

# **SB 2243**

**Measure Title:**  
Relating To Public Safety.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2243  
RELATING TO PUBLIC SAFETY

by  
Clayton A. Frank, Director  
Department of Public Safety

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

Tuesday, February 2, 2010; 1:25PM  
State Capitol, Conference Room 229

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

The Department of Public Safety (PSD) **strongly opposes** Senate Bill 2243. This measure does not specify who will develop or write the many comprehensive correctional impact statements that may be required, but only that the Corrections Population Management Commission (CPMC) will assist. The statute governing the CPMC (HRS §353F) does not provide any funding and/or positions to carry out its functions.

Over the last several legislative sessions, there have been no less than 30 proposed bills that would require a correctional impact statement under this measure. Additionally, there is no similar requirement on any other type of proposed legislation. Thus, this measure could be seen as prejudicial or discriminatory.

Given the nature and complexities of correctional impact statements, even if there existed staff and other resources necessary to conduct the research, compile and analyze the data, and put together a report for the legislature, given the length of the

regular annual legislative session and the compressed time between hearings, it would be extremely difficult, if not impossible to meet the requirements set forth in this measure. **Do not** believe testimony that you may hear stating that the sentencing simulation module (SSM) previously used by PSD, is simply sitting on a shelf at the Department of the Attorney General waiting to be used.

The SSM is a complex computer program that requires an inordinate amount of expertise to operate, which the Department does not have. PSD's research and statistics section is down from three full-time staff members to a single staff member, who has never operated the SSM program. Further, when the SSM program was being used, it required two full-time staff members to conduct the sentencing simulations. The SSM program requires expertise, staff time, and the gathering of huge amounts of data that must be analyzed using several different methods, which requires a great amount of time to do. Sentencing simulations cannot be done in a few days, as some would have you believe, but rather over an extended period of time that is required to ensure the simulations completed on proposed legislation is accurate, quantifiable, and have some degree of certainty.

PSD encourages the legislature to seek the advice and guidance of the Department of the Attorney General's Crime Prevention and Justice Assistance Division on this matter. The Crime Prevention and Justice Assistance Division developed the SSM and is best qualified to provide information on the legislature regarding how this system works, resources required, and time frames needed to complete correctional impact statements.

Finally, given the current unprecedented economic challenges facing the state, at this time, it would not be prudent to enact this type of costly legislation, which would negatively impact the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011.

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

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Robert Bunda, Vice Chair

Tuesday, February 2, 2010

1:25 PM

Room 229

**SUPPORT with amendments - SB 2243 - Correctional Impact Statements**

**[PSMTestimony@capitol.hawaii.gov](mailto: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 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.

SB 2243 Correctional Impact Statements require bills to amend or create new offenses, or to change parole or probation procedures, to be accompanied by a correctional impact statement. The bill requires assistance of the corrections population management commission to prepare an analysis of the corrections population impact through use of the Sentencing Simulation Model.

This bill also tracks the ethnicity of individuals and gives more information to policymakers to make an informed decision by using the Sentencing Simulation Model developed by PSD several years ago to determine the impact of legislation on the criminal justice system, the economy, on Hawaiians, at-risk communities, prisons etc.

Community Alliance on Prisons **SUPPORTS** this important bill. This is a tool to give policymakers valuable information to help inform decisionmaking.

### *Suggested Amendments:*

- 1) Since the Sentencing Simulation Model developed by PSD is now being housed at the Attorney General's research office, we suggest including language allowing either existing funding be re-purposed to re-start the model (estimated at approximately \$60,000 as presented to the Corrections Population Management Commission) or mandating that grants for this purpose be sought.

- 2) Include language allowing the Corrections Population Management Commission oversight of the Sentencing Simulation Model but transfer responsibility of the modeling to the AG's research office.

The Sentencing Simulation Model helped policymakers determine the impact of sentencing legislation before its passage. The tool is neutral and policymakers are only presented with the facts/data.

How did Hawai'i come to have such a rising prison population? The short answer is that the war on drugs and the passage of 'tough on crime' legislation that calls for the incarceration of low-level drug lawbreakers has led us down this dark path.

With overcrowded prisons and a rising corrections budget - PSD's budget rose 75.5% in the last decade with the budget for contract prison beds rising 192% at that same time. The information provided by these correctional impact statements would be invaluable to policymakers, researchers, families, concerned citizens, etc.

Hawai'i is in dire financial straits - this bill would give policymakers information on the impacts of their impending decisions so they could assess the costs v. benefits of any proposed legislation.

Hawai'i has been following the 'tough on crime' model which has resulted in a burgeoning prison population and almost two thousand of our people being banished thousands of miles from home to the hands of prison profiteers.

The Sentencing Simulation model is now housed at the AG's office and should be restarted to assist policymakers with the analysis needed on sentencing bills to assess their impact before they are passed.

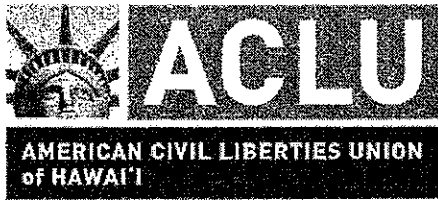
There are more cost effective and efficient ways for Hawai'i to address the root cause of much of the crime in our communities.

