

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
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ALBERT TUFONO  
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MEMBER

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ADMINISTRATOR

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

**TESTIMONY ON HOUSE BILL 2656  
RELATING TO CORRECTIONS**

**HAWAII PAROLING AUTHORITY**  
Albert Tufono, Chair

Committee on Public Safety  
Representative Faye p. Hanohano, Chair  
Representative Henry J.C. Aquino, Vice Chair

Chair Hanohano, Vice Chair Aquino and Committee Members:

The Hawaii Paroling Authority (HPA) cannot support House Bill 2656 as written. Pursuant to Hawaii Revised Statutes 353-71, parole officers are responsible for the supervision of paroled prisoners. A prisoner placed on furlough or even extended furlough would not be deemed a paroled prisoner and would be under the jurisdiction of the Department of Public Safety.

It is recommended that this bill held or Section 2 (b) (5) be amended.

Thank you this opportunity to testify.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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Honolulu, Hawaii 96814

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

TESTIMONY ON HOUSE BILL 2656  
RELATING TO CORRECTIONS

by  
Clayton A. Frank, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Faye P. Hanohano, Chair  
Representative Henry J.C. Aquino, Vice Chair

Thursday, February 11, 2010; 9:30AM  
State Capitol, Conference Room 309

Representative Hanohano, Representative Aquino, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** HB 2656 because any dramatic increase in the number of inmates placed on extended furlough as outlined in this measure would require additional funding for staff, equipment, and community-based resources. At present, each Warden already has the authority to place inmates that qualify on extended furlough, and they utilize their discretionary authority when warranted (see attached Corrections Policy – COR.14.15 - Furloughs). The Department is currently gathering information on the number of offenders released on extended furlough during calendar year 2009 from each of our facilities and will provide this committee with that information within the next few days.


As an example, for every 25 – 30 offenders placed in extended furlough, PSD would require one additional case manager (approximately seven new case manager positions), purchase of equipment, and an increase in community-based services, such as job development, substance abuse relapse and prevention services, and other

related services designed to assist the offender with successful transition back into the community.

For these reasons and considering the current unprecedented economic challenges facing the state, at this time, it would not be prudent to enact this measure. Therefore, PSD respectfully request that this measure be held.

Thank you for the opportunity to provide testimony on this measure.

Attachments

	<b>DEPARTMENT OF PUBLIC SAFETY</b>	<b>EFFECTIVE DATE:</b> DEC 15 2009	<b>POLICY NO.:</b> COR.14.15
	<b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>	<b>SUPERSEDES (Policy No. &amp; Date):</b> COR.14.15 & 08/21/2001	
	<b>SUBJECT:</b> <p style="text-align: center;"><b>FURLOUGHS</b></p>	<p style="text-align: right;">Page 1 of 8</p>	

## 1.0 PURPOSE

To define policies governing the eligibility and granting of furloughs for committed inmates.

## 2.0 REFERENCE AND DEFINITIONS

### .1 References

- a. Hawaii Revised Statute (HRS), 1993 Replacement, Section 353-17, committed persons, furlough, and employment.
- b. HRS, 1993 Replacement, Section 353-8, Conditional release centers for committed persons.
- c. HRS, 2000 Supplement, Section 353-22.5, Garnishment to cover non-budgeted costs.
- d. HRS, 1993 Replacement, Section 353-64, committed persons Paroled.
- e. HRS, 2000 Replacement, Section 353C-2, Director of Public Safety; powers and duties.
- f. HRS, 2000 Supplemental, Section 353G-4; Mandatory Assessment of Offenders.
- g. HRS, 2000 Supplemental, Section 353G-7, Conditions of parole or other release from a correctional center or facility.
- h. HRS, 2000 Supplemental, Section 353G-11, Escape from residential treatment facility.
- i. HRS, 1993 Replacement, Section 710-1020, Escape in the first degree.
- j. HRS, 1993 Replacement, Section 710-1021, Escape in the second degree.
- k. Memorandum, January 8, 1981, Deputy Attorney General James Dannenberg, Furlough for Mandatory Minimum Inmates.

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- l. Memorandum, February 9, 1982, Deputy Attorney General James Dannenberg, Furlough for Misdemeanant Inmates.
- m. Memorandum, December 27, 1991, Deputy Attorney General Susan Barr, Placement of Sentenced jail Inmates in Community Based Programs.

.2 Definitions

- a. Furlough is an authorized leave of absence from the institution without an escort, which is creditable toward service of sentence and is intended to provide the selected inmates opportunities for in-community experiences with family and social reintegration, education, employment, vocational training, and / or specialized treatment prior to parole.
- b. Pass is a written authorization that permits an individual to go on furlough.

