

# **SB 106**

## RELATING TO THE HAWAII PENAL CODE

Beginning 01/01/2012, retroactively requires that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively. Effective immediately, directs department of public safety to recalculate the sentences of inmates who submit written requests and, if warranted by the recalculation, release the inmates.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

JODIE MAESAKA-HIRATA  
INTERIM DIRECTOR

MARTHA TORNEY  
Deputy Director  
Administration

Deputy Director  
Corrections

KEITH KAMITA  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 106  
RELATING TO PUBLIC SAFETY**

by  
Jodie F. Maesaka-Hirata, Interim Director  
Department of Public Safety

Senate Committee on Public Safety, Government Operations, and Military  
Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

Tuesday, February 15, 2011, 2:45 PM  
State Capitol, Conference Room 224

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

The Department of Public Safety (PSD) strongly opposes Senate Bill 106. This measure makes the Section 706-668.5 Hawaii Revised Statutes retroactive prior to June 18, 2008, the date it was amended and signed into law by the Governor.

Enacting this measure would violate the separation of powers by overriding a judicial determination with a legislative measure after the fact. In addition, it would expose PSD and the State of Hawaii to extensive liability for the inmates that were detained pursuant to the law that was in effect at the time, but would have been released if this measure were passed. Even if the State were to enact a "hold harmless" clause for PSD or the State in this measure, there would still be liability for the State in the federal courts.

In addition to being violative of Constitutional law, it would take thousands of hours of unnecessary work in addition to the regular duties and obligations of PSD staff in order to implement this measure. Currently, sentence computations are done and reviewed to ensure the accuracy of the computation. The sentence computation reviews for felony cases take an average of two hours per case, with misdemeanor cases taking less time generally. Given the fact that there are over four thousand felony inmates and thousands more misdemeanor inmates, the reviews would take approximately four years of staff time to complete.

There have been a number of cases where inmates were informed their sentences were being correctly computed to run consecutive and the inmates have contacted their legal counsel to file a motion for an amended sentence. In many cases, the Courts have amended the sentences to run concurrent and PSD has immediately recalculated the sentences. However, there have been cases where the Courts indicated that the sentences to run consecutively and denied the motions for amended sentences.

PSD strongly opposes this measure because it violates Constitutional law and principle and would place PSD and the State in a precarious situation practically and in terms of liability.

Thank you for this opportunity to testify and we ask that this bill be held.



**SB 106**

**RELATING TO THE HAWAII PENAL CODE**

Senate Committee on Public Safety, Government Operations and Military Affairs

February 15, 2011

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB 106. This bill retroactively requires that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively. Further, the bill would direct the Department of Public Safety (DPS) to recalculate the sentences of inmates who submit written requests and, if warranted by the recalculation, release the inmates.

OHA recognizes that Act 193 of 2008 revised HRS §706-668.5 to clarify and be consistent that if a defendant faces multiple terms, the sentences run concurrently unless explicitly court ordered or mandated by statute to be consecutive.

OHA's recent report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," shows that the Native Hawaiians in the criminal justice system are more likely to have longer sentences than other groups. This bill will aid in reducing that disparity and correct the injustice that lead to Act 193.

This bill creates an administrative mechanism to allow the bill to be effective retroactively. The bill should be amended to require DPS to create rules under Chapter 91, HRS, to outline how the request for recalculation from inmates will be handled including reasonable deadlines for action by DPS.

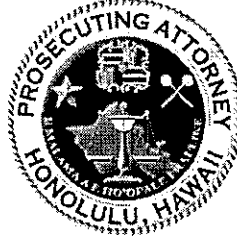
OHA urges the committee to PASS SB 106, taking our comments into consideration. Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE WILL ESPERO, CHAIR  
SENATE COMMITTEE ON PUBLIC SAFETY,  
GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS**  
Twenty-sixth State Legislature  
Regular Session of 2011  
State of Hawai'i

February 15, 2011

**RE: S.B. 106; RELATING TO HAWAII PENAL CODE.**

Chair Espero, Vice-Chair Kidani and members of the Senate Committee on Public Safety, Government Operations, and Military Affairs, the Department of the Prosecuting Attorney submits the following testimony in opposition to Senate Bill 106.

