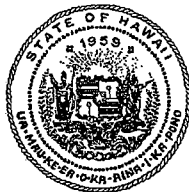


LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 2546
RELATING TO OFFENDER REENTRY

by

Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Public Safety
Senator Will Espero, Chair

Tuesday, January 29, 2008; 2:45PM
State Capitol, Conference Room 225

Senator Espero, Senator Nishihara and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill 2546, which amends several key sections of ACT 8, First Special Session Laws of Hawaii 2007, also known as the Community Safety ACT of 2007. This bill addresses many of the concerns we have expressed to the legislature and we want to thank the legislature for their interest in this critically important matter.

However, several concerns we expressed regarding ACT 8 remain and are not addressed in SB 2546. Therefore, we respectfully request that your committee review and support the Administration's amendments to ACT 8 as outlined in both SB 3110 and companion HB 3188 (Relating to the Comprehensive Offender Reentry System). Both of these measures address the concerns we previously raised.

Further, some of our discussions with various agencies regarding ACT 8 had not yet taken place when we first met with some legislators on this committee to provide recommended changes. It should be noted that SB3110 and HB3188 reflect the results of the Department's collaborative discussions with other agencies thus far on needed changes that would facilitate our effort to comply with the provisions of ACT 8.

More detailed testimony on both SB 3110 and HB 3188 will be provided when those measures are heard before this and other legislative committees.

Thank you for the opportunity to provide testimony on this matter.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



LATE TESTIMONY
KURT KAWAFUCHI
DIRECTOR OF TAXATION
SANDRA L. MAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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SENATE COMMITTEE ON PUBLIC SAFETY

**TESTIMONY REGARDING SB 2546
RELATING TO A OFFENDER REENTRY**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 29, 2008
TIME: 2:45PM
ROOM: 225

This bill proposes, among other things, a requirement that the Department of Taxation "develop and propose tax incentives for employers who hire individuals who were formerly incarcerated." Specifically, this legislation amends Act 8, First Special Session Laws of Hawaii 2007, to shift the policy burden of tax incentives from the Department of Public Safety to the Department of Taxation.

The Department of Taxation opposes the subsection of the bill requiring the Department to develop and propose legislation.

I. HOUSE COMMITTEE ON FINANCE LAST SESSION CONCURRED DOTAX IS NOT THE POLICY BODY.

As found by the House Committee on Finance last session in its consideration of Act 8:

"Your Committee also notes the concerns that DOTAX may not be qualified to establish policy regarding granting incentives to employers who hire formerly incarcerated persons, and that the task should be left to the proper department in consultation with DOTAX." HSCR 1133.

These changes were incorporated into the final version of Act 8. The Department now reiterates that it is not in the position to form policy for the formerly incarcerated. When timely called upon, the Department can assist in a technical capacity.

II. AN ADVISORY POSITION IS MORE APPROPRIATE.

The Department of Taxation's obligations are not the drafting of proposals for tax incentives for those that hire individuals formerly incarcerated. This obligation is more appropriately left to the

Department of Taxation Testimony
SB 2546
January 29, 2008
Page 2 of 2

Department of Public Safety—the policy maker regarding the subject matter of this legislation. However, the Department is more than willing to accommodate the policy makers with technical assistance in an advisory capacity, as the Department has provided recently to the Department of Agriculture with Important Agricultural Land incentives.

The Department respectfully requests that this bill be amended to allow for the Department to serve in an advisory role only.

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

LATE TESTIMONY

January 29, 2008

MEMORANDUM

TO: Honorable Will Espero, Chair
Senate Committee on Public Safety

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 2546 - RELATING TO OFFENDER REENTRY

Hearing: Tuesday, January 29, 2008, 2:45 p.m.
Conference Room 225, State Capitol

PURPOSE: The purpose of S.B. 2546, is to make clarifying amendments to chapter 353H, Hawaii Revised Statutes, relating to the offender reentry program.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill but cannot support the bill as written. We believe that passage of this bill will adversely impact on the priorities of the Executive Supplemental Budget and require the provision of additional funding and added infrastructure, including staffing and increased services, to meet the increased requirements of this bill.

