

NEIL ABERCROMBIE  
GOVERNOR



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

JODIE F. MAESAKA-HIRATA  
DIRECTOR

MARTHA TORNEY  
Deputy Director  
Administration

JOE W. BOOKER, JR.  
Deputy Director  
Corrections

KEITH KAMITA  
Deputy Director  
Law Enforcement

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

TESTIMONY ON SENATE BILL 48 SD1 HD1  
RELATING TO CORRECTIONS

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

House Committee on Finance  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Wednesday, March 30, 2011, 10:00 AM  
State Capitol, Conference Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) strongly opposes Senate Bill 48 SD1 HD1, relating to standards governing the transfer of inmates to mainland prisons or between correctional facilities in Hawaii. The measure is unnecessary, as PSD has established sound standards to assist in identifying and determining those inmates that should be transferred for programmatic or security reasons, consistent with the professional correctional standards throughout the country. This includes: assessing the inmates' overall programmatic needs such as education, treatment and/or reentry services, which may include transfer between correctional facilities. In addition, the United States Supreme Court has ruled that inmates **do not** have a constitutional right to determine the location of their incarceration.

PSD is unclear as to what is meant by extended family leave visitations. It is already very difficult to manage the inmate population and address protective custody, separate issues, inmate gangs, and other groups that threaten security. For these reasons and others, no jurisdiction in the country has a provision that allows inmates to appeal a decision regarding the location of incarceration. However, PSD will consider court ordered family visitation with minors, prior to an inmates' transfer to the mainland.

The provisions of this measure that require that a committed person be notified not less than fourteen days prior to their transfer, and that they have the right to appeal the decision to transfer are inconsistent with the security and safety of the inmates and staff and the professional correctional community. If enacted, this measure would place staff, inmates, and the public at risk, and add to the already overly burdensome administrative requirements and responsibilities of institutional case managers, correctional supervisors, and correctional managers.

Therefore, for the reasons listed above, PSD opposes Senate Bill 48 SD1 HD1, and we strongly urge the committee to hold this measure as suggested above.

Thank you for the opportunity to provide testimony on this matter.



**SB48 SD1 HD1**  
**RELATING TO CORRECTIONS**  
House Committee on Finance

March 30, 2011

10:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB48 SD1 HD1, which specifies criteria that must be considered in deciding whether to transfer inmates between correctional facilities located in Hawai'i and whether to transfer inmates from Hawai'i to mainland facilities. The bill would also prohibit the transfer of inmates to the mainland who have 12 months or less to serve before being eligible to be paroled.

OHA's recent report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," shows that Native Hawaiians constitute a disproportionate population in Hawai'i's prison system and represent approximately 40 percent of all inmates incarcerated in Hawai'i and in private facilities on the continent.

A number of Native Hawaiians are incarcerated in Arizona in private prisons contracted by the state Public Safety Division. These prisoners are cut off from contact with their families. When transferred out of state, they might not be able to complete programs that are available in Hawai'i and can no longer have effective access to practitioners for religious and cultural needs.

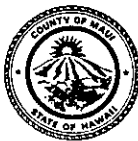
This bill creates a much-needed transparent and reasonable system for the transfer of prisoners between facilities.

OHA urges the committee to PASS SB48 SD1 HD1. Mahalo for the opportunity to testify on this important measure.

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)

March 29, 2011

TO: The Honorable Marcus Oshiro, Chair  
House Committee on Finance

FROM: Gladys C. Baisa  
Council Member

SUBJECT: **HEARING OF MARCH 30, 2011; TESTIMONY IN SUPPORT OF SB 48 S.D. 1,  
H.D. 1, RELATING TO CORRECTIONS**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure specifies criteria that must be considered in deciding whether to transfer inmates between correctional facilities located in Hawaii and to transfer inmates from Hawaii to mainland facilities. Prohibits transfer of inmates to mainland with 12 months or less to serve before being eligible to be paroled. Also prohibits transfer of inmates within Hawaii and to the mainland who are diagnosed with serious medical and mental conditions.

I strongly support this measure. The bill amends Chapter 353 to create a statute that the director shall consider the individual's 1) current programming and if it could be continued at another facility, 2) family and whether transfer would interrupt contact, and 3) willingness to be transferred.

We constantly hear stories from families going to visit their loved ones only to find that they are no longer in that prison or in Hawaii and then are unable to get any information as to the whereabouts of the individual they were to visit. There is no *Aloha* in this practice. Any transfers should be systematically planned; that is good business. This would also relieve the stress on the incarcerated individuals and their families.

Good business practices mandate a plan establishing criteria for transfer inside and outside of Hawai'i. We are lucky to live in a place where families are celebrated and deemed important. This bill acknowledges that each incarcerated individual comes from a family; therefore, consideration must be given to the impacts of a transfer on the family.

