

HB 519, HD1

Measure Title:

RELATING TO INMATES

Report Title:

Prisons; Inmates; Out-of-State

Description:

Requires return of all out-of-state inmates in private prisons by 12/31/2015.
Requires the public safety department to plan, design, and construct sufficient facilities
to house inmates in Hawaii by 12/31/2015.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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TESTIMONY ON HOUSE BILL 519, HD1
RELATING TO INMATES

By

Clayton A. Frank, Director
Department of Public Safety

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

Thursday, March 19, 2009; 1:30PM
State Capitol, Conference Room 229

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

The Department of Public Safety (PSD) appreciates the legislature's interest in the development or expansion of in-state correctional facilities and the eventual return of our inmate's held in out-of-state prisons as outlined in House Bill 519, HD1. However, the PSD strongly opposes this measure.

With funding previously provided by the legislature, PSD is currently working closely with DAGS and several private entities under contract to both plan and design a new and larger correctional facility for the Island of Maui to replace the Maui Community Correctional Center (MCCC). In addition, PSD is currently exploring the possibility of relocating and/or expanding the Oahu Community Correctional Center (OCCC) from its current site. Both of these projects are progressing and the department hopes to have more detailed information for the legislature during the next legislative session.

Section 2 (Page 3, Line 8 thru Line 10), which requires an inmate's **consent** to be returned to Hawaii, is not practical, feasible, and is not sound corrections management policy. The

United States Supreme Court has ruled that those incarcerated **do not** have the right to determine the location of their incarceration. No correctional system in the country operates under a voluntary transfer policy for inmates. To do so would be extremely costly, inefficient, and may lead to offenders being held longer as they may not wish to complete the sequential programming phase, which attempts to ensure that all programs are completed prior to the end of their respective minimum sentence(s).

In addition, Section 2c (Page 3, Line 16 thru Line 17) of this measure requires the Director of Public Safety to return all out-of-state inmates to Hawaii prisons by December 31, 2015, which is clearly unrealistic as it fails to consider what the inmate population may be in the year 2015. Given the current economic conditions of the state and the strong potential for an increase in the jail and prison populations between now and the year 2015, HB 519, HD1 is extremely short sighted and fatally flawed.

At present, the department does not have the bed space capacity and institutional programs for the current prison population of 6,039 (5,299 male and 740 female) offenders. Even if the MCCC and OCCC projects were completed by the year 2015, the additional bed and program spaces provided by these projects would not reach the level required to return all of the out-of-state inmates to Hawaii. It should also be noted that at present and for the foreseeable future, Hawaii lacks the community-base program bed space, halfway house/ clean and sober homes to accommodate any large increase in the offender population.

Further, Section 3 (Page 4 – Line 6 thru Page 5 – Line 2) seeks to eliminate of the provisions of HRS 353-16.2 will place inmates and staff in danger. At present, the PSD and the other State jurisdictions within the Western Interstate Compact use this provision to transfer inmates (usually on a one-for-one basis) that are high profile offenders, convicted felons requiring protective custody outside of their home state, and/or offenders that are required to be held in maximum custody due to their repeated unacceptable behaviors such as assaulting staff and other inmates. If this measure were enacted, PSD would be removed from the Western Interstate

Compact and would be required to return at least 22 high profile and/or extremely high-risk offenders currently housed around the Country under this provision. In addition, PSD would be required to notify several state jurisdictions of the Western Interstate Compact that they would immediately have to seek other housing options for the 17 inmates in PSD facilities currently house.

It should also be noted that Section 4 (Page 5 – Line 5 thru Line 13) of this measure seeks to rescind the Executive Branches ability to negotiate with any appropriate out of state jurisdiction for the development of Hawaii correctional facilities to reduce prison overcrowding. If enacted, this measure would effectively tie the hands of the Executive Branch to efficiently, and effectively manage the state's correctional system and offender population. As a result, the State may be forced to release untreated and/or unprogramed offenders in the community, which places the public at severe risk of continued victimization.

Therefore, PSD respectfully requests that this measure be held. A more appropriate means to address the legislature's concerns may be via a House Concurrent Resolution that would request the department to provide the legislature with a report on the status of our reentry efforts and the on-going projects for both, the MCCC and OCCC facilities prior to the start of the next legislative session.

