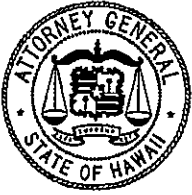


SB 252

RELATING TO CONTROLLED SUBSTANCES.

Directs the attorney general to coordinate a review of the impact of diverting marijuana and certain felony drug offenders out of the criminal justice system into treatment.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

S.B. NO. 252, RELATING TO CONTROLLED SUBSTANCES.

BEFORE THE:

SENATE COMMITTEE ON
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY

DATE: Tuesday, February 8, 2011 TIME: 3:15 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): David M. Louie, Attorney General, or
Mark K. Miyahira, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General has significant concerns about the scope of the requested review and provides the following comments about this measure.

The purpose of this bill is to require the Department of the Attorney General to coordinate a review of the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and the safety of the public.

The Department believes that it does not have the available resources, at present, to complete the study as described within the specified time frame. It would take at least a year's worth of preliminary or background research and meetings with the relevant agencies to identify the necessary data and assess their availability and quality to formulate a basic research plan and methodologies. It would probably also take years, rather than months, to complete the actual research.

The three-position Research and Statistics Branch of the Department's Crime Prevention and Justice Assistance Division does not have any additional resources to conduct studies beyond its present commitments. Branch staff positions were reduced by

twenty-five percent following the recent abolishment of its Research Statistician III position.

Furloughs reduced the availability of the remaining three staff positions by approximately ten percent. (Thus, we currently have the equivalent of 2.7 FTE positions, a 32.5 percent reduction from our previous 4.0 FTEs.)

The Senior Research Analyst assumed the duties of the Research Statistician position (which includes conducting the day-to-day operations of Hawaii's participation in the national Uniform Crime Reporting Program, from which all basic crime trend statistics are derived) and is already doing the work of two people.

The Interagency Council on Intermediate Sanctions (ICIS) Research Analyst position is dedicated solely to conducting research relating to the Interagency Council on Intermediate Sanctions' efforts to reduce criminal recidivism in Hawaii. This position cannot be assigned to non-ICIS duties.

The Branch Chief coordinates and supervises the work of both positions, works independently on various projects (including two legislatively mandated, annual research projects), and fills a variety of other roles.

In addition, and despite their expertise in a wide range of other methodologies, the Research and Statistics Branch has no experience in conducting impact studies of the nature and extent described in these measures. We estimate that two full-time, highly qualified and specialized researchers would need to be added to provide a progress report and preliminary findings to the Legislature in two years time. It might also be possible to contract the work out, although our ability to provide a cost estimate would depend on a greater level of specificity and detail than is currently set forth in these measures, and time

to conduct the necessary assessments of data availability and quality.

The Department is also concerned that this measure proposes to review the impact that diversion of "minor drug possession offenders" into drug treatment would have on public safety, but actually focuses the review on offenders accused of serious drug offenses.

Felony marijuana possession offenses of any grade, and class C and B felony possession offenses involving other drugs, involve criminal offenses that are hardly "minor". An individual may commit the offense of Promoting a Detrimental Drug in the First Degree, in violation of section 712-1247, Hawaii Revised Statutes, a class C felony, by being in possession of one or more substances of an aggregate weight of one ounce or more, containing marijuana.

It is not uncommon in street sales involving marijuana, that the marijuana may be packaged and sold in quantities of one-fourth, one-eighth, and one-sixteenth of an ounce, or as individually rolled marijuana cigarettes (joints). It is also well known among the vice divisions of local police departments that one ounce of marijuana can produce approximately fifty-six marijuana joints. Therefore, a street dealer of marijuana may be found to be in possession of one ounce (28.35 grams) of marijuana that may be individually packaged into sixteen small plastic bags, each weighing approximately one-sixteenth of an ounce, or that may be possessed in the form of approximately fifty-six marijuana joints. A person, in possession of one ounce of marijuana, packaged in a manner as described above, is not simply a user, but is more likely a drug dealer.

An individual may commit the offense of Commercial Promotion of Marijuana in the First Degree, in violation of

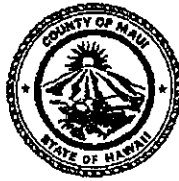
section 712-1249.4, Hawaii Revised Statutes, a class A felony, by being in possession of marijuana with an aggregate weight of twenty-five pounds or more. This individual is clearly a drug dealer.