**3.0 POLICY**

- .1 Furloughs shall be used to enhance the reintegration process for those inmates who pose minimum risk to the community. Furlough is considered to be an important element of our correctional system and equally essential to the eventual performance of inmates after they are released to the community.
- .2 The furlough programs shall be designed to provide a systematic process of transition for inmates from institutional dependency towards economic and social self-sufficiency within the community. It is intended to minimize the inmate's alienation from family and community, as well as provide a reality measure of release readiness.
- .3 Furloughs is a privilege and not a right: It shall be timed to end concurrent to the inmate's release date.
- .4 The inmate's furlough site shall be in the county where the inmate had a permanent residence, occupation, or employment prior to incarceration, unless the inmate will reside in the City and County of Honolulu.

**4.0 RESPONSIBILITIES**

- .1 Wardens are responsible for administering and ensuring that this policy is adhered to and for establishing internal controls necessary to implement this policy. Such controls shall be subject to the approval of the Director of the Department of Public Safety (PSD) prior to the implementation of the program.

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- a. Overall furlough plan.
- b. Inmate eligibility criteria.
- c. Procedures for obtaining furlough approval.
- d. Notification of county prosecutors and Police Chiefs.
- e. Notification of victims, as required by Department Policy COR.16.05.
- f. Inmate responsibilities and rules.
- g. Facility responsibilities.
- h. Monitoring, reviewing and notification procedures.

#### **5.0 DESCRIPTIVE PARAGRAPH**

- .1 Re-socialization – designed to maintain, establish, or reestablish family and community ties.

Purpose – to respond to specific family needs and / or inmate needs when direct personal interaction by the inmate is best suited to the accomplishment of significant correctional objectives.

- .2 Community Service – designed to provide inmates the opportunity to work in the community as a form of non-monetary restitution.

Purpose – to provide an opportunity to develop positive work habits and demonstrate readiness to transition into the work furlough program.

- .3 Day Reporting Center – designed to provide intensive community supervision for sentenced jail inmates and monitor their participation in treatment services when they report to the center.

Purpose – address inmate reintegration needs, as well as over crowding by extending the limits of correctional custody by allowing inmates to live in the community.

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- .4 Educational – designed to increase academic proficiency by allowing selected inmates to attend post-high school institutions.

Purpose – to participate in academic endeavors when it is determined that such activities will directly facilitate the release transition from institution to community.

- .5 Employment – designed to provide meaningful work experiences and the development of healthy attitudes toward work and interpersonal relationships. The intent is to promote responsibility in the inmate to facilitate reintegration and eventual return to the community.

Purpose – to assist transition from institution dependency to economic and personal independence.

- .6 Training – designed to provide the inmate with special courses or training in order to improve his / her occupational and vocational skills.

Purpose – to assist in the development of a marketable skill that will promote inmate self-sufficiency.

- .7 Specialized Treatment – designed to make available programs in the community to fulfill inmate's need for specialized treatment.

Purpose – to assist the inmate to enhance appropriate behaviors and attitudes.

- .8 Extended Furlough – designed to permit the inmate to reside in an established residence in the community.

Purpose – to demonstrate the ability to function as a law-abiding citizen on community status.

- .9 Others – designed to prepare the inmate to respond to unplanned or unforeseen situations (to include but not limited to funerals, civil court issues, medical appointments, etc.).

Purpose – to allow the inmate to respond to specific situations or needs as they occur.

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## **6.0 GUIDELINES**

### **.1 General Furlough Rules and Regulations**

- a. The Director or Deputy Director for Corrections of the Department prior to implementation shall approve the facility Furlough Program Plan.
- b. Program Committee hearings shall be conducted in accordance with the Department's Classification Policy and Procedures, COR.18.01 – COR.18.08.
- c. Geographical limits of each furlough shall be predetermined and clearly outlined within each furlough plan. Furloughs to other islands in the State and out-of-state furloughs require the approval of the Director of the Department (advance notification in accordance to HRS 353-8 (c) to county / state prior to commencement of furlough).
- d. Furlough time is creditable toward service of sentence.
- e. An inmate on furlough who is found guilty of violating the furlough conditions, rules and regulations, shall be subject to appropriate disciplinary action.
- f. An inmate on furlough who fails to return from an authorized furlough within 30 minutes of the expiration of the furlough pass shall be processed as an escapee unless prior approval was obtained for an extension.
- g. A Warden or designated representative has the discretion to suspend furlough privileges. The inmate will be given notice as to the reason for such suspension and may be brought before the Adjustment and / or Program Committee for proper action.
- h. A department representative will monitor individual inmate compliance to the conditions of the furlough program.
- i. Inmates who receive regular monetary compensation as a result of work or education activities shall be required to make payment toward the satisfaction of court-ordered restitution and fines; and to contribute in part or in whole toward their individual subsistence (HRS 353-17, committed persons, furlough employment; HRS 353-22.5, Garnishment to cover non-budgeted cost).
- j. Each furloughee shall be required to consent to searches of their body and possessions at any time as a pre-condition for furlough.



