

SB 210



the
**Drug Policy
Forum**

March 3, 2009

To: Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair
And Members of the Committee on Ways and Means

From: Jeanne Ohta, Executive Director

RE: SB 210 SD1 Relating to Corrections
Hearing: March 3, 2009, 9:30 a.m., Room 211

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii testifying in support of SB 210 SD1 which clarifies the circumstances that an inmate may be transferred between facilities in Hawai'i and those outside of Hawai'i.

The bill amends Chapter 353 to create a statute that the director shall consider various factors when transferring inmates. Among the considerations are the individual's 1) current programming and if it could be continued at another facility and 2) family and whether transfer would interrupt contact.

Transfers should be systematically planned; they should not be haphazard nor should they give the impression that they are retaliatory. Good business practices and common sense mandate a plan establishing criteria for transfer inside and outside of Hawai'i.

Maintaining contact and relationships with family members can motivate successful transition from prison back into the community. Transferring inmates and disrupting those important relationships can make maintaining those ties more difficult. It is also not fair that appropriate programs are unavailable when those programs are required for parole consideration.

In my role with DPFH, I have had inquiries from family members as to how the decision to transfer inmates is made. It would be beneficial to those family members to have clear criteria so that they understand what is happening. Transparency would help everyone.

Please pass SB110 SD1 as it would be good public policy for the operations of the department, for those incarcerated and for their families.

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COMMENTS ON SENATE BILL 210, SD1
RELATING TO CORRECTIONS

by

Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

Tuesday, March 3, 2009; 9:30AM
State Capitol, Conference Room 211

Senator Mercado Kim, Senator Tsutsui, and Members of the Committee:

The Department of Public Safety (PSD) strongly opposes Senate Bill 210, SD1, which seeks to codify in statute standards governing the transfer of inmates to mainland prisons or between correctional facilities in Hawaii. The measure is unnecessary as the PSD previously established sound standards used to assist in identifying and determining those inmates that qualify to be transferred to mainland facilities. We also use our sequential phasing process to assist in identifying and determining those inmates that are ready to move on to the next phase of the rehabilitative process, which at times requires their transfer between correctional facilities.

This measure also seeks to require the PSD to consider non-traditional and clearly unsound correctional management practices when determining which inmates should be transferred, and will severely affect PSD's ability to effectively and efficiently manage the inmate population. It is already very difficult to manage the inmate population and address protective custody, separate issues, inmate gangs, and other groups that threaten security.

For these reasons and others, no jurisdiction in the country has a provision that allows inmates to appeal a decision regarding the location of incarceration. The United States Supreme Court has ruled that inmates **do not** have a constitutional right to determine the location of their incarceration.

This measure requires that a committed person be notified not less than fourteen days prior to their transfer, and further, that they have the right to appeal the decision to transfer. Not only is this bad correctional management, but if enacted, this measure would frustrate legitimate government operations, place staff and the public at risk, and add to the already overly burdensome administrative requirements and responsibilities of institutional case managers, correctional supervisors, and correctional managers. No jail or prison jurisdiction in the country operates under a "voluntary" transfer system, because of the security concerns and the additional costs that would accompany this procedure.

Finally, to implement the provisions of this measure would open the State to almost limitless liability because of the overcrowding in our State facilities that would surely occur. The overcrowding would also probably trigger the Department of Justice to investigate and would probably lead to federal oversight, which would cost the State millions of dollars to comply with the federal orders, as well as to pay for the judgments in federal litigation.

Therefore, for the reasons listed above and on the preceding page, the PSD does not support Senate Bill 210, SD1, and we strongly urge the committee to hold this measure.

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