



The Senate
State of Hawaii

STATE CAPITOL
HONOLULU, HAWAII 96813
February 9, 2006

TO: Members of the Senate Committee on Judiciary and Hawaiian Affairs
FROM: Sen. Colleen Hanabusa, Chair
SUBJECT: Chair's inclinations for decision making on Friday, February 10, 9:00 a.m.

The following measures were previously heard on Monday, February 6 and deferred from Wednesday, February 8:

Bill NO.	Description	Referral
SB 2600	RELATING TO ELECTRONIC COURT RECORDS, DOCUMENTS, PROCESSES, AND CERTIFICATES. Clarifies that court process records or documents may be created, retained and stored electronically and converted to electronic form; clarifies the requirements for court seals; and allows court documents and records to be electronically signed and sealed. Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229 to allow for consideration of the amendment recommended by the Attorney General in response to the concern that Section 2, as it is presently drafted, might be vulnerable to challenge because the provisions contained in subsection (a) describe what a "seal" is, and do not suggest a logical connection that is germane to the subject of the bill (electronic court records).	JHW
SB 2602	RELATING TO ADULT PROBATION RECORDS. Adds persons and entities that are allowed access to adult probation records. Chair's inclination: SD1 – Incorporate amendments agreed to by the Judiciary and the Office of the Public Defender that: 1) allow state or federal court programs access to a copy of any adult probation case record and 2) require that any person, agency, or entity receiving records, or contents of records shall be subject to the same restrictions on disclosure as the Hawaii state adult probation offices. Additional amendments to balance privacy issues and other concerns expressed by the Office of the Public Defender would 1) allow the victim to access the name and contact information of the defendant's adult probation officer not the defendant, 2) stipulate that records and information relating to the defendant's risk assessment and need for treatment services or information related to the defendant's past treatment and assessments may be provided to a case management, assessment or treatment service provider only upon the acceptance or admittance of the defendant into a treatment program, 3) assess a fine of no more than \$500 if any person uses the information covered by this subsection for purposes inconsistent with the intent of this subsection or outside of the scope of official duties, and 4) make technical, non-substantive amendments.	JHW
SB 2603	RELATING TO MOTOR VEHICLE INSURANCE. Provides district court judges with discretion to impose a term of imprisonment for first offenses of motor vehicle insurance laws. Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229	JHW

SB 2606	<p>RELATING TO BAIL. Deposits unclaimed bail money to the director of finance of the State. Chair's inclination: Pass As Is. In response to a request for the amount of monies escheated each year, the Judiciary provided the following figures: \$110,217.75 for FY 2003, \$53,458.50 for FY 2004, \$159,561.95 for FY 2005, and \$16,589.00 for FY 2006 (as of 2/6/06). The Judiciary also researched the feasibility of turning escheated funds over to the courts and based upon its reading of HRS 37-62 concluded that the funds must escheat to the general fund.</p>	JHW, WAM
SB 2611	<p>RELATING TO VEXATIOUS LITIGANTS. Expands scope of vexatious litigants law to prohibit and sanction the vexatious conduct of all parties. Chair's inclination: Pass As Is</p>	JHW

The following measures were previously heard on Tuesday, February 7:

Bill NO.	Description	Referral
SB 2244	<p>RELATING TO EXPUNGEMENTS. Requires the deletion of digitized arrest records, rather than the return of hard copy materials, if applicable. Clarifies the definition of "crime" as it relates to expungeable offenses. Limits expungements to applicants that have no convictions on their criminal record. Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229</p>	JHW
SB 2251	<p>RELATING TO TORT ACTIONS. Reiterates the underlying intent of the discretionary function and the intentional tort exception to the State's waiver of sovereign immunity for the torts of its employees, and declares that all the exceptions to the State's waiver of sovereign immunity are to be broadly construed in the State's favor. Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229</p>	JHW
SB 2255	<p>RELATING TO TIME LIMITATIONS. Adds crimes that include deception as an element of those crimes where the date of discovery is used to calculate the time limitation within which the crime must be charged. Chair's inclination: SD1 – Insert a reference to the definition of deception in HRS § 708-800 and make technical, non-substantive amendments.</p>	JHW
SB 2256	<p>RELATING TO COURT ADVISEMENT CONCERNING ALIEN STATUS. Allows courts to advise defendants of the effect of a criminal conviction on alien status. Chair's inclination: Hold</p>	JHW
SB 2259	<p>RELATING TO INFORMATION CHARGING. Add "unlawful methamphetamine trafficking" to those felonies that may be initiated by information charging. Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229</p>	JHW

SB 2260 RELATING TO SENTENCING. JHW
 Provides for a mandatory sentence of 30 years to life for habitual violent felons. Adds 21 serious class C felonies to those offenses subject to repeat offender sentencing. Provides higher maximum terms for repeat offenders and lower penalties for most misdemeanor and petty misdemeanor offenses. Amends repeat offender statute to: (a) change the method of calculating the period of eligibility for repeat offender sentencing by adding the time a defendant spends on probation, parole, or in prison to the otherwise applicable period; (b) enhance certain sentencing provisions. Adds 20 class B and class C felonies to the list of offenses for which a deferred acceptance of plea (DAG or DANC) is not permitted.
Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229

SB 2265 RELATING TO CRIMES AGAINST MINORS. JHW
 Add electronic enticement of a child to the list of class C felonies subject to repeat offender sentencing. Mandates at least 1 year incarceration for defendants convicted of promoting child abuse or convicted of electronic enticement of a child. Eliminates the possibility of a deferred plea for those who enter a plea to the crime of promoting child abuse or the crime of electronic enticement of a child. Adds a new misdemeanor of electronic enticement of a child in the third degree.
Chair's inclination: Defer to Friday, February 17, 2006 at 9:00 am in CR 229