The purpose of Senate Bill 106 is to amend Act 193, Session Laws of Hawaii 2008, to apply retroactively to all prison sentences imposed prior to June 18, 2008, and require the Department of Public Safety to recalculate all prison sentences, such that any multiple terms of imprisonment would run concurrently, unless the court orders or statutes mandate that the terms run consecutively. Because this bill appears to alter prison sentences previously handed down by the courts--to impose the opposite of the courts' judgment and intent--the Department believes that it would be highly inappropriate to pass this bill.

For over 20 years, Section 706-668.5, Hawaii Revised Statutes, mandated that multiple terms of imprisonment imposed at the same time run concurrently, and multiple terms of imprisonment imposed at different times run consecutively, unless specified by court order. In other words, if a defendant was already subject to a previously-imposed prison sentence, and a court wanted to impose a concurrent prison sentence, then that would have to be specified in the court order. However, if the court wanted to impose a consecutive prison sentence on top of the previously-imposed sentence, no special language was needed.

Based on these requirements, and prior to enactment of Act 193, it may be presumed that any prison sentence imposed on a defendant with previously-imposed prison sentences, in which the court order remained silent on the issue of serving concurrent or consecutive terms, was actually

intended to be served consecutively. After Act 193 took effect on June 18, 2008, courts were essentially required to craft their orders in the completely opposite fashion, for these types of cases. Now, if a court wants to impose a subsequent prison sentence to run concurrent, no special language is needed; but if a court wants to impose a subsequent prison sentence to run consecutive, this must be specified in the court order.

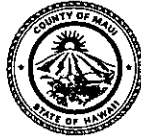
In light of the foregoing, the Department believes that imposing Act 193 to all prison sentences handed down prior to June 18, 2008 would essentially usurp the courts' authority, by requiring the Department of Public Safety to carry out the opposite of that which was most likely intended by these court orders prior to June 18, 2008. For this reason, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly opposes this bill.

Thank you for the opportunity to testify on this matter.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 14, 2011

**TO:** The Honorable Will Espero, Chair  
Senate Committee on Public Safety, Government Operations and Military Affairs

**FROM:** Gladys C. Baisa  
Council Member

**SUBJECT: HEARING OF TUESDAY, FEBRUARY 15, 2011; TESTIMONY IN SUPPORT OF SB 106, RELATING TO HAWAII PENAL CODE; MULTIPLE SENTENCE OF IMPRISONMENT**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is beginning 01/01/2012, retroactively requires that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively. Effective immediately, directs department of public safety to recalculate the sentences of inmates who submit written requests and, if warranted by the recalculation, release the inmates.

I strongly support SB 106 and urge you to support this measure.

GCB:amm

## **TESTIMONY**

FOR: SB 106 – RELATING TO HAWAII PENAL CODE; MULTIPLE SENTENCE OF IMPRISONMENT

TO: COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

FROM: Joe Allen, Ph.D.  
Asst. Professor, Criminology & Criminal Justice Department  
Chaminade University

**POSITION: STRONG SUPPORT**

Dear Chair Espero, Vice-Chair Kidani, and Committee Members:

I am in STRONG SUPPORT of SB 106. Frankly, I am confused as to why this piece of legislation needs to be heard in the first place, to legislate the correct calculation of inmate sentences as what should be expected. I find it baffling that inmate sentences were being calculated using a consecutive sentencing assumption and that judicial directives were grossly misinterpreted or circumvented. In my years of poring over corrections data in this state, the use of consecutive sentences by judges is a VERY rare occurrence. Its use has traditionally been reserved for a handful of cases in which the multiple offenses were especially egregious. As such, and based on my recollection of data, the use of consecutive sentences occurs maybe in 1-2% of cases. While this figure is based on my memory, I would be happy to explore this with the legislature to find the exact figure.

