



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

S.B. NO. 2524, S.D. 1, RELATING TO PRISONS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 26, 2008 **TIME:** 10:45 AM

LOCATION: State Capitol, Room
Deliver to: Committee Clerk, Room 210, 1 Copy

TESTIFIER(S): WRITTEN TESTIMONY ONLY.
(For more information, contact Darcy H. Kishida,
Deputy Attorney General, at 587-2978.)

Chair Baker and Members of the Committee:

The Department of the Attorney General opposes this bill. We note initially, according to Standing Committee Report No. 2442, that the bill has been amended to add an effective date of July 1, 2025, to facilitate further discussion on this topic. We continue to point out potential problems with the bill, including unintended consequences should the bill pass in its current form.

The bill amends section 353-72, Hawaii Revised Statutes (HRS), by requiring the Department of Public Safety (PSD) to: (1) create a separate mental-health treatment facility in every prison, complete with the appropriate medical staff to ensure that all inmates suffering from mental illness "receive proper and adequate treatment for their psychiatric conditions"; (2) "house" all inmates suffering from mental illness in such separate mental-health treatment facilities created pursuant to the bill; and (3) ensure that inmates suffering from mental illness are never housed in "solitary confinement, or with the general prison population."

Although the intent of the bill is commendable, the bill presents significant concerns.

There are no funds set aside to create a separate mental-health treatment facility in every prison. This ambitious endeavor will require significant funding. Without funding PSD will not have the resources necessary to succeed.

Second, the bill's prohibition against solitary confinement as defined presents an unacceptable safety risk to inmates and prison staff, especially in light of the bill's definition of "mental illness." The bill provides that "mental illness" has the same definition as provided in section 335-1, Hawaii Revised Statutes: "[M]ental disease to such an extent that a person so afflicted requires care and treatment for the person's own welfare, or the welfare of others, or of the community."

(Emphasis added.) Given that the bill covers those inmates who may be a danger to themselves or others, it is inconsistent to forbid completely the use of "solitary confinement," which the bill itself defines only as "confinement of a prisoner in isolation from all other prisoners." If a mentally ill inmate indeed poses a safety risk to the inmate's self or others, it is necessary to have the option of isolating the inmate from other inmates, if only temporarily. This option allows facility staff to stabilize an unsafe situation and properly assess and treat mental health issues. Taking away that option would unnecessarily place prison inmates and staff in danger, potentially making the State liable to costly lawsuits.

Third, this bill prohibits inmates with mental illness from being housed with a facility's general population. This is overly restrictive as many with mental illness, if responding to treatment, are able to function well in the general population.

Lastly, PSD has made significant strides in its delivery of mental health services. Further progress is being pursued and is possible with the budgetary proposal PSD is pursuing this legislative session.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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The Twenty Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
HGEA/ AFSCME, Local 152, AFL-CIO
February 26, 2008

**S.B. 2524, S.D.1 – RELATED
TO PRISONS**

The Hawaii Government Employees Association, Local 152, AFL-CIO supports S. B. 2524, S.D. 1 which proposes to create separate forensic treatment facilities for the mentally ill prisoners in all community correctional facilities.

Separate facilities are critical for the safety and well being of mentally ill prisoners. Research reveals that one in every six prisoners in the United States suffers from a variety of mental illnesses. Prison is a dangerous and damaging setting, particularly for those mentally ill prisoners who may face additional harassment or abuse by other inmates. This type of treatment can exacerbate their mental condition and result in acute psychosis.

In other cases, mentally ill persons who have committed crimes are housed at the Hawaii State Hospital, which has resulted in an over-crowding problem. These mentally ill patients are more violent and abusive and have attacked healthcare workers at the hospital creating unsafe working conditions. Having separate treatment areas in the prisons would provide a better environment for treating mental illnesses and provide a safer environment for the prisoners as well as the staff trained to treat them.

For the above reasons, we respectfully urge passage of S. B. 2524, S.D. 1 from your committee. Thank you for the opportunity to submit our testimony.

Respectfully Submitted,

Nora A. Nomura
Deputy Executive Director



Senator Rosalyn H. Baker, Chair
Senator Shan S. Tsutsui, Vice Chair
And Committee Members On Ways and Means
The Senate, The Twenty-Fourth Legislature
Regular Session of 2008, State of Hawaii

DATE: Tuesday, February 26, 2008

TIME: 10:45 a.m.

PLACE: Conference Room 211

State Capitol

415 South Beretania Street

Testimony supporting SB 2524 (Relating to Prisons)

The purpose of the bill is to create separate treatment facilities within all community correctional centers and to end housing mentally ill prisoners in solitary confinement and with general prison population.

I am a social work student whom has worked with incarcerated women. This issue greatly concerns me because prisoners rights can easily be forgotten and prisoners with mental illnesses are even more vulnerable. Many prisoners are those whom have not gotten the much needed mental health treatment. This bill will help to identify those who need mental health treatment, making sure they receive treatment, and helping them to reintegrate successfully into the community should be a part of the correctional system. If we act now on this growing problem, the community will be safer and healthier.

Mahalo nui loa for this opportunity to testify.