This bill is overly broad and attempts to address too many issues under one umbrella by inappropriately expanding the mandates and responsibility for compliance to departments other than the Department of Public Safety (PSD), including the Hawaii

AN EQUAL OPPORTUNITY AGENCY

Paroling Authority, Department of Human Services, the Department of Labor and the Family Court.

We believe the Legislature needs to stay focused on the PSD to take responsibility for coordination of services and assistance to incarcerated parents and their children and families while they are incarcerated, since PSD is the only agency that can ensure availability and accessibility of inmates and facilitate the delivery of services inside a correctional facility.

We also believe the Legislature must stay focused on the PSD to take the lead in coordinating the reentry of an incarcerated parent into the community because much of the preparation for an inmate's reintegration into the community must take place prior to the release of the inmate from a correctional facility.

For clarification, abused and/or neglected children of incarcerated parents, in foster custody of the DHS and under the jurisdiction of the Family Court pursuant to chapter 587, HRS, are provided with services and ongoing visitation in collaboration with the PSD.

We are concerned that this bill appears to require DHS to provide services to all children of incarcerated parents, and all parents who are incarcerated, regardless of whether or not they are under the jurisdiction of DHS and the Family Court pursuant to chapter 587, HRS.

We must be clear that parental incarceration alone does not constitute child abuse or neglect. We agree that children of incarcerated parents and their families need support and services

to preserve the family unit during a parent's incarceration and upon their reentry into the community. But we cannot assume that simply because a parent is incarcerated, a child requires the intervention of Child Welfare Services. For the vast majority of children whose parents are incarcerated, existing family and support systems can, and do, provide safe and appropriate homes during the absence of a parent.

DHS provides many direct services and partners with others to provide additional services to eligible children and families which would include the children of incarcerated parents. In addition to formal and informal community resources that are available, the DHS also provides family strengthening and family support services as well as financial, medical and other supportive services on behalf of eligible children and their caretakers through our financial assistance and Medicaid programs.

DHS is not the appropriate agency to take the lead coordination or promotion of research that focuses on incarcerated parents due to the relatively small percentage of children of incarcerated parents who are under the jurisdiction of the Department pursuant to chapter 587, HRS compared to the much larger number of children who are not known to DHS. This research would more appropriately be coordinated by the PSD in collaboration with an agency equipped and prepared to conduct research such as the research required by this bill.

The DHS is certainly willing to work with the PSD toward the provision of appropriate services and assistance to incarcerated

parents and their families, but we believe the Legislature needs to stay focused on the PSD retaining the leadership role and responsibility for this effort.

Thank you for the opportunity to testify.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, January 29, 2008

2:45 PM

Room 225

SUPPORT with Amendments - SB 2546 - Clarifying Act 8

Aloha Chair Espero, Vice Chair Nishihara and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai`i for a decade. I respectfully offer our testimony always being mindful that Hawai`i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their home and their loved ones.

SB 2546 makes clarifying amendments to chapter 353H, Hawaii Revised Statutes, relating to the offender reentry program (Community Safety Act of 2007).

After reviewing the bill, CAP suggests three amendments:

Amendment #1: Section 2 (b) We suggest that the language be amended to reflect the fact that the department of public safety is the lead agency responsible for developing the reentry plans and curricula since they are the ones responsible for providing rehabilitation programs throughout an individual's incarceration. (new language in *italics*)

Suggested Language: (new language in *italics*) "*The department of public safety shall be responsible for implementing the framework of the Hawai`i Community Safety Act of 2007 in collaboration with other appropriate agencies and entities and shall develop comprehensive reentry plans and curricula for individuals exiting correctional facilities in order to reduce recidivism and increase a person's successful reentry into the community.*

Amendments #2: Section 4 (3) and (4) suggests that all children whose parents are incarcerated are abused and neglected. I represented Community Alliance on Prisons on the Legislative Children of Incarcerated Parents Task Force and served as its co-chair. The one issue that arose consistently at community meetings was the fact that grandparents who are raising their grandchildren, as well as other caregivers of children whose parents are incarcerated, have little to no support.

Caregivers expressed their lack of legal rights, lack of medical care for the children in some cases, and a whole host of impacts they are experiencing with the responsibility of raising young children. Community Alliance on Prisons respectfully suggests that this issue could be explored more deeply if the Task Force on Children of Incarcerated Parents is extended and there are other bills on this topic that we hope you will support.