If indeed sentences are being calculated using consecutive assumptions as opposed to judicial directives (i.e., concurrent), a serious violation of rights is occurring.

If there are any questions regarding this submission, please feel free to contact me at 808.735.4879 or via e-mail at [joseph.allen@chaminade.edu](mailto:joseph.allen@chaminade.edu).

Respectfully Submitted,

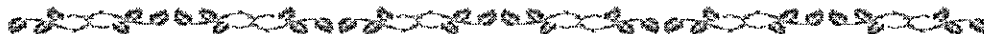
Joe Allen



# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai'i 96817

Phone/E-mail: (808) 533-3454/communityallianceonprisons@hotmail.com



## COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPS & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday February 15, 2011

Room 224

2:45 p.m.

**STRONG SUPPORT - SB 106 - CONCURRENT SENTENCING**

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

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on justice issues in Hawai'i for more than a decade. We respectfully offer our testimony always being mindful that Hawai'i has some 6,000 people behind bars including approximately 1,800 individuals serving their sentences abroad, thousands of miles away from their loved ones and homes - the ancestral homes for a disproportionate Native Hawaiians.

SB 106 retroactively requires that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively beginning 01/01/2012 and directs the department of public safety to immediately recalculate the sentences of inmates.

Community Alliance on Prisons stands in strong support of this measure. At the end of an individual's prison term, the facility from which the individual was released re-calculates the sentence to ensure that the person served the proper time and was not over-detained.

After the state settled an over-detention suit at OCCC for millions of dollars, the Lingle-Aiona administration created the Office of Offender Management offered a \$100,000/year contract with Tom Read, a former federal ACO and attorney, who is unlicensed in Hawai'i. Here is the description in the Department of Public Safety's 2008 Annual Report:

*The Offender Management Office was created in 2004 as a project to comply with the settlement agreement in the class action lawsuit, Tapaoan v. Cayetano, to assure the timely and accurate release of prisoners. The office oversees the departmental policy and practices on sentence computation, and continually trains department staff in this area. The office also coordinates with all courts and other law enforcement agencies, both state and federal, to ensure that all appropriate documentation is obtained to compute all inmate sentences accurately and in a timely manner. In an ongoing effort to review and correct all cases for those inmates currently*

*incarcerated in the department, it is estimated that the office staff reviewed and corrected over 1,200 old cases during fiscal year 2008.*

Sadly, this re-calculation has added much cost, confusion, and grief to incarcerated individuals and their families.

What is so sad about this mess is that the practice among prosecutors and defense attorneys over the last three decades had been that when multiple charges are served concurrently unless the court orders that they be served consecutively. It was only when Mr. Read started his re-calculations that the system was thrown into turmoil.

In 2008 (Act 193) Chapter 706-668.5, HRS law was amended to read:

*If multiple terms of imprisonment are imposed on a defendant, whether at the same time<sup>[7]</sup> or at different times, or if a term of imprisonment is imposed on a defendant who is already subject to an unexpired term of imprisonment, the terms may run concurrently or consecutively. Multiple terms of imprisonment ~~imposed at the same time~~ run concurrently unless the court orders or the statute mandates that the terms run consecutively.*

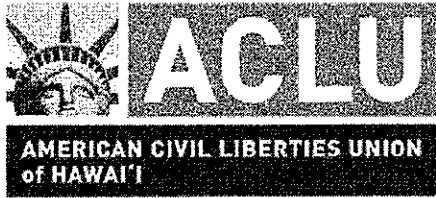
The 2008 'fix' to this statute was only prospective, so Mr. Read has continued his re-calculation and the lawsuits keep coming. In fact, the Ninth Circuit Court of Appeals is coming to Honolulu to hear pleadings on just such a suit involving several men who were over-detained in Arizona because of mistakes made by Mr. Read's Office of Offender Management.

