

LATE TESTIMONY

COMMITTEE ON PUBLIC SAFETY
Sen. Wil Espero, Chair
Sen. Clarence Nishihara
Thursday, January 31, 2008
Room 225 at 2:45pm

STRONG OPPOSITION: SB 3108 RELATING TO PRISON LITIGATION

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

My name is Carrie Ann Shirota, and I am writing in opposition to SB 3108. My experiences as a former Public Defender and Civil Rights Enforcement Attorney, current staff member of a reentry program on Maui and member of Community Alliance on Prisons have shaped my advocacy efforts to promote accountability and transparency within our correctional system, and improving how individuals are prepared in prison for release as law-abiding, contributing members of their 'ohana and community.

I oppose SB 3108 for three simple reasons. **First, no evidence has been adduced that proves "inmates are clogging the state courts' calendars with frivolous lawsuits, causing unnecessary expenditure of funds and man hours for the department, Attorney general's staff, and the Judiciary."** If we are truly concerned about frivolous spending, then we would recoup monies from CCA for substance abuse treatment and other services that the State paid for, but never received.

Second, this bill fails to understand how difficult it is for prisoners to file lawsuits due to logistics, and lack of finances, particularly when only earning 25 cents per hour. Further, many prison cases are dismissed for failure to state a claim NOT because the case is frivolous, but because the individual lacks the legal expertise to properly state a claim. Contrary to popular belief, inmates do not have 24 hours access to the law library, xerox machines, etc. In addition, individuals may miss filing deadlines due to mail delays and a number of other circumstances beyond their control.

Third, and most important, we need to recognize what this measure is really about. It is intended to SILENCE incarcerated individuals who have the courage to speak out about the inhumane and unfair treatment and conditions in prison, despite facing the threat of retaliation, or actual retaliation. The reality is that some prisons conditions and incidents may never be exposed or investigated unless an incarcerated individual takes a stand and files a lawsuit. This serves the goals of raising public awareness of prison related issues, enhancing transparency, and accountability.

Finally, I would like to point out that both bills (SB 3108 and SB 3107) that seek to limit prison litigation were introduced by the Department of Public Safety. It breaks my heart that PSD is pushing bills that limit the precious few remaining rights that incarcerated persons have. The fact that a small number of incarcerated individuals are attempting to access the courts, and seek redress from our judiciary for grievances should be encouraged. It demonstrates their belief in the integrity and fairness of our judicial system!

Please see through this smoke screen and hold SB 3108 indefinitely!

Sincerely,
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