An individual may commit the offense of Promoting a Dangerous Drug in the Second Degree, in violation of section 712-1242, Hawaii Revised Statutes, a class B felony, by being in possession of one or more substances of an aggregate weight of one-eighth of an ounce or more, but less than one ounce, containing methamphetamine, heroin, morphine, or cocaine.

It is common knowledge among the vice divisions that possession of one-eighth of an ounce (3.54 grams) of methamphetamine, heroin, morphine, or cocaine is considered a drug dealer quantity. The person in possession of this amount of a dangerous drug is likely to be a drug dealer as well as a user.

The Department believes that diversion of these "minor drug possession offenders" into drug treatment, in lieu of charging the offenders, or allowing these offenders to plead to misdemeanors and be placed in treatment in lieu of imprisonment, is inappropriate given the nature of their offenses.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
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WAILUKU, MAUI, HAWAII 96793
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CONTACT: RICHARD. K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
ON SB 252 - RELATING TO CONTROLLED SUBSTANCES
FEBRUARY 8, 2011
3:15 P.M.

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

The Department of the Prosecuting Attorney, County of Maui opposes this measure.

SB 252 proposes to direct the Attorney General to coordinate a review of the impact of diverting marijuana and certain felony drug offenders into treatment rather than the criminal justice system. The bill defines "minor drug possession offenders" as those accused of felony level marijuana possession offenses and class B or C felony possession offenses of other drugs. This bill minimizes the seriousness of these felony level offenses, when they actually involve dealer level drug quantity amounts. The Department believes that diversion is inappropriate for the serious nature of these offenses.

The Department of the Prosecuting Attorney requests that this measure be HELD. Thank you very much for the opportunity to provide this testimony.



the
**Drug Policy
Forum**
of hawai'i

February 8, 2011

To: Senator Will Espero, Chair
Senator Michelle Kidani, Vice Chair and
Members of the Committee on Public Safety, Government Operations, and
Military Affairs

From: Jeanne Y. Ohta, Executive Director

RE: SB 252 Relating to Controlled Substances
Hearing: Tuesday, February 8, 2011, 3:15 p.m., Room 224

Position: Support

Good afternoon Chair Espero, Vice Chair Kidani, and members of the Committee. I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i testifying in support of this measure.

DPFH supports this request for a study and also supports the policy of diverting people with drug abuse and addiction problems into treatment rather than the criminal justice system. Hawai'i spends \$60 million per year on out-of-state-prisons. If we are to reduce that cost, we must find alternate ways to address the issue of drug addiction in our community.

The proposed study could identify how this can be accomplished and what the impact would be.

We strongly believe that appropriate treatment for drug offenders saves money over incarceration. Incarceration does not reduce recidivism and does not address addiction, but treatment provides long-term results.

We urge the committee to pass this measure.

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Action the Drug Policy
Group

A sister organization of the Drug Policy Forum of Hawai'i
PO Box 61233, Honolulu, HI 96839 ~ (808) 988-4386

Dedicated to safe, responsible, and effective drug policies since 1993

TO: Senate Committee on Public Safety, Government Operations and Military
Affairs

FROM: Pamela Lichy, MPH
President

DATE: February 8, 2011, 3:13 p.m., room 224

RE: S.B. 252 RELATING TO CONTROLLED SUBSTANCES – **IN
SUPPORT**

Aloha Senator Espero and members of the Committee. My name is Pam Lichy and I'm
testifying on behalf of the Drug Policy Action Group.

We are in strong support of this measure.

In 2002 the Hawaii State Legislature passed ACT 161 that aimed to divert non-violent
drug offenders into treatment in lieu of incarceration. Unfortunately there was no funding
attached to that measure; the language was weakened in subsequent sessions and the law
was never fully implemented.

Nonetheless the rationale for diversion programs is even stronger now than it was nine
years ago. Many states, including Texas quite recently, have gone this route as fiscal
crises have forced re-examination of state policies on drugs, incarceration and the **real**
costs of such policies.

The one amendment we would make is to include criminologists and/or other policy
researchers into the list of stakeholders with whom to consult.