SB 106 fixes this expensive and unjust mess we are in. It makes clear that multiple charges are served concurrently unless the court deems otherwise.

*The Act shall apply to all terms of imprisonment imposed before or after the effective date of this Act.*

Please pass SB 106 and let's get back on track.

Mahalo for this opportunity to testify.



Committee: Committee on Public Safety, Government Operations, and Military Affairs  
Hearing Date/Time: Tuesday, February 15, 2011, 2:45 p.m.  
Place: Conference Room 224  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 106,  
Relating to the Hawaii Penal Code

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

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 106, Relating to the Hawaii Penal Code, which seeks to make current sentencing law applicable to those sentenced prior to 2008.

Simply put, this bill could save the State of Hawaii millions of dollars annually without compromising public safety.

During Governor Lingle’s tenure, the Department of Public Safety took it upon itself to recalculate hundreds of inmates’ sentences. Many inmates who had been expecting to be released in the last few years received letters – usually just a few months before their expected release dates – explaining that they would be kept in prison for several more years. These extended sentences appear to have been inconsistent with the sentencing judges’ intentions and did not reflect the inmates’ danger to society; worse still, many of these recalculations were incorrect, and the State is now battling a class-action lawsuit seeking damages for these over-detentions.

S.B. 106 seeks to undo the Department of Public Safety’s unilateral sentence recalculations under the previous administrations and make pre-2008 sentences consistent with current law. This bill will allow the current Department to recalculate sentences and release those inmates who do not pose a threat to public safety – saving the State significant amounts of money while freeing up bed space to accommodate the Governor’s goal of bringing inmates back to Hawaii from the problematic for-profit mainland prison.

As the Legislature is aware, many of Hawaii’s prisons are overcrowded. The Legislature should take proactive steps to manage its prison population before the courts order the State to release inmates; S.B. 106 is one way to start working toward that goal.

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

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

Chair Espero and Members of the Committee on  
Public Safety, Government Operations,  
and Military Affairs

February 15, 2011

Page 2 of 2

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 45 years.

Thank you for this opportunity to testify.

Sincerely,



Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
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E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
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CARRIE ANN SHIROTA  
ATTORNEY AT LAW  
1839 Wells Street  
Wailuku, Hawaii 96793  
Phone: 808-269-3858

PUBLIC SAFETY, GOVT OPERATIONS, & MILITARY AFFAIRS COMMITTEE  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair  
Tuesday, Feb. 15, 2011  
Room 224 at 2:45pm

**SUPPORT 106: Relating to the Penal Code  
Retroactive Application of Concurrent Sentence**

Aloha Chair Espero, Vice Chair Kidani, and Members of the Committee:

I am writing in strong support of SB 106 that would retroactively require, beginning on January 1, 2012, that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively.

I speak from my experience as a former Deputy Public Defender and Director of MEO's Being Empowered and Safe Together (BEST) Reintegration Program, and as a member of Community Alliance on Prisons. During the past ten years, I have advocated for alternatives to mass incarceration policies and Smart Justice policies that have proven effective in reducing crime, and building safer communities.

**In my opinion, this is one of the most important bills to promote "Smart Justice" policies in Hawai'i this legislative session. I ask for your support of this bill for the following reasons:**

- Hawai'i has fallen prey to the same "mass incarceration policies" that triggered an implosion in the federal and state prisoner population. In *Reducing Mass Incarceration: Implications of the Iron Law of Prison Populations*, criminologists Todd Clear and James Austin point out that beginning in the 1970s and spanning over three decades, "state and federal governments tripled the percentage of convicted felons sentenced to confinement and doubled the length of their sentences." Over the past three decades, Hawai'i's increasing reliance on incarceration as a response to crime resulted in more people being sent to prison for longer periods of time.
- Numerous studies confirm that longer sentences are a costly and ineffective response to crime, particularly for persons convicted of drug related charges. This bill would require the Department of Public Safety to immediately recalculate the sentences of inmates under this statute, and in some instances, warrant sentence reductions and release. Given that our state spends approximately \$40,000 to incarcerate an adult person annually, this bill will ultimately save our precious taxpayer dollars.

