

LINDA LINGLE
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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 31, 2008

MEMORANDUM

TO: The Honorable Suzanne Chun Oakland, Chair
Committee on Human Services and Public Housing

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 3184 - RELATING TO DRUG TESTING**

Hearing: Saturday, February 2, 2008; 1:15 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of S.B. 3184 is to require recipients of General Assistance, Food Stamps, and Temporary Assistance for Needy Families programs to submit to random drug testing.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and would like to offer the following comments.

The Food Stamp program is an exclusively Federally funded program. The U.S. Code charges the Secretary of the U.S. Department of Health and Human Services with establishing national uniform standards of eligibility. As stated; "No State agency shall impose any other standards of eligibility as a condition for participating in the program." We would not be allowed to implement this requirement on our Food Stamp population.

For our financial assistance programs, disability is any physical or mental condition as diagnosed by a physician, psychiatrist or psychologist and certified by our Medical Review Board which prevents an individual from working full time.

Our General Assistance program requires the individual to have a disabling condition to be eligible for assistance.

For Temporary Assistance for Needy Families (TANF) program, disability is not a condition of eligibility but if identified, it affects work activity requirements.

Once eligible, disabled individuals are required to accept and comply with treatment as a condition of eligibility. Compliance is monitored by treatment providers and our Medical Review Board. Failure to comply makes the household ineligible for varying periods of time. The first noncompliance makes the family ineligible until compliance, the second is for two months or until compliance, whichever is longer, the third and future noncompliance make the family ineligible for three months or until they comply, whichever is longer.

For your information, we currently have 60 families per month and 1,172 adult singles receiving financial assistance and their required substance abuse treatment.

We defer to the Department of the Attorney General to any issues as to the legality of this bill.

Thank you for the opportunity to provide comments on this bill.

Saturday, February 02, 2008

TO: Senator Suzanne Chun, Chair
Senator Les Ihara, Vice-chair
And members of the Committee on Human Services and Public Housing
FROM: Oreta Masina Mapu-Tupola
UH Manoa School of Social Work Student
808-232-4042

RE: SB3184 Relating to Drug Testing; Recipients of government assistance- OPPOSED

As a Master's student at the University of Hawaii at Manoa School of Social Work and a mother who is currently receiving food stamps I oppose to the SB 3184 requiring all recipients of general assistance, food stamps, or temporary assistance for needy families to be subjected to random drug testing in order to retain eligibility. I feel that as a citizen of the United States and a person who has also contributed to taxes it is my right to apply and if eligible by the criteria be able to receive assistance. I am doing whatever I can by getting an education and working at the same time and I do not think that I am getting free money at all. When I have been able to stand on my feet without assistance, I have terminated my case myself and worked to provide for my family.

If there are recipients who are using drugs and seeking assistance, the state should provide them with rehabilitation. However, I do not see how letting them starve or become homeless is going to solve the situation. The stereotype of PEOPLE who are on welfare being lazy and wanting free money is like the stereotype of politicians who lie just to get a vote. It is insulting to them just as it is insulting to me that although there are people who abuse the system and abuse their power of authority there are people like me who are just trying to get by. I strongly oppose this bill as it does not in anyway or form, bring a positive result to the fact that people need help. If they qualify by the standards of the government to receive that help then the agencies set forth to do this, should provide the assistance they need in order to accomplish the goal of the department which is self-sufficiency.

If there is a way to address suspicions of drug use in order to provide assistance through referral to drug rehabilitation centers or whatever the alternative is it would be beneficial to submit this testing to these individuals. However, withholding benefits from ALL recipients unless they take a random drug test just to prevent more people from qualifying or seeking assistance is wrong.

I urge you to vote against SB 3184. Thank you for your time.