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

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Robert Bunda, Vice Chair

Thursday, March 19, 2009

1:30 PM

Room 229

STRONG SUPPORT

HB 519 HD1 - Return of Inmates

PSMTestimony@capitol.hawaii.gov

Aloha Chair Espero, Vice Chair Bunda 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. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 519 HD1 requires the return of all out-of-state inmates in private prisons by December 31, 2015 and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by that date.

Community Alliance on Prisons applauds the committee for hearing this bill. Hawai'i has been banishing individuals to the hands of prison profiteers since 1995, when we sent our first 300 prisoners to Texas. This was a 'temporary' situation, we were told. Today, 14 years later, Hawai'i has NO EXIT STRATEGY and the number of individuals sent abroad is rising, as the costs are soaring.

The Department of Public Safety is currently undergoing a re-classification of Hawai'i's incarcerated population. The preliminary findings of their consultants, Criminal Justice Institute, Inc. (CJI) reveal that Hawai'i has been over-classifying inmates and that the majority of Hawai'i's incarcerated population are nonviolent offenders who are classified as Minimum or Community Custody.

Interestingly, all the CCA prisons housing our people are Medium security prisons. When questioned about this, CCA said they had "low medium; medium medium; and high medium. Sounds like medium, yeah? And research shows how classifying people too high results in greater recidivism.

Research done by Keith Chen of Yale and Jesse Shapiro of the University of Chicago entitled, 'Does Prison Harden Criminals?' looked at 950 inmates with the same lengthy rap sheets and similar criminal histories but held in different classifications (some minimum custody and some low custody) and then

studied them 1, 2, and 3 years after release to see if prison conditions and classification made them more apt for rearrest. **Their findings show that harsher prison conditions - classifications from low on up -- are associated with significantly more post-release crime.** Source: "Does Prison Harden Inmates? A Discontinuity-based Approach - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=470301

So Hawai'i's over-classification of inmates has actually been counter-productive and has fueled recidivism.

Although CAP strongly supports bringing our people home, we are concerned with Hawai'i's lack of infrastructure to assist individuals reentering the community. This infrastructure would include an array of prison-based and community-based programs to serve the diversity of needs of our incarcerated population. Hawai'i has been so focused on incapacitation and incarceration, that we have very little infrastructure in the community to help folks be successful upon reentry.

Before Hawai'i even considers building a prison, we should first determine how many 'hard' prison beds we need and then work from there. The re-classification work of CJI must provide the roadmap for the direction Hawai'i needs to take. Instead of bricks and mortar, we need to provide the tools and assistance necessary to help people rebuild their lives, restore their 'ohana, and revitalize their communities through successful rehabilitation and reentry programs. Building this infrastructure will provide a better Return on Investment (ROI) as it will help reduce recidivism and support individuals working to change their lives and behavior.

Why are we spending the most expensive sanction - prison - to punish people who have drug problems? Research by Rand Corporation found that for every \$1 spent on treatment, we save \$7 in social costs.

This economic crisis presents an opportunity to review what we are doing and do what is efficient, not punitive. **We should incarcerate individuals who harm others, not people who we are mad at.**

In closing, we must bring our people home to something. We must have programs in place for returning Hawai'i inmates. HB 519 HD1 can force the department to develop an exit strategy since they obviously need a goal or we will continue to ship individuals around like chess pieces, a shameful policy with no aloha.

Mahalo for this opportunity to testify.



the
**Drug Policy
Forum**
of hawai'i

March 19, 2009

To: Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair and
Members of the Committee on Public Safety and Military Affairs

From: Jeanne Y. Ohta, Executive Director

RE: HB 519 HD1 Relating to Inmates
Hearing: March 19, 2009, 1:30 p.m., Room 229

POSITION: SUPPORT

HB 519 HD1 requires the return of all out-of-state inmates in private prison by a specified date and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by a specified date.

DPFH supports the return of all inmates to Hawai'i, as housing prisoners on the mainland makes maintaining relationships with family members and children extremely difficult and makes successful reentry into the community more difficult.

During difficult times, we need to rethink our current policies; do they work for Hawai'i? Clearly, medium security incarceration is not the best policy. It is expensive and does not reduce recidivism rates.