Thank you for the opportunity to submit testimony in support of this bill.

Sincerely,

*Carrie Ann Shiota*

**TUESDAY, FEBRUARY 15, 2011**

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND  
MILITARY AFFAIRS**

**Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair**

**2:45 p.m.  
Room 224**

**SB 106– Relating to the Hawaii Penal Code**

**SUPPORT**

**My name is Carmael Kamealoha Stagner. I am a former employee of the Department of Public Safety's (PSD) Correctional Programs Services Substance Abuse division from 2006-2010 as a Substance Abuse Specialist 5.**

**I ask the language on page 1 section 2 lines 6 & 7 "upon written request by an inmate," also include "a sequenced, numbered triplicate form, to be provided to the inmate, and routed appropriately and in a timely manner, by the appropriate PSD section at no cost to the inmate."**

**When I was last employed by the PSD in 2010, inmate request forms at most in-state facilities are a mere half sheet, and inmates have no way of monitoring when and if the request form reaches its destination.**

**For inmates at Saguaro Correctional Facility (SCF), in Eloy, Arizona, an inmate must submit a written request to request permission from their Arizona case manager to contact their Hawaii-based contract monitor via a drop box only available on**

**Sundays on the way to morning feeding. An inmate must also have money to purchase a writing implement, envelope and stamp, and write a letter to request services from their contract monitor. Once this written request is received by the Hawaii-based contract monitor in the USPS snail mail, the contract monitor may respond to a request, if said request is deemed valid.**

**All of this correspondence is done via USPS snail mail, and no policy regarding the timeliness of inmate request form responses, nor what is the criteria for what is, or is not a valid request.**

**Additionally, change SECTION 2 line 7 from “serving multiple terms of imprisonment,” to say “multiple sentences for more than one charge.”**

**SECTION 2 lines 6 – 10 shall read:**

**“The department of public safety, upon written request by an inmate serving multiple sentences for more than one charge, shall recalculate the inmate’s term of imprisonment to comply with section 706-668.5 . . .”**

**And also on page 1 SECTION 2 line 12, add the following:**

**“ The Department of Public Safety shall ensure a sequenced, numbered triplicate form, to be provided to the inmate to complete, with copies routed appropriately to the inmate, and also to her/is next - of - kin, in a timely manner, by the appropriate PSD section at no cost to the inmate. The PSD shall determine which section shall administer this duty. A formal written response is mandated by this Act, and must be provided to the inmate within 15 business days by the appropriate PSD personnel.”**

**I now speak as the legal spouse of an inmate at SCF.**

**My husband is currently incarcerated at Saguaro Correctional Facility on a 2007 Parole Revocation. To avoid a costly trial, when he was 18 years-old, he plead guilty in 1994 under a deferred acceptance plea agreement to selling less than a tenth gram of rock cocaine on two separate occasions to an undercover officer. He plead guilty in exchange for 5 years of probation.**

**Since 1994, he has not been arrested, charged, convicted or sentenced for ANY new offenses.**

**However, he did violate his probation, therefore invalidating the plea agreement by not remaining employed for 30 days, and was sentenced in 1999 to what was supposed to be two 5 year sentences to be run concurrently.**

**He should have maxed out his term in 2004.**

**Instead he has been incarcerated in several in-state facilities, and also was paroled until his final revocation in 2007.**

**Somehow, he is not scheduled to max out his term until 2012.**

**He is not charged, convicted or sentenced with any violent offenses.**

**He was a minimum custody offender at HCF before he was transferred to SCF in 2008. Under current PSD policy, he would be a community custody offender in a re entry facility in Hawaii, if he was in Hawaii.**

**Moreover, Under Act 193, Session Laws of Hawaii 2008, he**



would have had his sentences “recalculated,” and been released according to his initial 1994 sentence of two CONCURRENT 5-year sentences.