We are puzzled that the department of public safety is so resistant to research. Because children are involved, the department of human services is naturally called upon, however, it's the department of public safety that has the responsibility to help loved ones stay connected. We know PSD has budget concerns, but there are other ways they can support research.

Suggestion: Strike current language and add language saying that the departments of public safety and human services can lend technical assistance and facilitate data requests to encourage research into the impacts on children whose parents are incarcerated. Other bills that passed last session appropriated funding for this research, although that funding has not been released, to my knowledge. Facilitating data release would be enormously helpful to those doing scholarly research. Good public policy is based on sound research, therefore, good data is crucial to the development of sound public policy.

Amendment #3: SECTION 7. (b) Striking the language that says 'in conjunction with' and names three departments from the executive branch and two from another branch of government appears to create a bureaucratic nightmare. This generally leads to inertia (Department of Homeland Security is a good example). That is why Community Alliance on Prisons is suggesting that the department of public safety **must be** the primary agency. The department of public safety is responsible for providing rehabilitation programs and assistance to those entrusted in their care.

Suggestion: We, therefore, suggest that the department of public safety execute collaborative agreements with other agencies to fill in the important pukas along the road to transition and successful reentry into the community. Reentry is a collaborative effort. Humans are complex beings, so there is no 'one size fits all' model that works for everyone. In summary, the department of public safety **MUST** not only be the lead agency, it needs to be one that creates the collaborative agreements with other agencies that support people exiting incarceration and transitioning back to the community. They have the best idea and the longest experience with the individual.

The physical and mental states in which an individual exits incarceration are vital to public safety and are pivotal pieces of a comprehensive reentry system. The department of public safety plays the largest role in this arena. Services from other agencies are indeed part of the system, but the constant is the department of public safety, hence, they must assume the leadership role and coordinate the pieces of a comprehensive reentry system while the person is incarcerated and they must prepare the individual to move through the system to the next phase - work furlough, transitional housing in a community based program, other residential community-based program, etc.

Community Alliance on Prisons would also like to note that none of the funding for the Community Safety Act of 2007 has been released at this writing.

This denial of funding (\$1,435,000) for three excellent programs in this law, Act 8

- will not expand or continue the nationally and internationally recognized Restorative Circles project that is currently at Waiawa Correctional Facility and Women's Community Correctional Center - \$202,000 appropriation,
- will force MEO's BEST (Being Empowered and Safe Together) Reintegration Program to cut back the excellent services they provide to individuals reentering the Maui community - \$1,200,000 appropriation, and
- will not provide evidence-based cognitive restructuring to help Hawai'i Island people reentering their communities - \$33,000 appropriation.

A recent informational briefing presented by the department of public safety and their consultants, Camille Camp and Patricia Hardyman, hired to retool our classification system revealed that from a healthy sample of 2400 files from our 6,010 incarcerated population in jail and prison in Hawai'i and in prisons on the U.S. continent, Hawai'i has been over-classifying inmates.

Community Alliance on Prisons has been doing research in this area for several years and we have found much research to support that over-classification of incarcerated individuals actually increases criminality. In other words, it is counter-productive.

The consultants agreed that moving people through the system to lower classifications, where appropriate, was considered best practices in corrections. They confirmed that reentry starts on day one.

Community Alliance on Prisons has been hearing about empty beds at many of our facilities. To date we have been told that there are

28 empty beds at the Women's Community Correctional Center

60 empty beds at Waiawa Correctional Facility

70 empty beds at Maui Correctional Center in Dorms 6 and 7

158 empty beds that we have been told about

We pay Corrections Corporation of America approximately \$55 per day. If we multiply that \$55 per day by the 158 people we could bring home, that would be \$8,690 a day/\$260,700 a month/**\$3,128,400 a year** that we could invest in true public safety - assisting those individuals transitioning to the community with the tools and assistance they need in order to successfully come home.

In fact, we could fund these three programs for two years and still have more than \$28 million left!

Another fact revealed by the classification study de-bunked the myth that every incarcerated person is dangerous. Their report showed that the majority of Hawai'i's incarcerated population, and whose files they reviewed, are non-violent. Below are the numbers from their sample.