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**.2 Furlough Eligibility Standards**

- a. The inmate shall have "community" custody classification.
- b. The inmate must be physically and mentally capable of participating in the furlough program. However, this does not exclude the physically and mentally handicapped for placement consistent with their abilities.
- c. The inmate should have sufficient funds to pay for necessary expenses for furloughs.
- d. Furlough participation is dependent upon demonstrated progress in prescribed programs, accomplishment of stated objectives and / or demonstrated capability of independent living such as employable skills and adequate residential arrangements in the community.
- e. Since furlough is discretionary, an inmate, even if meeting furlough eligibility standards or having already participated in a furlough program has no justifiable expectation of remaining in a furlough program in the absence of misconduct on their part.
- f. The court imposes mandatory minimum-sentences requiring a definite period of time that must be served before such inmates are paroled. Under the Department's concept of sequential phasing, extended furlough is equivalent to parole; therefore, mandatory minimum-sentenced inmates shall not be granted extended furlough status.

However, the Department does recognize the individual nature and pace of rehabilitation and embraces the policy that each inmate should be classified at the least restrictive capacity consistent with security needs.

Mandatory minimum-sentenced inmates may be furloughed to participate in educational or work-release programs during their last year of the mandatory minimum sentence if the sentence expires at the same time as the parole eligibility date. Yet, to avoid the premature furloughing of any mandatory minimum-sentenced inmate, keen administrative perception, discretion and supervision over a long and more scrutinous period of time is imperative.

All furlough programs established for mandatory minimum-sentenced inmates should be implemented with social reintegration as the primary goal and such

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programs should be generally scheduled for completion with the end of the mandatory minimum sentence.

- g. Inmates convicted of very heinous and grave crimes, whether serving mandatory sentences or not, shall require careful and thorough assessment of their potential for continuing violent behavior. Such assessment shall include a review of pre-commitment behavior and the instant crime to weight against progress demonstrated during confinement.
- h. The Program Committee may review furlough applications 6 months prior to the inmates' eligible dates. However, execution of an affirmative furlough decision for all mandatory minimum term cases shall not commence without approval of the Director of the Department or designated representative. Exceptions to this requirement are cases where the mandatory minimums have been served.

**.3 Inmates Ineligible for Furlough**

- a. Inmates with criminal detainers shall not be eligible for furlough unless the other sentence is concurrent, the jurisdiction placing the detainer concurs with the furlough plans and approval is obtained from the Director of the Department.
- b. Inmates with a communicable disease or requiring hospitalization shall not be eligible for furlough.
- c. Inmates with pending charge(s) shall not be eligible for furlough.
- d. Inmates serving consecutive sentences shall not be eligible for furlough until they are in final sentence.
- e. Inmates serving a sentence of life without parole shall not be eligible for furlough.

**.4 All expenses of a furlough shall be the responsibility of the inmate, his family, or other appropriate source as approved by the Warden.**

**.5 Each inmate on furlough shall carry an authorized identification card and pass on his / her person throughout the furlough. Each furloughee shall present on request the identification card and pass to any police officer or designated employee(s) of the Department.**

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- .6 Whenever an inmate is admitted to participate in any furlough program, the Warden shall provide notification of such action to the Prosecutor and Police Chief of the county in which the inmate is to be furloughed and the Prosecutor and Police Chief of the county in which the inmate was sentenced. This notification shall be made in writing 30 days prior to the commencement of the furlough in accordance to HRS 353-8 (c).

When one facility transfers an inmate to another facility for the purpose of placing that inmate in a furlough program, the referring facility shall be the authority responsible for notifying the Prosecutor(s) and Police Chief(s). In this case, the notification shall take place 30 days prior to the transfer.

- .7 The Warden shall acknowledge the receipt of any inquiry and / or objections made by the Prosecutor(s) and Police Chief(s) with a letter of response within a reasonable time period.


Such letter of response shall include the Warden's acknowledgement of the issues(s) raised by the Prosecutor(s) and Police Chief(s) along with the final decision made by the Warden. If the inmate was transferred to another facility to participate in the furlough program, the Warden of that facility shall be apprised of the nature and the status of the objection.

- .8 Notification of retake of furloughed inmates shall be in accordance with policy COR.14.01, Arrest Warrants for Furloughed Inmates.

## 7.0 SCOPE

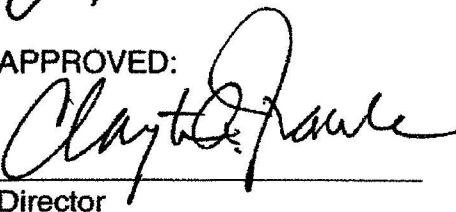
This policy shall apply to all correctional facilities.