Oreta M. Mapu-Tupola, BSW, UH Graduate Student/Mother
56-149 Kahana St.
Kahuku, HI 96731
Phone #: (808) 232-4042
Email: oreta@hawaii.edu

Re: SB 3183
SB 3184

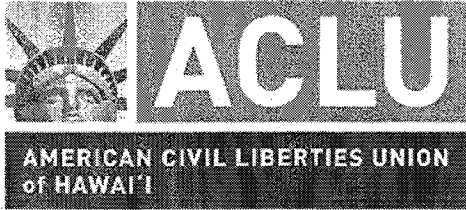
Hearing by Human Services and Public Housing Committee, February 2nd,
1:15 p.m., Conference Room 016.

To Committee Chairs and Members:

I urge support for these bills. I would like to know my tax dollars are going for food and health care for the truly needy and those who are really trying to help themselves get out of a cycle of poverty. While I sincerely understand the need to assist those who are dependent on drugs, I would like to see help addressed to that particular problem and not have general assistance given that might only provide more opportunity or resources to acquire drugs.

Thank you,

Shirley Hasenyager
235 Kuuhoa Place
Kailua HI 96734-2734
262-5069
shirleyinhi@aol.com



LATE TESTIMONY

BY EMAIL: testimony@capitol.hawaii.gov

Committee: Committee on Human Services and Public Housing
Hearing Date/Time: Saturday, February 2, 2008, 1:15 p.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 3184, Relating to Drug Testing

Dear Chair Chun Oakland and Members of the Committee on Human Services and Public Housing:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to S.B. 3184, which seeks to require recipients of general assistance, food stamps and temporary assistance to submit to random drug testing.

No one should have to give up constitutional rights to get basic necessities like food or shelter. The constitutional rights of government assistance recipients are no less sacred than the rights of any other citizens. This bill, however, sends a clear message: if you are poor, your constitutional rights are unimportant.

This bill violates government assistance recipients' rights under the Fourth Amendment to the United States Constitution and Article I, Sections 6 and 7 of the Hawaii Constitution. When Michigan passed a similar law authorizing suspicionless drug testing of welfare recipients, a federal appeals court struck it down as unconstitutional. *See Marchwinski v. Howard*, 60 Fed.Appx. 601 (6th Cir. 2003), *aff'g* 113 F.Supp.2d 1134 (E.D. Mich. 2000).

The ACLU of Hawaii's mission is to protect the fundamental freedoms enshrined in the U.S. and Hawaii Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
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COMMITTEE ON HUMAN SERVICES AND HOUSING

Sen. Suzanne Chun Oakland, Chair

Sen. Les Ihara, Jr., Vice Chair

Saturday, February 2, 2008

1:15 PM

Room 016

STRONG OPPOSITION - SB 3184 - DRUG TESTING RECIPIENTS OF GENERAL ASSISTANCE

LATE TESTIMONY

Aloha Chair Chun Oakland, Vice Chair Ihara 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 being mindful that Hawai`i has more than 6,000 people behind bars and more than 2,000 who are serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 3184 requires recipients of general assistance, food stamps, and temporary assistance to submit to random drug testing.

Community Alliance on Prisons strongly opposes this bill and is ashamed to see our Legislature even consider targeting our most economically-challenged citizens by threatening to terminate their Med-Quest benefits. We assert that suspicionless drug testing violates the Hawai`i State Constitution:

SEARCHES, SEIZURES AND INVASION OF PRIVACY

Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized or the communications sought to be intercepted. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

A study published in January 2001 by the University of Michigan found that drug testing is not an efficient or cost-effective way of testing for psychological disorders. Data analysis concluded that 4% of those on welfare were seen as drug dependent. Yet, 7-9% tested positive for drug use, despite not showing any drug dependence problem. Even more overwhelmingly, 21-22% did not test positive for drug use, but exhibited signs of alcohol dependence or psychological disorders.

Source: University of Michigan, Drug Testing Welfare Recipients, (2001). Internet.

Available: <http://www.fordschool.umich.edu/research/poverty/pdf/drugtest.pdf>.

Twenty-six states have chosen to use alternative methods to drug testing, including questionnaires and observational methods. These methods are not only less intrusive, but more effective. An Oklahoma study found that a questionnaire was able to accurately detect 94 out of 100 drug abusers. The questionnaire was also useful in detecting alcohol abusers, something drug tests fail to accomplish.