The following measures were previously heard on Wednesday, February 8:

Bill NO. SB 650	Description RELATING TO THE WEED AND SEED STRATEGY. Makes an appropriation for the Weed and Seed Strategy. Chair's inclination: SD1 – Incorporate the amendment suggested by the Attorney General to specify that funds be appropriated as a grant to the YMCA of Honolulu pursuant to chapter 42F, Hawaii Revised Statutes, with the Department designated as the expending agency. Change the fiscal year to 2006-2007 and the effective date to July 1, 2006.	Referral JHW, WAM
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SB 992	RELATING TO JUDGES. Establishes requirements for per diem judges, including for their nomination, prerequisites, term of office, discipline, minimum days of service, and reappointment. Chair's inclination: SD1 – Amend to 1) delete the requirement that per diem district judges serve a minimum of three days per month to address the Judiciary's concern and 2) stipulate that per diem district judges shall serve no more than three consecutive terms unless, based on the discretion of the chief justice, the per diem district judges are recommended for additional consecutive terms and the recommendation is submitted to the judicial selection commission.	JHW, WAM
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- SB 1311 RELATING TO DISPOSITION OF CONVICTED DEFENDANTS. JHW, WAM
 Authorizes a three-year pilot project that allows the judiciary to assume supervision and control over inmates in correctional facilities who qualify for the track IV phase of a drug court program.
Chair's inclination: SD1 – Incorporate the amendments suggested by the Judiciary as follows: 1) delete any reference to a specific numerical track and instead refer to inmates eligible for this drug court program as "inmates in correctional facilities who qualify for a drug court program" and 2) delete specific reference to "Maui" drug court and instead reference "drug court pilot project" in order to provide all of the adult drug courts within the State the opportunity to implement the pilot project should they desire yet not mandate it should they desire not to. Change the repeal date to June 30, 2009.
- SB 1313 RELATING TO FORFEITURES. JHW, WAM
 Requires moneys from the criminal forfeiture revolving fund to be used for drug treatment programs.
Chair's inclination: SD1 – Insert a defective effective date of July 1, 2050 in order to keep this measure alive for continued discussion and provide the Attorney General with an opportunity to pursue a Memorandum of Agreement with the federal government that would require the Attorney General to serve as a clearinghouse for all forfeited property in order to govern the amount and use of forfeited property and moneys.
- SB 2926 RELATING TO PUBLIC SAFETY. JHW, WAM
 Appropriates funds to the department of public safety for the expansion of work furlough programs and facilities.
Chair's inclination: Pass As Is. The Department of Public Safety indicated that 2,725 transitional beds are required at an estimated cost of \$80/day, which is more than the current amount of \$68.50/day expended by the State at the present time, but less than the \$111/day expended by the federal government.
- SB 2932 RELATING TO THE COURTS. JHW, WAM
 Requires that the circuit and district courts be open to conduct judicial business during extended hours. Appropriates funds.
Chair's inclination: Defer to Monday, February 13, 2006 at 9:00 am in CR 229
- SB 2933 MAKING AN APPROPRIATION TO REPLACE THE OAHU COMMUNITY CORRECTIONAL CENTER. JHW, WAM
 Appropriates funds to replace the Oahu Community Correctional Center.
Chair's inclination: Hold based on assurances provided by the Director of the Department of Public Safety that a report will be provided by December 31, 2006 on the \$1.5 million appropriated by the legislature in 2004 to replace the Oahu Community Correctional Center

SB 2943	<p>MAKING AN APPROPRIATION TO HIRE MONITORS FOR OUT-OF-STATE CORRECTIONAL FACILITIES THAT HOUSE HAWAII INMATES.</p> <p>Appropriates funds to hire monitors for out-of-state correctional facilities housing Hawaii inmates.</p> <p>Chair's inclination: SD1 – Reference data reported by the Department of Public Safety that as of June 2005, the Department maintained a total of 1,730 inmates in four states other than Hawaii at a cost of \$33,179,292.95 and is requesting \$12,133,586 to house an additional 701 inmates in its supplemental budget request.</p>	JHW, WAM
SB 2945	<p>MAKING AN APPROPRIATION FOR A WOMEN'S CORRECTIONAL CENTER AND FACILITY.</p> <p>Appropriates funds to the department of public safety for the construction of an additional women's correctional center and facility.</p> <p>Chair's inclination: Pass As Is</p>	JHW, WAM
SB 2947	<p>RELATING TO CORRECTIONS.</p> <p>Establishes criteria for contracts with respect to the transfer of inmates to out-of-state correctional facilities.</p> <p>Chair's inclination: Defer to Monday, February 13, 2006 at 9:00 am in CR 229</p>	JHW, WAM
SB 2949	<p>RELATING TO PUBLIC SAFETY.</p> <p>Creates an office of the ombudsman for prisons and probation to be administratively attached to DPS to investigate prisoner complaints, deaths, and riots.</p> <p>Chair's inclination: Defer to Monday, February 13, 2006 at 9:00 am in CR 229</p>	JHW, WAM
SB 3010	<p>MAKING AN APPROPRIATION FOR COMMUNITY PLACEMENT PROGRAMS FOR FEMALE OFFENDERS TRANSITIONING FROM PRISON TO THE COMMUNITY.</p> <p>Appropriates funds for community placement programs for female offenders transitioning from prison back into the community.</p> <p>Chair's inclination: SD1 – Technical, non-substantive amendments.</p>	JHW, WAM