



GOV. MSG. NO. 673

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2534 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2534 SD2 HD1 CD1

A BILL FOR AN ACT
RELATING TO BAIL.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2534

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2534, entitled "A Bill for an Act Relating to Bail."

This bill requires any law enforcement agency in the county in which the person is detained to accept cash bonds, surety bonds, and recognizance bonds on weekends and holidays, to allow for the prompt discharge of a person from custody or imprisonment. It requires that the payment of a bond to a law enforcement agency be accompanied by a bond filing fee of \$60, payable in cash, and allocates the fee between the processing agency and the State general fund.

This bill is objectionable because it would adversely impact the workload of law enforcement agencies that are not staffed or trained to handle this function.

The definition of "law enforcement agency" in this bill is very broad. It could apply to the Sheriff and Narcotic Enforcement Divisions of the Department of Public Safety, the Department of Taxation, the Insurance Division of the Department of Commerce and Consumer Affairs, the Harbors Division of the Department of Transportation, the Conservation and Resources Enforcement Division of the Department of Land and Natural Resources, the Benefit, Employment and Support Services Division of the Department of Human Services, the Department of the Attorney General, the county liquor commissions, and the county

STATEMENT OF OBJECTIONS
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prosecutors.

All of these law enforcement agencies may be required to establish weekend and holiday units that would be available to receive bail bonds and bond filing fees and have the capability to process these receipts, verify the custody status of the defendant, communicate with the custodial agencies, effectuate the release of the defendant, and follow up with the courts. Most of these agencies do not have the resources or capabilities to address the new responsibilities created by this bill.

For the foregoing reasons, I am returning Senate Bill No. 2534 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", with a stylized flourish at the end.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO BAIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 804, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§804- Bond filing fee; deposit. (a) The payment of a
5 bond to a law enforcement agency under section 804-7 shall be
6 accompanied by a bond filing fee of \$60, payable in cash, for
7 each bond issued per defendant. The law enforcement agency
8 accepting the bond shall issue a written receipt to the person
9 posting the bond; provided that the written receipt shall
10 confirm the receipt of the \$60 filing fee and the date of the
11 receipt, the name of the accused, and the offense or offenses to
12 which the bond filing fee is attached.

13 (b) Of the bond filing fees collected pursuant to this
14 section, \$30 shall be retained by the agency processing the bond
15 paid under section 804-7 and \$30 shall be deposited in the
16 general fund of the State."

17 SECTION 2. Section 804-7, Hawaii Revised Statutes, is
18 amended to read as follows:



1 "§804-7 Release after bail[-]; procedure when court
2 closed. (a) When bail is offered and taken, the prisoner shall
3 be promptly discharged from custody or imprisonment.

4 (b) When a person has been admitted to bail and the court
5 with jurisdiction is closed, any law enforcement agency in the
6 county in which the person is detained shall accept cash bonds,
7 surety bonds, and own recognizance bonds; provided that bonds
8 shall be accepted by a law enforcement agency only on weekends
9 and holidays during the hours that the court would otherwise be
10 open on weekdays. The law enforcement agency shall accept:

11 (1) Cash and certified copies of bonds pre-filed with the
12 court from any person; and

13 (2) An original surety or own recognizance bond only from
14 a person licensed pursuant to chapter 431 as a bail
15 agent or licensed to sell, solicit, and negotiate
16 surety insurance.

17 (c) A law enforcement agency accepting cash bonds, surety
18 bonds, or own recognizance bonds pursuant to subsection (b)
19 shall submit the bonds to the court with jurisdiction no later
20 than 4:00 p.m. on the first business day following acceptance.

21 (d) For purposes of this section, "law enforcement agency"
22 means any agency of the State or a county vested by law with



1 authority to make arrests for criminal offenses and detain
2 arrested persons pending court action, including the county
3 police departments and the department of the attorney general.

4 (e) The attorney general may adopt rules pursuant to
5 chapter 91 to effectuate the purpose of this section."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2010.

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