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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Rep. Henry Aquino, Chair

Rep. Ty Cullen, Vice Chair

Thursday, March 24, 2011

10:30 a.m.

Room 309

HCR 126 - Earned Time

STRONG SUPPORT

<http://www.capitol.hawaii.gov/emailtestimony>

Aloha Chair Aquino, Vice Chair Cullen 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, improve the quality of justice, and enhance community safety by promoting smart justice policies. We are always mindful that there are 6,000 individuals whose voices have been silenced by incarceration including the 1,800 individuals serving their sentences abroad, thousands of miles from their loved ones and, in many cases, far from their ancestral lands.

HCR 126 requests the Department of Public Safety to determine the feasibility of establishing an earned time program.

Community Alliance on Prisons stands in strong support of this measure.

Across the nation, jurisdictions are wrestling with shrinking budgets and rising deficits. This downturn in the economy has been a silver lining for justice as the proponents of tough on crime laws are finally grasping the reality that the enactment of draconian laws is not sustainable.

Earned Time - What is it, Who Gets it, and What Jurisdictions Use It?

Earned credit is an incentive system where inmates are rewarded with good time credits for positive behavior within the prison.

These **credits are earned** when the inmate participates in prison programs or activities such as education, substance abuse treatment, or vocational training.

At least 31 states provide these incentives—called “earned time”—that reduce the costs of incarceration and help offenders succeed when they return to the community.

Community Alliance on Prisons respectfully directs the committee to the report released by the **National Council of State Legislatures** in July 2009 that stated: “...*Earned time is helping states reduce the corrections budget burden and allows funds saved to be invested in programs that reduce recidivism and help build safe communities...*” The Appendix of this report (pages 9 – 13) contains a grid of **Earned Time Policies in State Prisons: Amounts Established by Law** for your information.

What the Research Says About Earned Time:

- **CUTTING CORRECTIONS COSTS - Earned Time Policies for State Prisoner¹**

“...In addition to providing positive incentives, one of the goals of earned time eligibility programs is to reduce overcrowding "on account of good behavior and successful participation in rehabilitative activities, such as vocational, educational and substance abuse treatment programs.”

- **WHAT WORKS AND WHAT DOESN'T IN REDUCING RECIDIVISM: The Principles of Effective Intervention²**

“Not a single reviewer of studies of the effects of official punishment alone (custody, mandatory arrest, increased surveillance, etc.) has found consistent evidence of reduced recidivism.”

- **COLLATERAL COSTS: Incarceration's Effect on Economic Mobility³**

“People who break the law need to be held accountable and pay their debt to society,” said Adam Gelb, director of the Public Safety Performance Project of the Pew Center on the States. “At the same time, the collateral costs of locking up 2.3 million people are piling higher and higher. Corrections is the second fastest growing state budget category, and state leaders from both parties are now finding that **there are research-based strategies for low-risk offenders that can reduce crime at far less cost than prison.**”⁴

The report examines the impact of incarceration on the economic opportunity and mobility of former inmates and their families. The report finds that incarceration reduces former inmates' earnings by 40 percent and limits their future economic mobility and that one in every 28 children in America has a parent behind bars, up from one in 125 just 25 years ago. The report's findings are based on research by Professor Bruce Western of Harvard University and Professor Becky Pettit of the University of Washington.

¹ *CUTTING CORRECTIONS COSTS - Earned Time Policies for State Prisoners*, National Conference of State Legislatures, By Alison Lawrence, July 2009, <http://www.ncsl.org/default.aspx?tabid=18216>.

² Dr. Edward Lantessa, Center for Criminal Justice Research, “*What Works and What Doesn't in Reducing Recidivism: The Principles of Effective Intervention*,” **Powerpoint Presentation from ICIS Training 2007.**

³ *COLLATERAL COSTS: Incarceration's Effect on Economic Mobility*” by Bruce Western and Becky Pettit, September 2010, http://www.economicmobility.org/reports_and_research/other/other?id=0015.

⁴ http://www.economicmobility.org/assets/pdfs/EMP_Incarceration_PressRelease.pdf

The report has some commonsense recommendations, including:

- **Use earned-time credits**, a proven model that offers selected inmates a shortened prison stay if they complete educational, vocational or rehabilitation programs that boost their chances successful reentry into the community and the labor market.

According to the Washington State Institute for Public Policy, improving employment prospects can decrease the chances that ex-offenders will return to prison or jail. In previous reports, Pew identified policies that research shows can reduce recidivism and minimize the intergenerational impact of incarceration by boosting the chances that ex-offenders will successfully rejoin the community and the labor market. Those solutions include:

- Reconnecting former inmates to the labor market through education and training, job search and placement support, and follow-up services;
- Making work pay by capping the percent of an offenders' income subject to deductions for court-ordered fines and fees;
- Funding incentives for corrections agencies and programs that succeed in reducing crime and increasing employment;
- **Offering earned-time credits to offenders who complete educational, vocational, or rehabilitation programs behind bars;** and
- Using swift and certain sanctions to deter probation and parole violations and reduce the cost of incarceration. For example, Hawaii's successful HOPE probation program uses short but immediate jail stays to punish drug use and other probation violations, imposing them on weekends so working offenders don't lose their jobs.

