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TESTIMONY ON SENATE BILL 3108
RELATING TO PRISON LITIGATION

by

Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Public Safety
Senator Will Espero, Chair

State Capitol, Conference Room 225

Representative Evans and Members of the Committee:

The Department of Public Safety (PSD) strongly supports Senate Bill 3108. This measure is patterned after the Federal Prison Litigation Reform Act (PLRA), which was enacted in 1996. This measure requires any prisoner who is detained and wishes to file a lawsuit *in forma pauperis*, to submit financial documents from their detaining facility demonstrating their inability to pay the filing fees for the lawsuit they wish to file. The proposed procedure provides that inmates seeking *in forma pauperis* status pay a portion of the filing fee when adequate funds are available in their inmate trust account. This measure also provides that after the dismissal of four lawsuits as frivolous or for failure to state a claim that the petitioner must pay the filing fee in advance for any future lawsuits as most citizens are required to do.

In 2005, the Office of the Attorney General responded to 65 lawsuits naming PSD or its staff as defendants. The number of lawsuits filed against PSD climbed to 115 in 2006, and increased again in 2007. In comparison, statistics from the Bureau of Justice Statistics show that in the Federal courts prisoner petitions filed from 1980 to 1996 rose from 23,230 to 68,235. The PLRA was enacted in 1996, and prisoner filings decreased from 68,235 to 25,504 in 2000. The filing rate, the number of petitions filed per 1,000 inmates fell from 37 in 1995 to 19 in 2000.

PSD strongly supports this measure because it does not infringe upon any inmate's right to file complaints or litigation, but simply structures the process to eliminate frivolous and unnecessary lawsuits, and to reduce the costs to all components of litigating inmate lawsuits. Given the latest trend in inmate litigation in Hawaii as well as the analogous information from the Federal system, inmate lawsuits will continue to increase without this measure. Neither PSD, the Office of the Attorney General or the courts can continue to properly and effectively deal with this increase in litigation without substantial increases in funds and manpower. This measure will aid in the prudent expenditure of government funds relating to litigation without infringing upon any inmates civil and Constitutional rights. Thank you for the opportunity to testify.

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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

3108

STRONG OPPOSITION - HB ~~3186~~ PRISON LITIGATION

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 3108 requires inmates to pay for the civil lawsuit they file in state court and requires inmates who have three lawsuits deemed 'frivolous' to pay the filing fees prior to filing another lawsuit.

Community Alliance on Prisons strongly objects to erecting barriers to litigation simply because a person is incarcerated. Hawai`i statutes already provide the courts with a remedy for declaring a person a 'vexatious litigant', so we fail to understand the need for this bill.

In fact, prison litigation is sometimes the only way that reform happens. Prison litigation is sometimes the only way that the public knows what is going on in our correctional system.

Since the idea of curtailing the rights of people to sue has been offered by the administration for the past several years, SB 3108 just appears to us to be a mean-spirited and vexatious bill!

Please hold this bill and allow our laws and courts to work in our democratic system of government.

Mahalo for this opportunity to testify.