He has spent the past 17 years of his life in the criminal justice system, and the past 3 ½ years in a foreign environment in Arizona recovering from the choices he made which led to his arrest when he was 18 years old.

Please assist he and other inmates in similar situations to be afforded opportunities to return to their families and begin to heal in their communities.

Sincerely Yours,

**Carmael Kamealoha Stagner, private citizen**

**45 563 Kukane Street**

**Kaneohe, Hawaii 96744**

National Association of Reformed Criminals  
Andy Botts  
1765 Ala Moana Blvd. #1388  
Honolulu, Hawaii, 96815  
February 15, 2011

**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday February 15, 2011

2:45 PM

Room 224

**SB 106 – RELATING TO THE PENAL CODE**

**STRONG SUPPORT**

I strongly support the correction of the consecutive sentences that weren't authorized by the sentencing courts. Hawaii always had concurrent sentencing - until it was revised to give the sentencing judges the option of consecutive sentences - if it warranted it. To automatically calculate sentences consecutively, without a court order, is irrational and conflicts with the Legislative intent when it revised the penal code to include the option of consecutive sentences. This policy that was adapted by DPS has the same effect as the Turkish laws in Midnight Express. Re: Defendant was sentenced to 10 years, but was later resentenced to life.

Mahalo,

Andy Botts

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 11, 2011 1:57 PM  
**To:** PGM Testimony  
**Cc:** HawaiiVotingProject@gmail.com  
**Subject:** Testimony for SB106 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB106

Conference room: 224  
Testifier position: support  
Testifier will be present: No  
Submitted by: Dorothy Cornell  
Organization: Individual  
Address:  
Phone:  
E-mail: [HawaiiVotingProject@gmail.com](mailto:HawaiiVotingProject@gmail.com)  
Submitted on: 2/11/2011

Comments:

LORENN WALKER, J.D., M.P.H.

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**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND  
MILITARY AFFAIRS**

Honorable Senator Will Espero, Chair  
Honorable Senator Michelle Kidani, Vice Chair  
Other Honorable Committee Members

Tuesday, February 15, 2011  
2:45 p.m.  
Room 224

**STRONG SUPPORT**

**SB106 - RELATING TO HAWAII PENAL CODE; MULTIPLE SENTENCE OF  
IMPRISONMENT**

Please vote yes to pass this measure beginning January 1, 2012 that would direct the department of public safety to retroactively require that multiple terms of imprisonment run concurrently unless the court orders or the law mandates that the terms run consecutively. And effective immediately, the bill would direct the department of public safety to recalculate the sentences of incarcerated people.

The legislature needs to ensure that the department of public safety does not keep people in prison any longer than the sentencing judge orders or any longer than required by law.

Our community suffers from a lack of resources for important crime prevention supports including schools, parks and recreational facilities, and health care programs. The legislature must reprioritize our scarce resources and work to divert much of the department of public safety's \$250 million annual budget, to other areas that can help our community and not harm it. Research clearly shows that imprisonment in our state prisons further criminalizes most people who are rearrested after their release.

Please pass this measure and stop the ridiculous number of people being kept in prison by the department of public safety and instead help fund other positive support for our community.

Please see my website [www.lorennwalker.com](http://www.lorennwalker.com) for a description of my background and experience in criminal justice interventions for agencies including courts, police, and prisons.

Thank you for your time and efforts to further the public good.

