

SB 1308

RELATING TO CORRECTIONS.

Adds a section to chapter 353, Hawaii Revised Statutes, relating to the mental health treatment of inmates and detainees in the custody of the Department of Public Safety.

NEIL ABERCROMBIE
GOVERNOR



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No. _____

**TESTIMONY ON SENATE BILL 1308
RELATING TO CORRECTIONS**

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

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

**Committee on Health
Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair**

**Tuesday, February 8, 2011, 2:45 PM
State Capitol, Conference Room 224**

Chairs Espero and Green, Vice Chairs Kidani and Nishihara, and Members of the Committees:

The Department of Public Safety (PSD) is testifying in support of Senate Bill 1308, which revises Chapter 353 of the Hawaii Revised Statutes, in order to permit the PSD to seek court orders for the involuntary administration of mental health medications to inmates.

Adopting the revisions to statute suggested in this measure would allow PSD to request the courts to hear cases pertaining to the clinical need to administer mental health medications to inmates who refuse to take them voluntarily, and who present a danger to themselves or others.

In response to a Settlement Agreement (SA) between the Federal Department of Justice (DOJ) and the State of Hawaii, PSD has made great improvements in its mental health services. The goal of the SA is to bring correctional mental health care and treatment in PSD's correctional facilities to a level that comports with national standards of practice.

PSD has made significant progress towards compliance at Oahu Community Correctional Center (OCCC), and is on target (barring any unforeseen setbacks) to achieve full compliance by the end of December 2011. The SA not only required increasing the number of mental health positions at OCCC, but also required major changes in the way mental health care and treatment were administered in PSD's correctional facilities.

One of the most significant treatment shortfalls is PSD's inability to obtain court authorization for the administration of involuntary medication of inmates who remain a danger to themselves and others due to their mental illnesses. If this measure does not pass and become law, PSD will remain deficient in a critical SA treatment requirement. The DOJ and the Independent Monitor have approved the policies and procedures related to the administration of court authorized involuntary medications. However, PSD has been advised by the Attorney General's Office, that a change in the HRS is required to permit and authorize this practice. The present system of care in the correctional facilities allows individuals to refuse necessary medications, continuing the downward spiral of their disorders. When these inmates decompensate to the point of presenting a danger to themselves and others, they are frequently secluded and/or restrained, and administered short-term emergency medications, only

to cycle through the same presentation over and over again. When cases become extreme, these inmates can be transferred to the Hawaii State Hospital. The transfers to the State Hospital almost always result in the hospital securing an order for the administration of involuntary medications. Subsequently, these inmates are stabilized on medications and returned to the correctional facility, only to begin the cycle of refusal, decompensation, dangerousness, seclusion, restraint, emergency medications, and rehospitalization all over again. This is inhumane, and unnecessary from a medical perspective for the inmate, as well as inefficient and terribly costly from an administrative perspective for the State.

This proposed statute change would also assist in dealing with individuals who are admitted to PSD for the purpose of determining fitness, competence to stand trial and criminal responsibility. It is not uncommon for these individuals to be among the detainees who refuse that were mentioned earlier in this testimony. Left untreated and unmedicated, they are usually determined "unfit to proceed," and subsequently sent to the State Hospital. The State Hospital restores the individual to fitness by securing an order for the administration of involuntary medications. Once "restored," the individual is returned to the correctional facility, only to decompensate again, be found unfit again and then sent back to the State Hospital. These cases present an even greater systemic problem and a significant cost implication, as these individuals are not only bouncing between correctional facilities and the State Hospital, but also in and out of court.

The passage of this measure will result in better mental health treatment and outcomes for PSD's patients and help decrease unnecessary admissions to the State Hospital. For all of the foregoing reasons, PSD strongly supports this measure.

Thank you for this opportunity to testify on this measure.