- **MICHIGAN STATE BAR - PRISONS AND CORRECTIONS SECTION**

Restoration of Earned Credits for Prisoners, Date position was adopted: March 21, 2009

It is the position of the State Bar Prisons and Corrections Section that a system of earned sentence credits should be restored. This system should be given immediate effect and applied, prospectively, to all prisoners currently serving indeterminate sentences who are not already eligible for earned credits because of their conviction dates, as well as to everyone sentenced to an indeterminate term in the future. It is further the position of the Section that judges should be required to place on the record at sentencing the extent to which earned credits may affect the service of the minimum sentence.

The Section's position is based on the following findings:

1. There is no evidence that permitting earned credits presents a risk to public safety.
2. There are alternate means of promoting transparency in sentencing.
3. Permitting earned credits is a common correctional practice nationally and on the county level in Michigan.
4. The opportunity to earn sentence credits provides a significant incentive to prisoners who currently are penalized for misconduct but rarely rewarded for positive efforts.
5. Permitting earned credits does not require the release of any particular prisoner, make institutional management more difficult or interfere with the discretion of the parole board. On the contrary, it provides the Department of Corrections with a useful tool for managing institutional behavior and promoting participation in rehabilitative programs.
6. The restoration of earned credits would significantly help reduce the prison population and save taxpayers tens of millions of dollars.

"...Focus must be placed on locking up the most dangerous people instead of diverting time and money to incarcerate the wrong people."

U.S. Sen. Jim Webb (D-VA)

How is Earned Time Working in Other Jurisdictions?

Kansas⁵

Strategy:

- Grant program to local community corrections to reduce revocations by 20%
- 60-day reduction for risk-reduction programs
- Restore earned time for non violent inmates

Result:

- Prison population down 3.8%
- Parole revocations down 46%
- Probation revocations down 28%

Texas⁶

Strategy:

- Analysis reveals high recidivism rate, low parole grant rate as key problems
- Technical violators identified as primary driver
- Legislative package expands use of residential, community diversion and treatment centers
- Compliance with parole grant law to control population

Result:

- Actual savings in FY 2008-09 - \$512 million
- Estimated savings through FY 2012 - \$1 billion
- Annual investment in community corrections continued by 2009 Legislature - \$120 million

Alabama

"The great majority of Alabama inmates freed as a result of an early release program are staying out of jail, a survey showed. The Alabama Board of Pardons and Paroles has paroled 3,637 inmates through "special dockets" for nonviolent offenders. Of that group, 155, or 4 percent, have returned to prison. Only about half of those are back for new crimes, according to statistics provided by Cynthia Dillard, assistant executive director of the Alabama Board of Pardons and Parole. ...In a typical year, 22 percent to 25 percent of parolees return to prison. Some commit new crimes, while others are sent back for violating conditions of parole, such as not reporting to their officers or using drugs..."⁷

⁵ *Smarter Choices...Safer Communities*, Pew Center on the States.

⁶ *Ibid.*

⁷ *Survey: Most inmates released early staying out of trouble*, The Associated Press, April 6, 2004.

Oregon

Oregon's "earned time" early-release program for state prison inmates saved an estimated \$25 million in the 2009 fiscal year, according to a new audit by the Secretary of State.⁸

A recent Audit by the Oregon Department of Corrections stated...

"...Research seems to indicate that recidivism is no worse for inmates who receive an incarceration reduction. Similarly, studies have not established a strong relationship between incarceration reduction and the overall crime rate. Several states have conducted cost-benefit analyses, including Oregon and Washington, which concluded that **incarceration reduction produced a net savings to the public...**"⁹

Why Doesn't Hawai'i Have an Earned Time Program?

Over the last decade, the Department of Public Safety has testified against this idea every time it is raised. They filed a report to the legislature in January 2009 in response to Senate Concurrent Resolution No. 125. In this report PSD raised their usual objections - the difficulty of working out an earned time system, workload issues, and the need for more resources.

These arguments are old thinking and we hope that Hawai'i's New Day enables us to move outside of the box/cell and consider ways to reduce our incarcerated population and reinvest savings from incarceration to more effective community-based programs.

There are many ways to calculate earned time. If 31 other states can figure it out, why can't we? What does it say about Hawai'i - we are unable to do the math?

In short, enacting an earned time program in Hawai'i would save money and lives. The data supports it and our corrections budget, which increased 90%¹⁰ since 2000, demands that we allocate our resources more wisely to achieve the outcomes we all desire - safe and healthy communities.

Earned time is a proven strategy for correctional facility management, inmate rehabilitation and more importantly, it supports the philosophy of Act 8 - the Community Safety Act of 2007, Hawai'i's reentry law.

Mahalo for this opportunity to testify.

⁸ *Earned time at prisons saved state \$25 million in 2009*, Statesman Journal.

⁹ OREGON DEPARTMENT OF CORRECTIONS: ADMINISTRATION OF EARNED TIME AUDIT, <http://www.scribd.com/doc/46233946/Audit-Department-of-Corrections-Administration-of-Earned-Time>

¹⁰ Smart Justice Research Paper, *How Hawai'i Can Have Fewer Inmates and Safer Communities*, July 2010 <http://ililani-media.com/Smart%20Justice%20Research%20Paper.pdf>