The **Center for Addiction and Mental Health (CAMH)** recommended against implementing random drug testing of welfare recipients. CAMH believes that there was little benefit to testing and that the stigma associated with testing impacted those on welfare negatively. They recommended that resources be allocated towards better training for government workers to detect signs of substance abuse and mental disorders, as well as to greater assistance and treatment to those who need help. *Source: Centre for Addiction and Mental Health, Position Statement on Mandatory Drug Testing and Treatment of Welfare Recipients, (2000). Internet. Available: [http://www.camh.net/best advice/mandatory drug tests2000.html](http://www.camh.net/best_advice/mandatory_drug_tests2000.html).*

In September 2000, U.S. District Court Judge Victoria Roberts halted a Michigan law calling for the random drug testing of welfare recipients. She found that the law violated the Fourth Amendment and that 'upholding suspicionless drug testing would set a dangerous precedent. Drug testing under these circumstances must satisfy a special need, and that need must concern public safety.'

In April 2003, the full U.S. Sixth Circuit Court of Appeals affirmed the decision of the District Court declaring Michigan's welfare drug testing law unconstitutional.

In conclusion, Community Alliance on Prisons asserts that suspicionless mandatory drug testing is discriminatory, an invasion of privacy and a waste of state funds. Welfare recipients' constitutional rights are no less sacred than the rights of any recipients of state assistance including those of corporate subsidies. This bill sends the message to welfare recipients that they are criminals solely because of their socioeconomic level. This is wrong.

Community Alliance on Prisons, therefore, respectfully urges the committee to hold this measure.

Mahalo for this opportunity to testify.

LATE

Saturday, February 02, 2008

TO: Senator Suzanne Chun, Chair
Senator Les Ihara, Vice-chair
And members of the Committee on Human Services and Public Housing
FROM: Oreta Masina Mapu-Tupola
UH Manoa School of Social Work Student
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DEPARTMENT OF HUMAN SERVICES
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February 2, 2008

LATE

MEMORANDUM

TO: The Honorable Suzanne Chun Oakland, Chair
Committee on Human Services and Public Housing

FROM: Lillian B. Koller, Director

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Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Vice-Chair
Human Services and Public Housing Committee
Kati Corlew
808-944-5554
Saturday, February 02, 2008

LATE

Opposing SB 3184, Relating to Drug Testing.

Hello, my name is Kati Corlew. I am a graduate student of Community Psychology at the University of Hawai'i, Manoa. I am a former member of the Anti-Hunger Action Committee with the Illinois Hunger Coalition. I am also a former member of the Claretian Volunteer Program, where my husband and I lived in intentional poverty in Chicago's inner city, while volunteering fulltime in community social service. I do not speak for these groups today. This is my expertise on the topic.

In the year I was born, my mother had health issues due to complications with my pregnancy and had to stop working. My father was already working two jobs, but they had two kids, a third on the way, and a lot of medical and school debt. My parents applied for food stamps, and they remained on welfare for about two years, after which time their situation stabilized. Neither I nor my family have received welfare since this time. My sister is a Radiographer, my brother went to West Point and served as an officer in Iraq, and I am pursuing a doctorate in Psychology.

In essence, this is the success story of our social welfare system. I am the success story of food stamp usage.

Having worked very closely with impoverished people, I can tell you a few things about food stamps. First, food stamps are vitally important and absolutely necessary to the people who receive them. By the time a family's income has dropped low enough for them to be eligible, they have no money for food. Food stamps become their sole budget for meals.

Second, the process of applying for food stamps is intimidating, difficult, time-consuming, embarrassing, and stigmatizing. It is scary to go into that huge office where you don't know the rules, to be handed a stack of papers written in "governmentese", to be asked for personal documents you may not have kept track of, and then to be asked by a stranger why you need help taking care of your family.

Third, many people in our country distrust welfare recipients. These people focus on the rare cases of fraud rather than on the norm of necessity and benefit. They believe that when a person applies for food stamps, that person is abusing the system and is not to be trusted. Food stamp recipients are very well aware of this stigma.