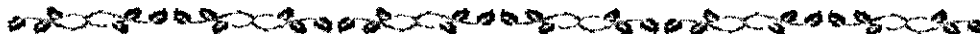
I appreciate the opportunity to present supporting testimony on the proposed measure.

GCB:amm

# COMMUNITY ALLIANCE ON PRISONS

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

Phone/E-mail: (808) 533-3454/ [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Wednesday, March 30, 2011

Room 308

10:00 a.m.

## STRONG SUPPORT

**SB 48 SD1, HD1 - ESTABLISHING CRITERIA FOR TRANSFERS**

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

Aloha Chair Oshiro, Vice Chair Lee 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 - and for the disproportionate number of incarcerated Native Hawaiians - far from their ancestral lands.

SB 48 SD1, HD1 specifies criteria that must be considered in deciding whether to transfer inmates between correctional facilities located in Hawai'i and correctional facilities located outside of Hawai'i, prohibits the transfer to U.S. facilities of inmates with 12 months or less for serve before being eligible for parole and prohibits the transfer of inmates who are diagnosed with serious medical or mental problems.

Community Alliance on Prisons strongly supports this measure. The bill amends Chapter 353 to create a statute that the director shall consider the individual's 1) current programming and if it could be continued at another facility, 2) family and whether transfer would interrupt contact, and 3) willingness to be transferred.

We did a web search to see what other states are doing regarding transfers and found that other states are much more transparent about their criteria and process for transfer of inmates.

- California has a 5-page memo regarding transfers that is on their website,
- Arizona has information and Frequently Asked Questions about transfers on their website,
- Alaska also posts criteria for transfers, just to name a few.

This kind of information is important for families and loved ones of the incarcerated.

To access the Arizona Department of Corrections website go to:  
[www.azcorrections.gov/adc/inmate/transfer.asp](http://www.azcorrections.gov/adc/inmate/transfer.asp).

California has issued a Briefing Memo - Out-Of-State Inmate Transfers, which can be accessed at:  
[http://www.cdcr.ca.gov/News/docs/CDCR\\_Out\\_of\\_State\\_Briefing\\_Memo.pdf](http://www.cdcr.ca.gov/News/docs/CDCR_Out_of_State_Briefing_Memo.pdf).

Other states have done the same. Why can't Hawai'i when we banish more than half of our prison population to the hands of private prison profiteers?

Isn't it interesting that Arizona, the state with a plethora of Corrections Corporation of America prisons couldn't negotiate a contract with CCA so they are sending their inmates out of state? This was stated by Dr. Rick Seider of CCA when I was in Arizona with the Senate Public Safety Committee in 2007.

An article from the October 2, 2007 Honolulu Advertiser entitled 'Prison System Failure Leaves Lasting Scars' states: *"The incarceration of inmates on the Mainland, at first a stopgap measure to deal with crowded prisons, has become a disgracefully dominant feature of the state's corrections policy. Prison conditions don't rise very high on the scale of voter concerns, and so policymakers have not felt pressed to find long-term solutions. Elected officials have never confronted the true social costs of crowding in Hawai'i prisons, the effects on families of constant transfers to Mainland prisons and the inadequate preparations for their return. It's time to face up to those costs, and find some sensible solutions"*

We constantly hear stories from families going to Halawa only to find their loved one is no longer in Hawai'i and then are unable to get any information as to the whereabouts of the individual they were to visit. There is no aloha in this practice. Any transfers should be systematically planned; that is good business. This would also relieve the stress on the incarcerated individuals and their families.

Transfers should not be haphazard or retaliatory. Stories of people with under a year left on their sentences being sent out of Hawai'i are not unusual, as are stories of individuals sent who then have to be returned to Hawai'i for a court case, causing the state to send two Adult Corrections Offices (ACOs) to the continent to pick up the individual, incurring unnecessary travel expenses that could have been avoided if there was a system for transfers, if there have to be transfer at all.

In the past the Department asserted they never send anyone with less than two years on their sentence. We have heard from men and women, families, and others that this is not true.

Good business practices mandate a plan establishing criteria for transfer inside and outside of Hawai'i. We are lucky to live in a place where families are celebrated and deemed important. This bill acknowledges that each incarcerated individual comes from a family; therefore, consideration must be given to the impacts of a transfer on the family.

From the October 2, 2007 Honolulu Advertiser article entitled 'Prison System Failure Leaves Lasting Scars': *"By default – and without the authorization of taxpayers – the state essentially has turned over wardship of its inmates to private Mainland institutions. Private prisons provide a less stable environment during tough economic times because of constant staff turnover and profit-driven cutbacks."*

The last year for our men in CCA's Saguaro prison has been horrendous. Since 2007 there have been numerous deaths, rapes, fights, beatings by ACOs that have triggered numerous lawsuits about this mismanaged facility. Hawai'i has knowingly placed our people in harm's way, which will reap unpleasant circumstances for these men, their families and, eventually, our communities.