### APPROVAL RECOMMENDED:

  
\_\_\_\_\_  
Deputy Director for Corrections

12/11/09  
\_\_\_\_\_  
Date

### APPROVED:

  
\_\_\_\_\_  
Director

12/15/09  
\_\_\_\_\_  
Date

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

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## COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, February 11, 2010

9:30 am

Room 309

**SUPPORT INTENT with AMENDMENTS - HB 2656 - FURLOUGH**

[PBSTestimony@capitol.hawaii.gov](mailto:PBSTestimony@capitol.hawaii.gov)

Aloha Chair Hanohano, Vice Chair Aquino and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 2656 allows the department of public safety to parole up to an additional 200 inmates who do not have to return to prison each night and upon special conditions if the prison has insufficient number of beds to accommodate more furloughed inmates. It also requires PSD to report to legislature semi-annually.

Community Alliance on Prisons applauds the intent of this well-meaning legislation. However, we believe that PSD can already do this.

This policy is called Extended Work Furlough (EWF). Under extended work furlough, as outlined in PSD's policies and procedures, persons under custody may live and work and/or attend school in the community without having to return to the facility. A problem with this bill is that it makes EWF discretionary and it appears that if this administration is not mandated to do something, they don't do it.

## AMENDMENTS:

- **Mandate that the number of individuals eligible for EWF and parole be increased.** Some states have set target numbers for early release. That could take a number of forms.

- Early release on parole supervision
- Early release from their sentences and release into the community.
- Washington State has created a plan for early release of patients with severe medical needs that do not pose a safety threat to the community

**2) Mandate early release and mandate an increase in the number of persons under parole supervision.** Sadly, parole gets very little money in comparison to PSD corrections. The Pew Report (One in 31: The Long Reach of American Corrections) reports that

- 1 in 32 adults in Hawai'i is under correction control.
- 1 in 108 Hawai'i adults are in prison or jail.

Intensive supervision is unnecessary for all individuals. Hawai'i is incarcerating too many people without addressing their direct pathway to crime - drugs.

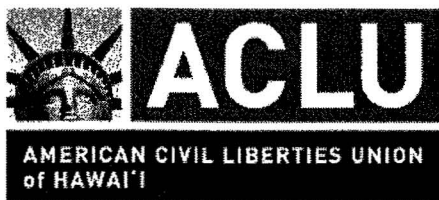
Studies show that treatment delivered in the community is one of the most cost-effective ways to prevent such crimes. For every \$1 spent on drug treatment in the community, you save approximately \$18. (Source: Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001. The comparative costs and benefits of programs to reduce crime. Olympia: Washington State Institute for Public Policy.)

Early release of carefully selected non-violent offenders will not cost money and in fact, will SAVE MONEY.

**Problems with the bill:**

- If the proposed bill were enacted, the State would probably have to amend several statutes. As drafted, the bill is mixing the duties and functions of PSD and HPA. Currently, work furlough and Extended Work Furlough (EWF) is supervised by each facility. The proposed bill would "force" HPA to supervise individuals that are not under parole supervision. This would seem to be an impossible task with work furloughs/reduced work hours.
- The Intake Services Division supervises individuals on Electronic Monitoring Furlough (EMF), yet the numbers are still very low. And, to our knowledge, there are no written criteria about who gets placed on EMF.
- Individuals with sex crimes and long term sentences are usually placed on EMF. But, they have also placed a few women with NON-VIOLENT charges on EMF - which is a waste of taxpayers' money.

Mahalo for this opportunity to share our thoughts with the committee.



Committee: Committee on Public Safety  
Hearing Date/Time: Thursday, February 11, 2010, 9:30 a.m.  
Place: Room 309  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 2656, Relating to Corrections

Dear Chair Hanohano and Members of the Committee on Public Safety:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 2656, allowing the Department of Public Safety to parole up to an additional 200 inmates who do not have to return to prison each night and upon special conditions if the prison has insufficient number of beds to accommodate more furloughed inmates.

As the Legislature is aware, many of Hawaii's prisons are overcrowded. Last year, a three-judge federal judicial panel in California ruled that overcrowding was so severe and pervasive in California's prisons that the release of prisoners was the only way to resolve the innumerable constitutional violations. *Plata v. Schwarzenegger*, Civ. Nos. S-90-0520, C01-1351 (E.D. Cal. & N.D. Cal., Feb. 9, 2009). The Legislature should take proactive steps to manage its prison population, and early release programs are a common method throughout the United States for relieving some of the pressure on the prison system.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie Temple  
Staff Attorney

American Civil Liberties Union of Hawaii  
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