We urge this Committee to pass this bill on to Judiciary with a strong recommendation
for passage.

Mahalo for the opportunity to testify.



Medicine Buddhas and Bodhisattvas
Natural Cancer Wellness Foundation
Dr. Myron Berney, ND LAc
808-392-3366



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

DATE: Tuesday, February 8, 2011
TIME: 3:15 p.m.
PLACE: Conference Room 224
SB 252 **In Support**

RELATING TO CONTROLLED SUBSTANCES.

Directs the attorney general to coordinate a review of the impact of diverting marijuana and certain felony drug offenders out of the criminal justice system into treatment.

We think all drug offenders should be rehabilitated

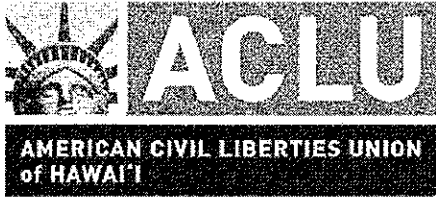
Jails don't work for rehabilitation the enhance anti-social and criminal behavior.

It takes on the average 7 attempts to stop tobacco addiction, why only one or two shots at drug rehab?

Some drugs are bad but the drug laws shouldn't make it worse for the individual or society.

America need a more successful drug policy. Lifetime Free room and board for drug offenses is too high a price to pay. Detox, rehabilitate and put them back to work.

Some drugs shouldn't be a crime, Legalize Marijuana.



Committee: Committee on Public Safety, Government Operations and Military Affairs
Hearing Date/Time: Tuesday, February 8, 2011, 3:15 p.m.
Place: Room 224
Re: Testimony of the ACLU of Hawaii in Support of S.B. 252,
Relating to Medical Cannabis Research

Dear Chair Espero, Vice Chair Kidani, 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. 252, Relating to Controlled Substances.

The budget for Hawaii's Department of Public Safety increased 87.5% between 2000-
2009, and the number of inmates has skyrocketed over the last few decades. The ACLU of
Hawaii encourages legislative actions that end punitive drug policies that cause widespread
violations of constitutional and human rights as well as unprecedented levels of incarceration. In
furtherance of that goal, we support legislation like S.B. 252 that seeks research-based
information that can better inform our state's drug policies.

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
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
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www.acluhawaii.org

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 07, 2011 5:47 PM
To: PGM Testimony
Cc: contact@hisac.org
Subject: Testimony for SB252 on 2/8/2011 3:15:00 PM
Attachments: SB252Relating to Controlled Substances (Diverting Marijuana offenders to treatment).doc

Testimony for PGM 2/8/2011 3:15:00 PM SB252

Conference room: 224
Testifier position: support
Testifier will be present: Yes
Submitted by: Alan Johnson
Organization: Hawaii Substance Abuse Coalition
Address: 45-845 Po'okela Street Kaneohe, Hawaii
Phone: 808-203-4303
E-mail: contact@hisac.org
Submitted on: 2/7/2011

Comments:

HAWAII SUBSTANCE ABUSE COALITION

Subject: SB252 Relating to Medical Cannabis: Directs a review of the impact of diverting marijuana and certain felony drug offenders out of the criminal justice system into treatment.

To: COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY

AFFAIRS: Senator Will Espero, Chair; Senator Michelle Kidani, Vice Chair

When: Tuesday, Feb. 8th, 2011 at 3:15 pm in Room 224

Good morning Chair Espero, Vice Chair Kidani and Distinguished Committee members: My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than twenty non-profit treatment and prevention agencies.

HSAC Supports SB252:

Summary

Marijuana is a large problem in Hawaii and has serious long term health consequences including addiction and mental health concerns. Many marijuana users have dependence issues where they have failed at multiple attempts to quit. Treatment in Hawaii is effective because treatment providers use evidenced-based-practices and have chronic care models that integrate treatment for substance use and mental health disorders.

Need for Marijuana Treatment

By the time they graduate from high school, about 42 percent of teens will have tried marijuana according to the 2002 National Survey on Drug Use and Health (NSDUH).¹

According to Hina Mauka, one of the larger treatment centers in Hawaii, about 14% of adult patients and 56% of adolescents who seek treatment do so for marijuana abuse. Across the nation, about 10% of admissions in adult substance abuse treatment programs (age 18 or older) are primary marijuana abusers.