	<u>Males</u> <u>Non-Violent vs. Violent</u>	<u>Females</u> <u>Non-Violent vs. Violent</u>
Jail Sentenced Inmates	64% vs. 36%	85% vs. 15%
Prison Inmates*	62% vs. 38%	83% vs. 17%

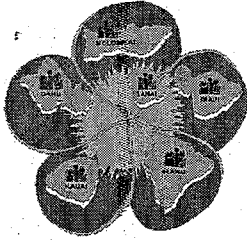
* includes Hawai'i, Contract, and Interstate Compact Prisons

This is all the more reason we should be investing in social capital and helping people who have lost their way, find their place in society. It benefits everyone to reduce our prison population. Helping people rebuild their lives, restore their families, and successfully reenter their communities will only strengthen Hawai'i. The majority of individuals are receptive to help. Let's help them become part of society - after all, they will be coming home. Let's look for the best in people and assist them in reaching their full potential.

The more than \$50 million a year we export from our economy each year to fatten Corrections Corporation of America's coffers would be the equivalent of \$150 million a year in Hawai'i's economy if one considers the multiplier effect of dollars spent locally, which DBEDT calculates as 3:1. The department of public safety's annual budget is currently under \$200 million a year. Just think of what having \$50 million more in our economy would mean to us. Could we buy books for students, so they wouldn't have to fight over the limited supply? Could we fund model reintegration programs on three more islands? Could we repair and maintain state facilities? Imagine.

Community Alliance on Prisons urges the committee to continue pushing for a more effective comprehensive rehabilitation and reentry system. A safe and healthy community is in everyone's best interest and Community Alliance on Prisons is committed to making this happen. We thank you for your leadership.

Mahalo for this opportunity to testify.



**Maui Economic
Opportunity, Inc.**
Est. 1965

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COMMITTEE ON PUBLIC SAFETY
Senator Wil Espero, Chair
Senator Clarence k. Nishihara, Vice Chair

Tuesday, January 29, 2008
2:45 PM in Room 225

Re: SB 2546 – Relating to Offender Reentry

Aloha Chair Espero, and Members of the Committee:

My name is Ken E.K. Hunt and I am the Program Director of Maui Economic Opportunity's Being Empowered and Safe Together (BEST) Reintegration Program. Over the past five years, BEST has demonstrated that providing comprehensive training and support services to individuals during their incarceration and upon their release into the community is critical to successful reentry.

We thank the State Legislature for initiating policies to create a Comprehensive Offender Reentry System in Hawai'i. We believe that the mandatory directives of Act 8 will promote a paradigm shift of punishment to rehabilitation and accountability within the Department of Public Safety, and ultimately provide individuals with the training and support to change their lives. In turn, this will reduce recidivism rates and build a safer community.

Background Information about BEST

Since it began in January 2003, BEST has provided comprehensive transitional support services to 130 clients¹ in case management, employment training and assistance, housing assistance, cognitive skills restructuring and cultural renewal training, work clothes, transportation, family reunification, and mentoring services.² BEST also contracts with community agencies to provide substance abuse and mental health treatment, GED preparation and other services that help to reduce barriers to successful reentry. Other ways we have been able to help assist BEST clients is by helping them to resolve outstanding traffic matters, obtaining valid drivers' licenses, counseling, and taking responsibility for their child support payments.

¹ Under the terms of the SVORI grant, BEST provides comprehensive transitional support services to individuals that meet the following eligibility criteria: 1) Individual is between the ages of 18-35 years old; 2) Individual has been convicted of a Class A or B felony offense; and 3) Individual has been sentenced to a minimum term of one year of incarceration.

² In addition to serving clients under the SVORI grant, BEST has helped a larger number of prisoners who are ineligible for program participation under the SVORI criteria. In 2007, we served 100 culture clients and over 130 pre-trial females under the Promoting Reentry Opportunities Through Effective Community Transition ("PROTECT") grant funded by the Hawai'i Community Foundation.



BEST Reintegration Program
**Being Empowered
and Safe Together**



We are committed to working with other sister non-profit agencies in Maui County, to address issues of incarceration. We have held highly successful community forums where community members can voice their opinions about the impact of incarceration on families, on community, and on the human service system. We work closely with Parole Officers, Probation Staff, Maui Intake Services, the Maui Drug Court, and especially the warden and staff at the Maui Community Correctional Center. Without this kind of cooperation and combined support, we would not be able to accomplish all that we do with the limited resources that we have. MEO-BEST staff is dedicated to "Helping People. Changing Lives" of our participants.