Correctional or Racial Impact Statements provide much needed information to policymakers, which is why Iowa and Connecticut have passed such laws and other jurisdictions are considering them. We simply can no longer afford to incarcerate individuals we are mad at.

Incarceration is the most expensive sanction and should be reserved for those who we are afraid of. The result of mass incarceration is that it has lost its deterrent effect...it has actually become a 'rite of passage' for many young men in our community. This is not the message we should be sending to our youth.

Community Alliance on Prisons urges passage of SB 2243.

Mahalo for this opportunity to share our thoughts.



Via E-mail: PSMTestimony@Capitol.hawaii.gov  
Committee: Committee on Public Safety and Military Affairs  
Hearing Date/Time: Tuesday, February 2, 2010, 1:25 p.m.  
Place: Room 229  
Re: Testimony of the ACLU of Hawaii Commenting on SB 2243, Relating to Public Safety

Dear Chair Espero and Members of the Committee on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) supports the general intent of SB 2243, which seeks to require a correctional impact statement be attached to any bill that proposes a change in the law that creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole or probation procedures.

In these difficult economic times, it is important that proposed legislation is carefully scrutinized (through methods like impact statements) to determine whether passing the legislation is in the State’s best interests. Correctional impact statements are particularly important because of the immense costs that come with sending additional individuals to prison (or sending individuals to prison for longer periods of time). The minimal – or nonexistent – deterrent effect from extended sentences and mandatory minimum terms, for example, simply may not be worth the extraordinary financial cost to Hawaii’s taxpayers. A correctional impact statement will help inform the process to ensure that we spend our limited resources in the most efficient and effective way possible, saving the State from long-term expenses that have little to no benefit in return.

Furthermore, correctional impact statements may help to address some of the racial and ethnic disparities that exist in our criminal justice system. For example, as evidenced in last year’s informational briefing regarding the over-representation of native Hawaiians in the criminal justice system, native Hawaiians are disproportionately represented in prison. Again, the minor up-front cost of preparing an impact statement will go a long way to ensuring that we have an effective and equitable criminal justice system. To that end, we suggest that the correctional impact statements not be limited to native Hawaiians, but rather collect demographic information on all groups so as to ensure the equal application of Hawaii’s laws.

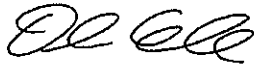
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Hon. Sen. Espero, Chair, PSM Committee,  
and Members Thereof  
February 2, 2010  
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The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. 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,



Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

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

February 2, 2010

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

From: Jeanne Ohta, Executive Director

RE: SB 2243 Relating to Public Safety  
Hearing: February 2, 2010, 1:25 p.m., Room 229

Position: Support

The Drug Policy Forum of Hawai'i writes in support of SB 2243 which requires bills to amend or create new offenses, or to change parole or probation procedures, to be accompanied by a correctional impact statement; requires assistance of the corrections population management commission to prepare corrections population impact.

During the past decade, prison costs have increased dramatically due to longer prison terms; mandatory minimum sentencing policies; and more punitive drug policies. Incarceration is an extremely costly public policy, diverting funds away from other public programs like health, education, and human services.

When proposals are made that would impact the corrections populations and thus prison costs, policymaker should have that information to decide whether the benefits justify the additional costs.

On behalf of taxpayers, legislators need to know whether the proposal will make us poorer not safer. We urge you to pass this measure so that all of the facts may be considered while deliberating costly changes in public policy.

Thank you for this opportunity to provide testimony.

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FROM: MAILINGLIST@CAPITOL.HAWAII.GOV [MAILTO:MAILINGLIST@CAPITOL.HAWAII.GOV]  
SENT: MONDAY, FEBRUARY 01, 2010 6:29 PM  
TO: PSM TESTIMONY

SUBJECT: TESTIMONY FOR SB2534 ON 2/2/2010 1:25:00 PM

TESTIMONY FOR PSM 2/2/2010 1:25:00 PM SB2534

CONFERENCE ROOM: 229  
TESTIFIER POSITION: SUPPORT  
TESTIFIER WILL BE PRESENT: YES  
SUBMITTED BY: CHARLES FISHER  
ORGANIZATION: AAA LOCAL BAIL BONDS  
ADDRESS: HONOLULU, HI  
PHONE: 808-845-1500  
SUBMITTED ON: 2/1/2010

COMMENTS:

WE AT AAA LOCAL BAIL BONDS FULLY SUPPORT THIS BILL.  
SB 2534 STREAMLINES THE SYSTEM FOR POSTING BAIL IN HAWAII AND ONCE IMPLIMENTED  
WILL  
SERVE THE STATE LEAPS AND BOUNDS ABOVE THE CURRENT MIXED UP METHOD OF POSTING  
BAIL.  
SB2534 MAKES SOMETHING BORDERING ON IMPOSSIBLE EASY AND EXPEDITIOUS.  
FOR THESE REASONS WE URGE THE STATE TO ADOPT THIS MEASURE.