



LATE TESTIMONY

TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:

S.B. NO. 1058, RELATING TO CONTROLLED SUBSTANCES.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

DATE: Thursday, February 12, 2009 **TIME:** 1:15 PM

LOCATION: State Capitol, Room 229

TESTIFIER(S): WRITTEN TESTIMONY ONLY. For more information, contact Lance Goto, Deputy Attorney General, at 586-1160.

Chair Espero and Members of the Committee:

The Department of the Attorney General appreciates the intent, but opposes this bill.

The purpose of this bill is to convene a task force coordinated by the Attorney General to review the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and public safety. The bill defines "minor drug possession offenders" as persons charged with a class B or C felony drug possession offense. The bill defines "diversion" as placement of the offender into drug treatment in lieu of charging the offender, or allowing the offender to plead to a misdemeanor offense and be placed in treatment.

This is a very ambitious project that will require significant costs, resources, and expertise, yet the bill appropriates no funds for these expenses. Given the current fiscal difficulties, it would not be prudent to undertake this project at this time.

Moreover, the purpose of the project is unclear. Many forms of diversion are already available to class B and C drug offenders, including: (1) Drug Court; (2) first-time drug offender sentencing under section 706-622.5, Hawaii Revised Statutes (HRS), that results in probation, treatment, and possible expungement of the conviction record;

(3) deferred pleas under chapter 853, HRS, that do not result in convictions; and (4) conditional discharge under section 712-1255, HRS, that may result in the discharge and dismissal of the charge without an adjudication of guilt.

With respect to the proposal that felony offenders plead to a misdemeanor offense and undergo treatment, it is a concern that a misdemeanor can only result in a six-month period of probation. Six months is not generally an adequate period for drug treatment.

Finally, it is a concern that B and C felony drug offenses are characterized by this bill as "minor" offenses.

We respectfully request that this bill be held.

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TO: COMMITTEE ON PUBLIC SAFETY AND MILITARY
Sen. Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Thursday, February 12, 2009
1:15 PM
Room 229, Hawaii State Capitol

RE: Support of SB 1058 – Diverting Low Level Drug Offenders

FROM: Atty Daphne Barbee-Wooten
1188 Bishop Street, Suite 1909, Honolulu, Hawaii 96813

Dear Chair Espero, Vice Chair Bunda and Members of the Committee on Public Safety and Military Affairs Committee:

My name is attorney Daphne Barbee-Wooten and I am an attorney practicing in the State of Hawaii. I am testifying in support of SB 1058 which authorizes the State Attorney General to conduct a study to divert low level drug offenders out of the prison system into a drug rehabilitation treatment system. Many drug offenses are nonviolent. Prisons are becoming overcrowded with a majority of drug offenders incarcerated. Diverting nonviolent drug offenders out of the penal system into a treatment facility and rehabilitation system will reduce the prison overcrowding and assist those in need of treatment to receive it.

Dated: Honolulu, Hawaii

2-12-09
DWB
Daphne Barbee-Wooten
Attorney at Law

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TESTIMONY IN SUPPORT OF SB 1058

From

REPRESENTATIVE JOE BERTRAM III

February 12, 2009

Aloha Senator Will Espero, Chair, of the Senate Public Safety and Military Affairs Committee and members of the Committee on Public Safety and Military Affairs.

I write in strong support of SB 1058 RELATING TO CONTROLLED SUBSTANCES.

Thank you for your support of this measure.