love to teach in our correctional facilities. Those people who have taught in prison all have shared amazing stories with us when they describe the transformation they have seen when the outside world is opened up for folks!

Let's work to open the minds of people who live in the closed and dark places we send them to when they break social norms.

There are plenty of people in the community who want to help.

We urge the committee to pass this bill.

Mahalo for this opportunity to testify.

### February 5, 2019

TO: House Committee on House Committee on Public Safety, Veterans, & Military Affairs

RE: HB 670

HEARING DATE: Tuesday, February 6, 2019

TIME: 10:00 AM ROOM: 430

POSITION: SUPPORT

Chair Takayama, Vice Chair Gates, and members of the committee:

I am a retired attorney and recently served as vice chair of the HCR 85 Task Force on prison reform.

HB 670 call for a pilot program to assist prisoners and recently released inmates to evaluate themselves, reflect on current events, and redefine themselves and their role in the community through thoughtful study and group discussion.

Personal change often comes about through reflection and sharing ideas and perceptions with others. I believe this is a worthwhile program and that the pilot program should be funded. Administration of the program should include the collection of recidivism data on participants and a control group so that the program can be evaluated.

Thank you for the opportunity to comment on this bill.

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### **HB-670**

Submitted on: 2/5/2019 12:06:50 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing	
Robert Chang	Individual	Support	Yes	

### Comments:

Chair Takayama of the House Committee on Public Safety, Veterans & Military Affairs

Subject: House Bill 670 Relating to Public Safety

February 4, 2019

My name is Robert Chang, and I am a concerned citizen and the Director of Literacy and Discussion Programs for the Hawai'i Council for the Humanities. The Try Think program referenced in HB670 was created and is currently being implemented by myself and Dr. Tammy Jones. I am testifying in **support** of H.B. 670.

This bill will provide financial support needed to implement and sustain programs addressing recidivism reduction. In my 20 years with the Hawai'i Council for the Humanities, I have provided educational programming for incarcerated individuals at most of the most of the major correctional facilities around the state. Try Think, and the programs that I currently facilitate at the Halawa Correctional Facility, Wai'awa Correctional Facility and the Women's Community Correctional Center are among the highest attended and most sought after classes offered. These types of classes offer inmates opportunities to engage with each other and other members of the community in a positive and productive way. By learning to reconnect with their community, the likelihood of recidivism seems much less. Try Think and programs like it promote community within the individual facilities and are critical in reinforcing that idea of community. When reintegrated, this experience could provide the impetus for positive change among those program participants, and strengthen the communities and families that they are returning to.

The importance of classes that provide academic and vocational skills to inmate is well documented and supported. However, just as important are the skills associated with The Humanities, that are taught and strengthened by Try Think and similar programs: communication skills, empathy, tolerance and culture. These skills will allow transitioning inmates to sustain a lifestyle where they feel that they belong and are valued

Thank you for the opportunity to testify in strong **support** on this matter of great importance to our future generations. I will be present on Wednesday, February 6th to

give oral comments and answer questions about the Try Think program.

Robert Chang

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<u>HB-670</u> Submitted on: 2/5/2019 7:25:50 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

### **HB-670**

Submitted on: 2/5/2019 11:51:36 AM

Testimony for PVM on 2/6/2019 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Aiko Yamashiro	Individual	Support	No

### Comments:

Feb 5, 2019

Subject: House Bill 670 Relating to Public Safety

Dear Committee on Public Safety, Veterans, and Military Affairs,

My name is Aiko Yamashiro and I am a teacher and poet who grew up in KÄ• ne'ohe and now lives in Kahalu'u. I currently serve as the Executive Director of Hawai'i Council for the Humanities (HCH), a nonprofit whose mission is to connect people with ideas that broaden perspectives, enrich lives, and strengthen communities. â€⟨I am testifying IN SUPPORT of HB670, Relating to Public Safety.

HB 670 supports the creation of a pilot program that will help reduce recidivism and support incarcerated people in the transition to re-entering their communities. The pilot program is modeled after our HCH program Try Think. Try Think is a very successful reading and discussion program we have been running in Oʻahu prisons since 2017. It builds safe space and meaningful community in small group settings, through reading and discussion around themes important to Hawaiʻi as well as to the difficult work of transition. It also builds safe space and meaningful community through method--using a facilitation style that engages critical thinking, wonderment, listening, and being heard.

