

# SB 970

**Measure Title:**

RELATING TO COMMITTED PERSONS' ACCOUNTS

**Report Title:**

Committed Persons' Accounts

**Description:**

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

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

CLAYTON A. FRANK  
DIRECTOR

DAVID F. FESTERLING  
Deputy Director  
Administration

TOMMY JOHNSON  
Deputy Director  
Corrections

JAMES L. PROPOTNICK  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 970  
RELATING TO COMMITTED PERSONS' ACCOUNTS  
by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety and Military Affairs  
Senator Will Espero, Chair  
Senator Robert Bunda, Vice Chair

Thursday, February 5, 2009, 1:15 PM  
State Capitol, Conference Room 229

Senator Espero, Senator Bunda, and Members of the Committee:

The Department of Public Safety (PSD) strongly supports Senate Bill 970. 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 SB970 was not 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.

**Hepatitis Prevention, Education, Treatment & Support Network of  
Hawai'i**

**Prisoner Reintegration and Family Reunification Program**

1286 Queen Emma Street  
Honolulu, Hawaii 96813

[www.idlinks.com](http://www.idlinks.com)

Andy Botts, Director

[poidogpub@hawaiiantel.net](mailto:poidogpub@hawaiiantel.net)

808-942-4276

February 5, 2009

**COMMITTEE ON PUBLIC SAFETY**

Senator Will Espero, Chair

Senator Robert Bunda, Vice-chair

Thursday, February 5, 2009

1:15 p.m.

Conference room 229

SB 970

**RELATING TO COMMITTED PERSON'S 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*