

NEIL ABERCROMBIE
GOVERNOR



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No. _____

TESTIMONY ON HOUSE BILL 1458
RELATING TO OFFENSES AGAINST PUBLIC ADMINISTRATION

By
Jodie Maesaka-Hirata, Interim Director
Department of Public Safety

House Committee on Public Safety and Military Affairs

Representative Henry J.C. Aquino, Chair
Representative Ty Cullen, Vice Chair

Thursday, February 17, 2011; 9:00 AM
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) strongly supports House Bill 1458, which seeks to expand the charge of escape in the second degree to adult offenders who fail to present themselves to the specified correctional or detention facility on the date and at the time ordered by the court for service of a term of confinement.

At present, convicted and sentenced adults are often allowed to remain free in the community in order see to personal affairs in preparation for their period of incarceration. Unfortunately, at times, these same offenders willfully fail to report to the correctional or detention facility as ordered by the court. In such cases, these offenders can only be charged with contempt of court, which is a misdemeanor even if the underlying offense(s) was a felony conviction.

In addition, if a pre-trial offender is ordered by the court to be temporarily released from a facility to attend a community-based program, but fails to return, the offender cannot be charged with escape under the current statute, but rather contempt of court, which is a misdemeanor. This amendment would address both of these critically important public safety issues.

House Bill 1458 seeks to provide language that will allow for the prosecution of a Class C Felony when someone does not comply with the courts directive to report to a correctional or detention facility. The United States Code accomplishes this objective by stating in United States Code Title 18 Section 751, "Whoever escapes or attempts to escape from the custody of the Attorney General or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge...". The federal government has historically prosecuted inmates for escape, when they fail to present themselves to a correctional facility after being permitted to stay in the community for a period of time after sentencing using this federal statute. Likewise, PSD believes this proposed amendment to the statute will provide the offender with the necessary incentive to comply with the court's order. If enacted, this measure will also allow for an immediate response to activate an all points bulletin for the arrest of the non-compliant offender. In many instances, Adult Client Services staff (Probation) must go back to the court to file a motion for revocation for non-compliance to have a warrant of arrest issued. The present process is inefficient, time consuming, and places the community at risk of continued victimization from the non-compliant and previously convicted offender.

Thank you for this opportunity to provide testimony on this important public safety matter.

National Association of Reformed Criminals
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February 17, 2011

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Rep. Henry J.C. Aquino, Chair

Rep. Ty Cullen, Vice Chair

Thursday February 17, 2011

9:00 AM

Room 309

HB 1458 - RELATING TO OFFENSES AGAINST PUBLIC ADMIN.

STRONGLY OPPOSE

We oppose the creation of felonies out of misdemeanors, especially if they overlap other punitive measures to enforce compliance with court orders. Presently, sentencing judges allow defendants the option to turn him/herselves in to a facility usually only in misdemeanor cases, or if the defendant has posted an extremely high-bail to ensure compliance. In the event of non-compliance the defendant loses the exorbitant bail that was posted, and their immediately in contempt of court.

A very possible scenario is a traffic case or something petty turning into an escape case - FELONY - and they lose all bail posted - and are held in contempt of court.

What else can we do to penalize the citizens of Hawaii for not showing up to their appointment at Halawa Jail- Chinese torture? Hawaii is surrounded by water and we have Dog the Bounty Hunter; they will be found.

Mahalo,

Andy Botts