

LINDA LINGLE
GOVERNOR



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No. _

TESTIMONY ON SENATE BILL 210, SD2
RELATING TO CORRECTIONS

By
Clayton A. Frank, Director
Department of Public Safety

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

Thursday, March 19, 2009; 10:00AM
State Capitol, Conference Room 309

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

The Department of Public Safety (PSD) **strongly opposes** Senate Bill 210, SD2 which seeks to codify in statute standards governing the transfer of inmates between in state correctional facilities and those that house inmates from Hawaii under contract with the Department on the mainland. The measure is unnecessary as the PSD previously established sound standards used to assist in identifying and determining the transfer of inmates using a "sequential phasing" process. This process initially provides for the assessment and classification determination of inmates and their program/rehabilitative needs and the degree of danger they may pose to the community, other inmates/staff, and themselves.

This is accomplished using valid assessment and associated trailer instruments such as the Level of Service Inventor - Revised (LSI-R), Adult Substance Use Survey (ASUS), Static 99 and Acute (Sex Offender Assessment Instruments), Domestic Violence (DV) trailer and others. These instruments are nationally recognized assessment tools that assist PSD and other correctional jurisdictions around the county in determining the level of risk an offender may pose (classification / security level) and the rehabilitative programs needs that specifically addresses the criminogenic factors that led to the criminal behavior for inmates that qualify to be transferred to mainland facilities.

The sequential phasing process allows for the orderly scheduling of inmates that wish to participate in identified program within their respective custody level, which also facilitates timely transfers between in state correctional. This process allows those incarcerated to participate in recommended programs prior to the end of their longest minimum sentence, which helps facilitate their transition back into the community. At times, in order for inmates to complete all of the recommended programs and/or to ensure they are housed at a correctional facility commensurate with their classification level, transfers are necessary.

As written, SB 210, SD2 seeks to require the PSD to consider non-traditional and clearly unsound correctional management practices when determining which inmates should be transferred. This measure will severely affect PSD's ability to effectively and efficiently manage the inmate population. It is already very difficult to manage the inmate population and address protective custody, separate issues, inmate gangs, and other valid security threat groups. For these reasons and others, no jurisdiction in the country operates under a "voluntary" transfer system in which one offender replaces another by volunteering to be relocated. To do so would in affect place the wishes of the offender above the operational, security, and safety of the facility, staff, and the general public.

If enacted, this measure would frustrates legitimate government operations, places staff and the public at risk, and add to the already over burdensome administrative requirements and responsibilities of institutional case managers and correctional supervisors, and correctional managers. In addition, as written this measure opens up the state to almost limitless liability as overcrowding in our state facilities will become unbearable and create cruel and usual punishment conditions that will trigger Department of Justice oversight, which will cost the state millions of dollars.

Further, the United States Supreme Court has ruled that inmates **do not** have a con-stitutional right to determine the location of their incarceration. The PSD recommends this measure be held. Thank you for the opportunity to provide testimony on this matter.

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, March 19, 2009

Room 309

8:30 AM

SB 210 SD2 – Establishing Criteria for Inmate Transfers

Strong Support with Minor Amendments

PBSTestimony@capitol.hawaii.gov

Aloha Chair Hanohano, Vice Chair Aquino, and Committee Members:

My name is Diana Bethel and I am writing in strong support of SB 210 SD2 with minor amendments. The amendments that I believe would improve this bill are: 1) To include consideration of Hanai family relationships when making inmate transfer decisions, since they are such an important aspect of family structure in Hawaii; 2) To provide notice of transfer within an approximate time period, for example, several months. This would not be a heavy administrative burden. To not provide notice is inhumane. 3) Allow inmates to volunteer for transfer to enable inmates with families to stay in Hawaii to be near their loved ones.

Clear and transparent criteria for inmate transfers are necessary to increase the professionalism of the Department of Public Safety. It is unbelievable to me that such a major decision as transfer of inmates is left to bureaucratic whim.

Every effort should be made to prepare inmates for reentry into the community. In this respect, the criteria for transfer should assist the reentry process and include factors such as proximity to family, including hanai family relationships, and opportunities for (or ongoing) educational or rehabilitation programs. This is the best way to improve public safety in our communities.

Thank you for this opportunity to express my strong support for SB 210 SD2.

Mahalo,

Diana Bethel

1441 Victoria St.

Honolulu, Hawaii 96822

TO: COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, March 19, 2009

10:00
8:30 AM

Room 309, Hawaii State Capitol

RE: SB 210 SD2 – Testimony in Support of Establishing Criteria for Inmate Transfers

FROM: Atty Daphne Barbee-Wooten, 1188 Bishop Street, Suite 1909, Honolulu, Hawaii
96813, (808) 533-0275

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

I am an attorney in private practice who represents inmates. I am testifying in support of SB210 SD2 establishing a criteria for inmate transfers. There have been several times when I have gone to visit my clients only to find that they were transferred without notice to any of their family or relatives, causing great concern. Furthermore, I represented a client who was transferred even though his case was up on appeal. Within six months of his transfer the Appellate Court reversed his conviction. Now the State has to pay extra funds to return him from Saguaro to Halawa Correction Facility for further proceedings on his case. Before he was transferred I informed DPS not to transfer him because his case was on appeal. My pleas were ignored. Transferring inmates whose cases are up on appeal not only disrupts the family life for persons who live in Hawaii and have relatives in prison, but also is expensive when their cases are reversed on appeal. There should be some criteria which is in an objective manner and not whomever DPS wants to transfer. There should be some notice before the transfer has been made. Other jurisdiction have criteria, such as Washington, California and Alaska. Hawaii should also have this criteria for transferring inmates.

Dated: Honolulu, Hawaii

3-18-09



Daphne Barbee-Wooten
Attorney at Law