Continuum of Care is Critical to Successful Reentry

Typically, BEST clients are enrolled into our program six months to one year prior to release into the community. However, in handful of cases, we have worked with individuals for more than a year prior to release, as well as individuals referred to us after they were released. Based on our observations, clients are more successful in their transition from prison into the community the earlier we begin to work with them. Indeed, research on best practices dictates that reentry planning should begin on the day an individual enters prison or reports to community supervision following a jail sentence. Accordingly, we believe that community based reentry programs will be more effective the earlier they begin to work with an individual prior to release. This is particularly true for individuals that have served lengthy sentences and time in Mainland prisons. The goal is to work with each individual, build healthy sources of support with family, friends and sponsors and utilize resources within the community.

Reentry Services Are a Wise Investment

Currently, the State of Hawaii's spends approximately \$37,000 per inmate annually to house and provide minimal programs. The cost of incarceration does not end with the initial amount spent for incarceration. The costs increase when one considers that 51-80 per cent of those being released return to incarceration after committing another crime or violating the terms of probation or parole.

In contrast, BEST spends a range of \$7,000-9,000 per client on an annual basis. As part of the just completed SVORI grant, a third-party evaluation of the BEST Program was conducted by Dr. Marilyn Brown, University of Hawai'i-Hilo. After collecting and analyzing data on participants for two years, preliminary results show that only nine of the sixty-one (61) BEST clients in the community have returned to custody. This amounts to a recidivism rate of 15%. According to PSD, these preliminary results indicate a significant reduction in recidivism rates when compared to released inmates with similar profiles. Her report *The BEST Program: A Report on Program Implementation and Preliminary Outcomes, Executive Summary, Marilyn Brown, Ph.D., August 30, 2006* is available for those wanting to know more. An update to this report shall be available within the next 30 days.

By providing comprehensive transitional support services to inmates who are being released from prison, the State will ultimately save hundreds of thousands of dollars that would otherwise be used to re-house persons convicted of repeat criminal offenses. More important, men and women who receive comprehensive support services will be better prepared to reunify with their families and become law abiding, contributing members of our community.

In short, an investment in a comprehensive reentry system is an investment in public safety. Mahalo for this opportunity to testify on SB 2546.

Sincerely,

Ken E.K. Hunt, Director
Maui Economic Opportunity, Inc. BEST Program

COMMITTEE ON PUBLIC SAFETY

Chair: Sen. Will Espero

Vice Chair: Sen. Clarence Nishirara

Tuesday, January 29, 2008

2:45 PM

Room 225

Bill # SB 2546

Position: Support

Hello Chair Espero , Vice Chair Nishihara and Members of the Committee

My name is Cathy Tilley and I am a member of the Community Alliance on Prisons and my son is an inmate at Saguaro Correctional Facility in Arizona.

I ma in support of SB 2456 which will make clarifying amendments to chapter 353H Hawaii Revised Statutes , relating to the offender reentry program.

This bill will make it clear that Act 8 is a mandate not a directive. We must have reentry plans for all our inmates. The Department of Public safety should take the lead as the philosophy that a persons reentry should start the day the individual enters the system is the correct approach.

The bill takes the right approach to reentry and we need to pass it and get started with helping our prisoners get their road to reentry gong now.

Sincerely,
Cathy Tilley
621 Pauku St.
Kailua HI 96734 261-3170

LATE TESTIMONY

Andy Botts
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January 28, 2008

COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, vice chair

Tuesday, January 29, 2008

2:45 PM

Room 225

SUPPORT – Bill SB 2546

Relating to Offender Re-entry

My name is Andy Botts, author of Nightmare In Bangkok. I support the mandate that this Bill is a directive, not an option. My only objection to this Bill is in regards to Section 2 (b), "in conjunction with the Hawaii Paroling Authority, Department of Health, Department of Human Services, and the Probation and Family court divisions of the judiciary."

Re-entry was the Legislative intent when it funded the construction of Oahu Community Correctional Center in 1971, yet the program was never implemented. Unless we have a compelling plan in regards to how each of these agencies will be able to work together, distribution of responsibility between these differing agencies will create an arena of finger pointing, which will put us back to point A again- the program will never get implemented.