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TESTIMONY ON HOUSE BILL 1152
RELATING TO COMMITTED PERSONS' ACCOUNTS
by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Public Safety
Representative Faye P. Hanohano, Chair
Representative Henry J.C. Aquino, Vice Chair

Thursday, February 19, 2009, 9:30 AM
State Capitol, Conference Room 309

Representative Hanohano and Members of the Committee:

The Department of Public Safety (PSD) strongly supports House Bill 1152. The measure seeks to clarify that PSD may maintain more than one account per committed person pursuant to Section 353-20, Hawaii Revised Statutes. This measure also clarifies that the funds held in local financial institutions will be placed in non interest bearing accounts, and further, that no interest will be paid to the committed person on the funds held by PSD to facilitate the committed persons stay in custody. Recent litigation suggests that PSD is only permitted to have one account per committed person, and that the Department is obligated to pay interest on these accounts. The reason for having more than one account per committed person stems from years of experience in dealing with people who are incarcerated, and who rarely save funds during incarceration to be used in reestablishing themselves in the community upon release from custody. This measure provides for an account that the committed persons may use to purchase items, pay for copies, and deal with the day-to-day expenses incurred while in custody. The measure also provides for a second account that would be used to hold a portion of the funds earned by the committed person while in custody, to be used as release funds to

help the released person transition back into the community. This second account could only be accessed by the committed person on limited occasions, and would serve as a savings account to provide funds upon release into the community.

The non-interest bearing accounts in this measure will clarify the question regarding interest due on committed persons' accounts established by PSD pursuant to Section 353-20, Hawaii Revised Statutes. The accounts in question are established as a service for the committed persons, to facilitate their ability to purchase items and services within the facility. There are no charges for this service, even though thousands of hours of work are required to operate these accounts. Private banking institutions will not open accounts unless a minimum amount is placed in the account and maintained, and there are often charges to maintain a private account under any circumstances. PSD provides these services without charges in order to facilitate an orderly operation of the facility. However, if PSD is required to pay interest on these accounts, the funds to pay this interest are not allotted in the current budget. More significantly, the costs of the software to compute daily interest and the positions required to operate the software and the rest of the accounting functions far exceed PSD's present expenses.

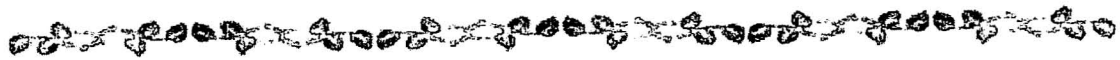
Based on the enormous and clearly unfunded expenses that would be incurred if HB1152 were not to be enacted, PSD respectfully requests that this committee pass this measure and support its passage into statute to clarify the questions raised by the civil litigation.

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

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, February 19, 2009

Room 309

9:30 A.M.

COMMENTS IN OPPOSITION

HB 1152 – INMATE ACCOUNTS

PBSTestimony@capitol.hawaii.gov

Aloha Chair Hanohano, Vice Chair Aquino and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 1152 amends section 353-20, HRS, to permit the Director of Public Safety to direct the department to have one or more accounts for committed persons and states that the accounts are non-interest bearing and that no interest can be paid to committed persons on the individual accounts.

This bill comes to the committee because of a lawsuit filed by Hawai'i inmate, Richard Blaisdell, who successfully challenged the inmate accounts set up by the Department of Public Safety. If the tables were turned, we would be hearing that the inmate was just trying to make legal, illegal behavior, but in this case, it is the department that is working to pass a law to legalize their illegal behavior.

When we were in Arizona in November 2007, there was a meeting with about 40 men living at Red Rock Correctional Center. The issue of *Restricted Accounts* was raised by several men who are serving life terms. These men wanted to use funds from their Restricted Account to help their families pay their bills. This is not allowed, except by special request and grant of the Director.

What is interesting about Restricted Accounts, is that Hawai'i individuals ARE allowed to withdraw \$50 at Christmas to buy a Hawai'i goodie basket. They can withdraw money for this and not to help their families??? As an aside, many families and inmates have told me that they stopped buying the baskets when they heard that they were made by a company that is somehow connected to the administrator of PSD's mainland branch, Shari Kimoto. I hope this is not true. If it is, it is a serious breach of ethics.

Mahalo for the opportunity to share our thoughts on HB 1152.

**Hepatitis Prevention, & Support Network of Hawai'i
Prisoner Reintegration and Family Reunification Program**

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February 19, 2009

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry J.C. Aquino, Vice-chair

Thursday, February 19, 2009

9:30 a.m.

Conference room 309

HB 1152

RELATING TO INMATE ACCOUNTS

AGAINST

My name is Andy Botts, Director of The Hepatitis Network's Prisoner Reintegration Program, and author of *Nightmare In Bangkok*. I don't support this bill for several reasons. First, the issue of garnishment of inmate wages for any reason has been decided in numerous Supreme Court cases in the past, including a recent decision from the Hawaii Supreme Court in *Blaisdell vs Dept of Public Safety*. Passage of this bill circumvents the decision of our high court, which should be the final say, and undermines their capability to function without lawmakers intervening whenever an adverse decision is rendered. Furthermore, if this bill is passed, it could and probably will be challenged by inmates, and would end up in the Hawaii Supreme Court again.

Next, the rationale of instituting a restricted account, under the guise of helping the inmates save money is ridiculous. The meager wages earned from prison work-lines are barely sufficient at best to allow prisoners the opportunity to purchase toiletries and other necessities while incarcerated. To garnish these funds will create additional hardship on the families of the incarcerated, who will be pressed to send additional money during these tough financial times, and/or encourage illegal activities such as gambling, extortion, and drug dealing within the facilities. This would cause disorder to the security of the facilities, which should be the administration's priority.

Andy Botts, Director

Prisoner reintegration program

Author, *Nightmare In Bangkok*