

**SB2534**

**SD1 Late**

LINDA LINGLE  
GOVERNOR



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

TESTIMONY ON SENATE BILL 2534, SD1  
RELATING TO BAIL

by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Judiciary and Government Operations  
Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair

Tuesday, February 23, 2010; 10:00 AM  
State Capitol, Conference Room 016

Senator Taniguchi, Senator Takamine, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** SB 2534, SD1. As written, this measure would require correctional facilities to accept cash bail and bail bonds which they are not able to do.

In order to comply with this measure, PSD would require several additional staff members at every correctional facility statewide. This measure would also require the development and implementation of new security procedures and protocols and possibly new security equipment or renovation of existing facilities, especially since members of the public would be entering correctional facilities after hours when the facilities operate with a minimum of staff.

This measure would also require additional daily travel to and from the courts which creates additional costs and would take correctional officers away from their primary functions of security, custody, and control of those incarcerated.

Further, SB 2534, SD1 would require additional Sheriffs positions beyond the current allotted position count. There are currently no Sheriffs offices that are open to members of the public on evenings or weekends due to the current economic situation, the limited number of Deputy Sheriffs, and the current duties and responsibilities of the existing Sheriffs. The implementation of this measure would also require an additional office or renovation of existing sheriff facilities, equipment, and require the development and implementation of new security procedures and protocols.

PSD does not oppose offender's right to bail as it is a constitutional right. However, due to limited staffing, severe budget constraints, and inadequate facility infrastructure, PSD is unable to accomplish bail processing after normal court hours. While bail is a constitutional right, placing reasonable restrictions on when offenders can exercise their right to bail due to limited resources does not violate their constitutional rights. Given PSD clearly lacks the staff, has several budgetary restrictions, and our facilities lack the security infrastructure to safely conduct bail functions when the court is not in operation, it would not be prudent to enact legislation that places the State in an extremely vulnerable position with respect to federal litigation.

PSD respectfully requests that the legislature consider the feasibility of the Judiciary employing an after hour bond clerk in each County that can accept bail and subsequently electronically transmit bail release information to the appropriate Correctional Facility to assist in facilitating releases after hours, on weekends, and holidays. This would be considerably less costly while simultaneously a more efficient option to pursue. PSD is willing to work with all concerned parties on this matter which can be facilitated by a Senate Concurrent Resolution.

Therefore, PSD strongly opposes SB 2534, SD1 due to its impracticality, unbudgeted fiscal impact, vulnerability it places the State to federal litigation, and negative affects it would have on 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.