The pedagogy of the program proposed in HB 670 is also proven success of Try Think, which itself is built through the experience of HCH's twenty years of education and community work in the prisons, largely through running an Hawai'i affiliate of the nationally acclaimed family literacy program, Motheread/Fatheread©. Participants in the program have stated again and again the value of reading and discussion approachesmore than just learning literacy, these approaches help people explore their own life questions and feelings, and engage in meaningful conversation and quality time with their own families.

Whereas Motheread/Fatheread© helps align work in Hawai'i with national research on rehabilitation and reintegration, a program like Try Think would be an opportunity for the State of Hawai'i to create a successful reintegration and transition program tailored to our unique community. The pilot program described in HB670 emphasizes unique qualities and values central to our communities here, including units on identity, family,

and culture. Establishing a two-year pilot program will not only help participants, but also help the State collect invaluable data on transition and best practices for Hawaii.

The pilot program described in HB670 also allows for program work to happen both inside and outside the prison walls. Last week, I got to attend an HCH Try Think program held for the outside community, at Nĕ nĕ kuli Public Library. I was impressed that 16 busy people, mostly teachers, chose to spend an hour and a half of their weekday evening sitting in a circle and talking, after a long work day. The circle was facilitated in the Try Think model--where people posed questions important to themselves and their community and then the group picked one to explore together (in this case, it was: "Why do others seem to make decisions for our community

without really considering or valuing the community's wants, needs, and voice?"). I was even more impressed by the end of the event--when people left feeling energized, heard, and more open to each other. As one woman shared upon saying goodbye: "I feel like I am not alone." This kind of discussion program clearly builds community, and has so much potential to support people in the very daunting experience of transition.

Previous to my work at HCH, I have been working for over 10 years as a teacher and poet in Hawai'i. I taught literature at UHM for 6 years, and have also taught literature and creative writing in community spaces--in after-school high school programs, and in collaboration with environmental stewardship groups, Hawaiian cultural groups, peace organizations, and women's organizations. In all of these situations, I have seen the power of the humanities to build community and relationship among diverse peoples, to help communities tackle tough issues, to support people in becoming stronger and more compassionate together. I support HB670 because it invests in a conviction that people can rise to our best: that we can help each other to â€⟨grow and change and return and belong.

Sincerely, Aiko Yamashiro Executive Director of Hawai'i Council for the Humanities 3599 Wai'alae Avenue, Suite 25 Honolulu, HI 96816 To: Chair Takayama, Committee on Public Safety, Veterans, and Military Affairs

Vice Chair Gates, Committee on Public Safety, Veterans, and Military Affairs

Date/Time: February 6<sup>th</sup>, 10AM

Room 430

### **Testimony in Support of House Bill 670**

LATE

Aloha Chair Takayama, Vice Chair Gates, and committee members,

I am testifying **in support of HB 670**, a **pilot program from** *Try Think*. This session, there are several bills that aim to better Hawaii's criminal justice policy and framework and a two-year pilot program of *Try Think* should be passed alongside them.

My name is Kathleen Algire, and I was previously the Policy Director of YWCA O'ahu and have worked with justice-involved women. I have had the opportunity to be a guest at different times for three cohorts of the program. Each time, I was struck by the complexity of the topic, the seriousness in which the participants engaged in dialogue, and the keen awareness that this program was a benefit to all that participated. I've learned through my experience of working with justice-involved women, that much of their daily life in prison is decided for them; when to wake up, what to eat, what to do, where to go, what they can purchase, who they can see, etc. It is easy to forget about the complexity of choice and how having choices can be overwhelming. This program creates space for a person to consider why they make choices and how they come to conclusions, what are their rights and their responsibilities, and it pushes them to possibly change their way of thinking and processing information. This is in complete alignment with the reframing technique that is widely used to help overcome old behaviors and create new, positive behaviors. The program is unique, unlike others currently offered, and works in harmony to support the overall programming at the facilities.

House bill 670 can be one of the first steps Hawaii takes as it embarks on criminal justice reform. I respectfully ask that the committee vote favorably on HB 670 so others may have an opportunity to partake in this unique, educational opportunity.

Thank you, Kathleen Algire, MSW

### **HB-670**

Submitted on: 2/5/2019 7:30:18 PM

Testimony for PVM on 2/6/2019 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Wayne	Individual	Support	No

### Comments:

Thank you for the opportunity to testify in STRONG SUPPORT of HB670.

With an overpopulation crisis in our detention facilities, innovative rehabilitation programming that more effectively prepares prisoners for reentry and reduces recidivism is sorely needed. Programs such as those described in this measure can not only make our criminal justice system more effective and humane, but also provide relief to our overcrowded facilities as well as improve public safety, by better ensuring that released former inmates do not re-offend.

Please PASS HB670. Mahalo nui loa!