Community Alliance on Prisons urges passage of SB 48 SD1, HD1 because it calls for accountability and transparency. It is time to professionalize the Department of Public Safety's haphazard transfers, which are costly, and in some cases retaliatory. We applaud Governor Abercrombie's plan to bring all our incarcerated people home.

Mahalo for this opportunity to testify.

# *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: House Committee on Finance

FROM: Pamela Lichty, MPH  
President

DATE: March 30, 2011, 10 a.m., room 308

RE: S.B. 48, SD 1. HD1 RELATING TO CORRECTIONS – **IN STRONG  
SUPPORT**

Aloha Representatives Oshiro, Lee, and members of the Committee. My name is Pam Lichty and I'm testifying in support of this measure on behalf of the Drug Policy Action Group.

The issue of public information about the criteria for inmate transfers and the transfers themselves are an important aspect of our corrections policy. We have learned that other states such as California and Arizona have a far more transparent process for revealing this information to friends, family members and even the victims of some crimes.

Given all the abuses our inmates have suffered at for-profit mainland prisons and the importance of family ties to successful reentry, it is imperative that this information be made available publicly. In Hawai'i nei where ohana is so central to all of our lives, it is arguably even more important than elsewhere to know the whereabouts, and potential transfers of all of our inmates. Thank you for hearing this measure and thank you for the opportunity to testify in support.



Committee: Committee on Finance  
Hearing Date/Time: Wednesday, March 30, 2011, 10:00 a.m.  
Place: Room 308  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 48, SD1, HD1, Relating to Corrections

Dear Chair Oshiro and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in strong support of S.B. 48, SD1, HD1, which specifies the criteria that must be considered in deciding whether to transfer inmates between correctional facilities located in Hawaii and correctional facilities located outside of Hawaii.

Although the ACLU of Hawaii does not believe that involuntarily transferring prisoners to out-of-state institutions is an appropriate solution to the prison over-crowding problem, we do support instituting criteria that will provide better guidance for determining which inmates are subject to involuntary transfer. We believe that maintaining families whenever possible, and giving inmates reasonable notice before transfer, are necessary steps in the rehabilitation process.

The ACLU of Hawaii is frequently contacted by individuals who have been transferred between facilities (particularly those being transferred to the mainland). The majority of these inmates do not want to be separated from their families any more than they have to be. Clarifying the circumstances under which inmates may be transferred will further the goals of maintaining family and community connections and preparing inmates for successful release and rehabilitation.

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 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)



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

March 29, 2011

**COMMITTEE ON FINANCE**

Sen. Marcus Oshiro, Chair  
Sen. Marilyn Lee, Vice Chair  
VIA: email

**STRONG SUPPORT for SB 48 - Criteria for Transfers**

Good Morning Chair Oshiro, Vice-Chair Lee 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 offender. He has been in prison for almost three years and has gone from Hilo to Halawa to Arizona back to Hilo, back to Halawa and now back to Arizona. He has a 5 year old daughter who misses him very much and wishes she could visit him.

If we must send prisoners to the mainland, we must have some criteria to follow. The State has wasted so much money transferring my son and others from one facility to another. This alone should be corrected. Also, if a prisoner has very young children, I think that should be a factor to consider. My granddaughter was 2 1/2 years old when her father was arrested. I was able to drive her to Hilo every weekend when he was there. I was able to fly her to Oahu about once a month when he was in Halawa. Now that he is in Arizona, she can't see him at all. In these economic times, I can't afford it.

These visits were not for him, they were for her. She adores her father and misses him terribly. She should not be punished by not being able to see him. She did nothing wrong. She will be 6 years old in June. She needs to see her father, and that should be possible. Let's set the criteria so that we do the least possible damage to the extended families, especially the small children. Let's show some Aloha. The prisoners and their families are citizens too.

Thank you so much for reading my thoughts. I hope you pass this bill. It is very important to the families of the incarcerated.

Sincerely,  
Erin Welsh

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2011 7:06 AM  
**To:** FINTestimony  
**Cc:** maukalani78@hotmail.com  
**Subject:** Testimony for SB48 on 3/30/2011 10:00:00 AM

Testimony for FIN 3/30/2011 10:00:00 AM SB48

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: E. Funakoshi  
Organization: Individual  
Address:  
Phone:  
E-mail: [maukalani78@hotmail.com](mailto:maukalani78@hotmail.com)  
Submitted on: 3/29/2011

**Comments:**

I STRONGLY SUPPORT SB 48 w/amendments and ask for your serious consideration to pass this bill.

My testimony was submitted to the PGM and PBM committees.

Again, at present, there is no criteria. We're shipping prisoners to AZ sometimes for just a couple of months and bringing them back for a hearing or other reasons. The transportation costs of not only the inmate but the accompanying guards are prohibitive, especially in our present economic climate.

Thank you for allowing me to submit my testimony.