**Robert K. Merce**  
2467 Aha Aina Place  
Honolulu, Hawai'i 96821  
January 25, 2011

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**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday, February 15, 2011

2:45 PM

Room 224

SB 106 – Relating to Hawaii Penal Code; Multiple Sentence of Imprisonment

**SUPPORT SB 106**

**PGMT**estimony@capitol.hawaii.gov

Dear Chair Espero, Vice Chair Kidani and Members of the Committee!

I am a retired member of the Hawaii State Bar. Before retiring, my practice included the representation of prison inmates on a wide array of issues. This made me aware of the many ways in which our justice system is failing inmates and the community, and since retiring I have decided to try to do something about it.

I strongly support SB 106.

Thank you.

COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY  
AFFAIRS

Senator Will Espero, Chair

Senator Michelle Kidani, Vice Chair

Tuesday, February 15, 2011

2:45 p.m.

Room 224

STRONG SUPPORT

SB 106

Aloha Chair Espero, Vice Chair Kidani and members of the Committee,

We do not need to add years to inmate's sentences. Hawaii is already suffering under the expense of incarcerating people at higher levels than is necessary. An audit of 2,400 prisoner files found "gross over-classification". Longer sentences has not shown to create more law-abiding behavior. Instead of adding years to inmate's sentences (and money to CCA's coffers) we must treat the drug addictions, lack of job skills and poverty that put people in prison in the first place.

Please support this measure.

Mahalo for your concern for Hawaii's inmate, their families and the taxpayers of Hawaii.

Netra Halperin, M.A.

Kihei

Testimony by Jolene Molinaro

In Strong Support of SB106

Hearing date : Tuesday, February 15, 2011

Time: 2:45 pm

**SB 106 Relating to Hawai'i Penal Code; Multiple Sentence of Imprisonment**

Dear Senator Espero and Committee members:

I am submitting testimony in strong support of SB 106. As you may remember, I am a non-violent ex-offender who has gone on to my Masters program in Social Work. I have found my passion in advocating for the improvement in the way we approach this population, as I have learned through my past experience and through my research that rehabilitation go beyond incarceration to be an effective solution to non-violent drug offenses and to facilitate successful reintegration into the community.

Often times (especially in drug arrests) the way the law stands currently, one arrest for possession of even a small amount of drugs for personal use can result in the police "stacking" several separate felonies for each bit of paraphernalia, for example in the case of methamphetamine, a pipe, the bag in which the drug is contained, a straw and any other item they can determined has touched the drug can all be separate charges resulting in a mandatory minimum sentence of 5 years for each item. This can result in a person facing many, many years in prison for just one arrest for a small amount of the drug.

If this person was mandated to serve their sentence as consecutive rather than concurrent, they could spend most of their lives behind bars away from their families. Children could lose their parent permanently. Without going into what effect this could have on the children in the future, it is safe to say that what non-violent offenders need is treatment or counseling to rehabilitate, not a permanent loss of their families and freedom.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 10:27 AM  
**To:** PGM Testimony  
**Cc:** kaiwohi@yahoo.com  
**Subject:** Testimony for SB106 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB106

Conference room: 224  
Testifier position: support  
Testifier will be present: No  
Submitted by: Kanoelani Medeiros  
Organization: Individual  
Address:  
Phone:  
E-mail: [kaiwohi@yahoo.com](mailto:kaiwohi@yahoo.com)  
Submitted on: 2/14/2011

Comments:



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 7:29 AM  
**To:** PGM Testimony  
**Cc:** kevin.block@mauicounty.gov  
**Subject:** Testimony for SB106 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB106

Conference room: 224  
Testifier position: support  
Testifier will be present: No  
Submitted by: Kevin Block  
Organization: Individual  
Address:  
Phone:  
E-mail: [kevin.block@mauicounty.gov](mailto:kevin.block@mauicounty.gov)  
Submitted on: 2/14/2011

**Comments:**

As a professional in the community and a tax payer, I believe that matters which involve the deprivation of liberty be trated with the utmost care scrutiny and accuracy. It is unacceptable for our family and community members to be serving longer than necessary sentences because of simple mathematical errors.

