

JAN 26 2009

A BILL FOR AN ACT

RELATING TO COMMITTED PERSONS' ACCOUNTS.

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

1 SECTION 1. Section 353-20, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§353-20 Custody of moneys; accounts for committed**
4 **persons, etc.** All sums collected under this chapter and any
5 other authorized sources shall be deposited by the department
6 into [~~an individual trust account to the credit of the committed~~
7 ~~person.~~] one or more accounts with one or more financial
8 institutions opened by the department for the specific purpose
9 of maintaining committed persons' funds. The department shall
10 maintain [~~individual ledger accounts for each committed person~~
11 ~~and shall issue to each committed person a quarterly statement~~
12 ~~showing credits and debits.~~] accounts for each committed person
13 to allow committed persons use of their own funds for approved
14 expenses and purchases during incarceration. The director may
15 designate a percentage of all funds earned by the committed
16 person while in custody is to be deposited and held in a non-
17 spendable account for the purpose of providing funds for that
18 same committed person upon release from custody. The structure

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1 of these accounts shall be designed so that all funds deposited
2 by or for a committed person shall be credited to the accounts.
3 Accounts maintained by the department for committed persons
4 shall not bear interest. No interest of any kind shall be paid
5 to a committed person on any account maintained by the
6 department for the committed person. The department shall
7 provide quarterly accounting statements to all committed persons
8 held in custody for over one quarter of the year. The
9 department shall conduct annual audits on all committed persons'
10 accounts."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall apply to all committed person's
14 accounts established before and after the effective date of this
15 measure.

16 SECTION 4. This Act shall take effect upon its approval.

17
18 INTRODUCED BY: _____
19 BY REQUEST

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.

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JUSTIFICATION SHEET

DEPARTMENT: PUBLIC SAFETY

TITLE: A BILL FOR AN ACT RELATING TO COMMITTED PERSONS' ACCOUNTS

PURPOSE: This bill amends section 353-20 to permit the Director of Public Safety to direct the department to have accounts for committed persons, one that is accessible by the committed person to spend during confinement and one that is non-spendable to preserve funds that will be available for the committed persons upon release. This measure states that no interest can be paid to committed persons on the individual accounts and that such accounts do not bear interest.

MEANS: Amend section 353-20, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Public Safety is responsible for maintaining the safe and orderly operation of its correctional facilities, while at the same time ensuring that the committed persons incarcerated in the facilities have access to programs and other basic amenities. Committed persons often need funds in order to pay for the normal expenses associated with the programs and other amenities. These expenses include purchasing personal items such as foodstuffs, hygiene articles, additional reading materials, copying costs, and legal expenses.

Accounts for all committed persons have been set up within the Corrections Division of the Department of Public Safety pursuant to section 353-20, Hawaii Revised Statutes, for over twenty years to facilitate the committed persons' needs. This procedure permitted two accounts per committed person. One account permitted the committed person

to purchase items and pay for services at the committed person's discretion. The other account was a restricted account, initially established to hold 20 percent of the funds earned by the committed person while incarcerated, for the express purpose of having funds for the committed person to use upon their release from incarceration. Only emergency expenses could be withdrawn from this account, pursuant to a written policy within the department. No interest was ever computed or earned by inmates on the funds maintained in these committed persons' accounts.

Recently, the Hawaii Supreme Court ruled that the department could only have one account per inmate pursuant to section 353-20, and further, that the department was to pay interest on the committed persons' accounts. The impact of this ruling would be fiscally devastating to the department, as well as the State. If this ruling were enacted as a procedure within the department, few if any inmates would voluntarily save their funds for the purpose of having moneys to assist them in their transition from incarceration to the community.

Further, the task of computing the interest would require extensive banking software, which would need to be purchased at a significant cost. Additionally, at least 15 more full-time staff would be necessary to continually operate the process and compute and file the interest earned. The amount of transfers into and out of these accounts is staggering, and in effect, the Supreme Court's ruling would require the department to operate much the same as a bank, but without the ability to charge fees in order to remain fiscally sound as the banking profession is able to do.

Impact on the public: This measure will prevent a diversion of funds used to support

the primary function of the Department of Public Safety to a newly interpreted responsibility outside the normal duties of the department. This measure will also prevent an increase in the amount of tax revenues required to operate the department.

Impact on the department and other agencies:
This measure will prevent the department from using existing funding to pay interest for both future and past interest income on committed persons' accounts maintained by the department. This measure will also ensure that the decades old process of providing the released inmate with the funds from their restricted account will remain intact. This will prevent most committed persons from being released into the community with limited to no funds available.

GENERAL FUND: The change ordered by the Supreme Court would require additional General Funds to establish positions to operate and manage the individual inmate accounts and credit the interest owed. Some General Funds might be required to pay the interest amount.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: PSD 900.

OTHER AFFECTED
AGENCIES: Department of the Attorney General,
Judiciary, Budget and Finance.

EFFECTIVE DATE: Upon approval. The Act shall apply to all committed persons' accounts established before and after the effective date of this measure.