We think this is the opportune time to focus on establishing community-based programs both for reentry and for drug treatment. We should be establishing a variety of programs that are gender-appropriate and culturally appropriate. These programs actually address the underlying cause of criminal behavior, are more effective than incarceration, and reduce recidivism rates, thus reducing the need for more prison space. In addition to being more effective, community-based programs are also less expensive than incarceration.

Thank you for this opportunity to provide testimony in support of this measure.

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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Wil Espero, Chair

Sen. Robert Bunda, Vice Chair

Thursday, March 19, 2009

1:30 pm

Room 229

SUPPORT HB 519 HD1 RELATING TO INMATES WITH AMENDMENTS

(Requires PSD to Return Out of State Prisoners Home by 2015)

Aloha Chair Espero, Vice Chair Bunda and Members of the Committee!

My name is Carrie Ann Shirota, and I am writing in support of HB 519 HD1 with Amendments. My experiences as a former Public Defender and staff member of a reentry program on Maui, as well as a member of Community Alliance on Prisons have shaped my advocacy efforts to promote rehabilitation, accountability and transparency within our correctional system, and alternatives to incarceration.

HB 519 HD1 requires the return of all out-of-state inmates in private prisons by 12/31/15 and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by 12/31/15.

I support the provision under HRS 353H-7 that sets a deadline for the Department of Public Safety to return to all out inmates to Hawai'i by December 31, 2015.

However, I do not support the language under 353-16.35(c) and HRS 353H-7(d) that requires the Department to plan, design and construct sufficient facilities to house all prisoners to the committed to the Department's custody. That language provides a green light for Hawai'i to build more prisons.

Similar to other members of our community, I am interested in safe neighborhoods, and the reduction of crime and recidivism. However, contrary to the myth, *BUILDING MORE PRISONS IS NOT THE SOLUTION!*

- The prison population growth in Hawai'i is linked to changes in our sentencing laws, not due to an increase in crime. Accordingly, we must amend sentencing laws that contributed to the prison population growth.
- The Sentencing Project's Report *Incarceration and Crime: A Complex Relationship* (2006) highlights the marginal connection between mass imprisonment and reduced crime. The Report concludes that "the persistent removal of persons from the community to prison and their eventual return has a destabilizing effect that has been demonstrated to fray family and community bonds, and contribute to an increase in recidivism and future criminality." Moreover, the Report concludes that alternatives approaches to reduce crime, such as treatment and intervention, are more cost effective and protect families. Accordingly, we must invest in programs that have proven effective in reducing recidivism.
- Other states, such as Wisconsin and Washington, which exported large numbers of its prisoners to other state or private prisons, are reversing this practice. Policy makers and even correctional leaders in these States recognize that out of state transfers weakens family ties, reduces the likelihood of family visits, and creates other unintended consequences (i.e. increased growth of prison gangs).

I am encouraged that a growing number of our State Legislators support the return of our

incarcerated brothers and sisters back home. Please continue to champion this cause by using a comprehensive strategy to reduce our overreliance on incarceration. Our community can achieve public safety goals with a reduction of incarceration if we have the political will and courage to support changes to our sentencing laws and alternatives to incarceration.

Mahalo for this opportunity to submit testimony in strong support of HB 519 HD1 with the suggested amendments.

Sincerely,

Carrie Ann Shirota, Esq.
Wailuku, Hawai'i
(808) 269-3858

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Robert Bunda, Vice Chair

Thursday, March 19, 2009

Room 229

1:30 PM

HB 519 HD1 — RELATING TO INMATES

STRONG SUPPORT

Dear Chair, Vice Chair and Committee Members:

Thank you for the opportunity to submit my testimony.

I strongly support this measure because, simply stated, bringing the prisoners from Hawaii back to the islands would afford family, friends, relatives to be able to visit them. Families with children, especially, are unable to visit their loved ones in the mainland. If they're fortunate, families could afford to do it once, but friends and relatives very seldom would pay the cost of travel to visit (expense of the plane fare, hotel and meals) during these hard times.

To bring down the recidivism and help families to connect, I ask your consideration in passage of this bill.

Thank you,

Elaine Funakoshi