Health Effects of Marijuana

The use of marijuana can produce adverse physical, mental, emotional, and behavioral effects. It can impair short-term memory and judgment and distort perception. Because marijuana affects brain systems that are still maturing through young adulthood, its use by teens may have a negative effect on their development. And contrary to popular belief, it can be addictive.²

Marijuana contains more than 400 chemicals, of which over 60 acts in the brain nerve cells to influence pleasure, memory, thought, concentration, sensory and time perception, and coordinated movement. There are numerous deleterious health consequences including the possibility of becoming addicted.

Marijuana has a withdrawal syndrome that is characterized by increased anxiety, increased drug craving, sleep difficulties, and decreased appetite, which explains why quitting marijuana can be difficult for some. Marijuana can affect almost every organ in the body, from the central nervous system to the cardiovascular, endocrine, respiratory/pulmonary, and immune systems. Marijuana greatly impacts the respiratory system and increases the likelihood of some cancers. Finally, there are also some known subtle effects associated with children born to mothers who used marijuana frequently while pregnant such as diminished visual memory, analysis, and integration.

Available Treatments for Marijuana Use Disorders

Most adults that seek treatment for marijuana abuse have used daily for more than 10 years and have attempted to quit more than 6 times. Most marijuana dependence is prevalent among patients suffering from other psychiatric disorders, particularly among adolescent and young adult populations.³ Also, marijuana abuse or dependence typically co-occurs with use of other drugs, such as methamphetamine (in Hawaii) and alcohol.

Treatment is most effect if the mental health disorder is treated along with standard treatments involving medications and behavioral therapies. Behavioral treatments, such as motivational enhancement therapy (MET), group or individual cognitive-behavioral therapy (CBT), and contingency management (CM), as well as family-based treatments, are considered evidenced-based-practices.

The various nationally accredited and/or state licensed treatment agencies in Hawaii provide evidenced-based-practices. Research indicates that a chronic care model should be considered for marijuana addiction such as residential treatment because outcomes can exceed 50 to 60% or more (Hawaii treatment providers). Unfortunately, the success rates for outpatient only treatment has been rather modest for marijuana –ranging between 10 and 30 percent in the nation. Treatment outcomes improve if an integrated mental health treatment is provided as well as the availability of family and other supports.

Currently, no medications are available to treat marijuana abuse, but research is active in this area.

References:

- 1) Please refer to <http://archives.drugabuse.gov/Testimony/4-1-04aTestimony.html> Nora D. Volkow, M.D. Director, National Institute on Drug Abuse, National Institutes of Health Department of Health and Human Services, April 1, 2004
- 2) Please refer to <http://www.nida.nih.gov/ResearchReports/Marijuana/default.html> Research Report Studies Marijuana Abuse, Nora D. Volkow, M.D. Director, National Institute on Drug Abuse of Health Department of Health and Human Services; Revised September, 2010
- 3) Gouzoulis-Mayfrank, E. Dual diagnosis psychosis and substance use disorders: Theoretical foundations and treatment. *Z Kinder Jugendpsychiatr Psychother* 36(4):245-253, 2008.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 07, 2011 2:50 PM
To: PGM Testimony
Cc: melrapozo@gmail.com
Subject: Testimony for SB252 on 2/8/2011 3:15:00 PM

Testimony for PGM 2/8/2011 3:15:00 PM SB252

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: MEL RAPOZO
Organization: Individual
Address: Inouye Street Lihue, HI
Phone: 808-645-0243
E-mail: melrapozo@gmail.com
Submitted on: 2/7/2011

Comments:

While it appears to be a positive move, it is already being done by other agencies.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 07, 2011 7:59 PM
To: PGM Testimony
Cc: clampton@hawaii.edu
Subject: Testimony for SB252 on 2/8/2011 3:15:00 PM

Testimony for PGM 2/8/2011 3:15:00 PM SB252

Conference room: 224
Testifier position: support
Testifier will be present: No
Submitted by: Catherine Lampton
Organization: Individual
Address: PO Box 1828 HI
Phone: 808 640-1080
E-mail: clampton@hawaii.edu
Submitted on: 2/7/2011

Comments:

I strongly support this bill. Mahalo