Erin Welsh  
73-1142 Oluolu Street  
Kailua-Kona, Hawaii 96740  
(808) 325-5322

February 14, 2011

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPS & MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Room 229

VIA: email

**STRONG SUPPORT for SB 106 - CONCURRENT SENTENCING**

Good Morning Chair Espero, Vice-Chair Kidani and Committee Members:

I am the mother of a prisoner who is currently being held at Saguaro in Arizona. He is a non-violent drug addict who got involved with ice, a very familiar story in these islands. He has been in prison for almost three years.

While in Saguaro, he was charged with another crime, burglary, and was given two more years on top of his sentence. This should have been concurrent, but now he is serving much more time than a recent murderer received. His little daughter was 2 years old when he went to prison, and we had hoped he would be out this spring, when she turns 5. Now she will have to wait until she is 7 to see her Daddy again. Please pass this bill so that the original intent can be put into practice.

Since my son went to prison, I have learned more than I ever wanted to about the criminal justice system. The system is broken, and by passing this bill, we have a chance to fix a little portion of it. Thanks for listening.

Sincerely,

Erin Welsh

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS**

Senator Will Espero, Chair

Senator Michelle Kidani, Vice Chair

Tuesday, February 15, 2011

2:45 p.m.

Room 224

**STRONG SUPPORT- SB 106 - RELATING TO HAWAII PENAL CODE; MULTIPLE SENTENCE OF IMPRISONMENT**

Aloha Chair Espero, Vice Chair Kidani, and Members of the Committee,

My name is Diana Bethel, and I am a concerned citizen writing in strong support of SB 106 which, beginning 1/1/2012, retroactively requires that multiple terms of imprisonment run concurrently unless the court orders or the land mandates that the terms run consecutively.

I believe that our criminal justice system must mete out justice in a fair and impartial manner. If the criminal justice system itself is unjust, what kind of message does that send to those who are at the mercy of the system? The Lingle-Aiona administration arbitrarily took upon itself the task of recalculating the sentences of incarcerated individuals in what I believe was an unfair and underhanded manner. How can incarcerated individuals have any hope and faith in the criminal justice system when they are treated so unfairly?

SB 106 is designed to address the harm and confusion caused by the recalculation of inmate prison terms and prevent future cases of over-detention. Not only is this the right thing to do, it will also save the state from having to pay claims for unjustly over-detaining individuals who were kept in prison beyond their original sentences.

Please support SB 106.

Mahalo,

Diana Bethel

Honolulu, Hawaii

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 14, 2011 4:05 PM  
**To:** PGM Testimony  
**Cc:** dancercat3@hotmail.com  
**Subject:** Testimony for SB106 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB106

Conference room: 224  
Testifier position: support  
Testifier will be present: No  
Submitted by: Kalei Jaramillo  
Organization: Individual  
Address:  
Phone:  
E-mail: [dancercat3@hotmail.com](mailto:dancercat3@hotmail.com)  
Submitted on: 2/14/2011

Comments:

Committee on Public Safety, Government Operations and Military Affairs

Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair  
Tuesday February 15, 2011  
2:45Pm Room 224  
SB106  
PGMTestimony@capitol.gov  
Strong Support

Hello Chair Espero, Vice Chair Kidani and members of the committee,

My Name is Cathy Tilley and my son is an inmate at the Saguaro Correctional Facility in Eloy Arizona. I strongly support SB106 That would require the DPS to immediately recalculate the sentences of inmates that have been given concurrently not consecutively. These changes originally were made illegally and there are law suits pending. We already over incarcerate our inmates and now we have changed some of their sentences. That is not helpful to anyone the inmate suffers , the cost to the state goes way up. It is not a wise choice and how these choices we allowed is beyond me and this action needs to be addressed and corrected

Sincerely,  
Cathy Tilley  
621 Pauku St  
Kailua, HI 96734