

SB 49

RELATING TO CORRECTIONAL FACILITIES

Requires the department of public safety to report to the legislature any inmate or correctional facility employee death within 24 hours.

NEIL ABERCROMBIE
GOVERNOR



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

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INTERIM DIRECTOR

MARTHA TORNEY
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Administration

Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON SENATE BILL 49
RELATING TO CORRECTIONAL FACILITIES**

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; 2:45PM
State Capitol, Conference Room 224

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

The Department of Public Safety (PSD) opposes Senate Bill 49, which seeks to require PSD to report any inmate and correctional facility employee deaths to the President of the Senate, Speaker of the House of Representatives, and the Legislature Public Safety Committee Chairs within 24 hours due to the confidentiality rights of the inmates and/or the employee. And further, may impede internal investigations by unwarranted publicity to the matter.

At present, PSD already has in place well established policies and procedures regarding the internal reporting and investigations of such incidents in our facilities and those that may occur on the mainland. This includes notification to the Governor's Office of all serious incidents involving staff, inmates, or visitors to our correctional facilities and those that house inmates from Hawaii on the mainland.

It should also be noted that all serious incidents including deaths are immediately reported to the appropriate authorities, including the police departments and medical examiners. Thorough internal investigations of these incidents are also completed.

PSD is concerned with the medical confidentiality issue with regards to the disclosure of Protected Health Information. Despite an individual's death, the cause of death is a Medical Record and thus, cannot be immediately released with specific written authorization.

PSD is also very concerned with the legal ramifications of the proposed reporting requirements.

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



SB 49

RELATING TO CORRECTIONAL FACILITIES

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** SB 49, which would require the Department of Public Safety (DPS) to report to the Legislature any inmate or correctional facility employee death within 24 hours.

OHA was disturbed this year upon receiving news regarding the murders of Hawai'i residents Clifford Medina and Bronson Nunuha while incarcerated at the Saguaro prison facility in Eloy, Arizona. OHA is concerned for the health and welfare of the remaining Hawai'i prisoners incarcerated in privatized out of state prisons, given that a number of these prisoners are Native Hawaiian.

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.

This bill creates an easy to implement administrative mechanism to allow DPS to report deaths of inmates. Public oversight will assist in creating solutions to increase safety at these facilities.

OHA urges the committee to PASS SB 49. Mahalo for the opportunity to testify on this important measure.

COMMUNITY ALLIANCE ON PRISONS

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

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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 49 - REPORTING FACILITY DEATHS

<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.

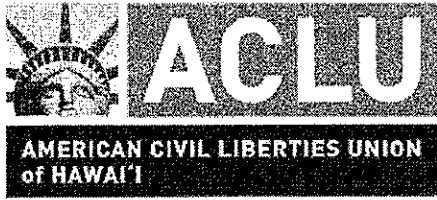
SB 49 requires the department of public safety to report to the legislature any inmate or correctional facility employee death within 24 hours.

Community Alliance on Prisons strongly supports this measure.

All too often the community hears rumors of a death in one of the facilities holding Hawai'i individuals, but it is virtually impossible to get information from the Department. This causes undue and unnecessary worry and concern for families whose loved ones are incarcerated or for those families with loved ones employed by PSD.

Community Alliance on Prisons supports accountability and transparency and urges the committee to pass this measure.

Mahalo for allowing us to testify in strong support of SB 49.



Committee: Committee on Public Safety, Government Operations and Military Affairs
Hearing Date/Time: Tuesday, February 15, 2011, 2:45 p.m.
Place: Room 224
Re: Testimony of the ACLU of Hawaii in Support of S.B. 49, Relating to Correctional Facilities

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 strong support of S.B. 49, which seeks to require the Department of Public Safety (“PSD”) to report to the Legislature any inmate or correctional facility employee death within 24 hours.

The ACLU of Hawaii receives hundreds of requests for assistance from Hawaii inmates each year, and conducts numerous investigations into prison officials’ actions. It is imperative that the Legislature is immediately notified about the numerous injuries and deaths so that our lawmakers can consider ways to prevent them in the future. We have particular concerns about the private prisons on the mainland, because – given the distance – we cannot know whether an inmate’s death was due to the denial of medical care, assault, or natural causes. Furthermore, because private prisons are not yet subject to Hawaii’s open records laws, requests for information are frequently denied (on the basis that these policies and procedures are “proprietary”). These private prisons – and the entire PSD – are in dire need of the layer of accountability and transparency that this bill will add.

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
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the
**Drug Policy
Forum**
o f h a w a i ' i

February 15, 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 49 Relating to Correctional Facilities
Hearing: Tuesday, February 15, 2011, 2:45 p.m., Room 224

Position: Support

The Drug Policy Forum of Hawai'i writes in support of SB 49 Relating to Correctional Facilities which requires the Department of Public Safety to report to the legislature any inmate or correctional facility death within 24 hours.

Since the Department of Public Safety is responsible for the well-being of more than 6,000 incarcerated people, an incident as compelling as the death of an inmate or that of an employee warrant immediate reporting. This immediate notification would help stem rumors and help inform anxious family members; and provide a communication link between what happens in a correctional facility and policy makers.

The department should strive for transparency in its operations and forthrightness in its dealings with family members of those incarcerated and with the general public. This requirement is a good start.

Please pass this measure as it would be good public policy for the operations of the department, for those incarcerated and for their families. Thank you for this opportunity to provide testimony.

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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
PGMTestimony@Capitol.hawaii.gov

SUPPORT SB 49: Reporting Deaths within Correctional Facilities

Aloha Chair Espero and Members of the Committee:

I am writing in support of SB 49, that requires the Department of Public Safety to report to the Legislature any inmate or correctional facility employee death within 24 hours.

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.

I support this bill for the following reasons:

- Currently, there are no statutory criteria or policies and procedures that mandate the Department of Public Safety to notify any governmental body, or the public, when a death occurs within a correctional facility.
- Prisons are the most closed of all institutions. We need more oversight to prevent abuses and ensure that constitutional rights are upheld, particularly when deaths occur within correctional facilities.
- Other jurisdictions have regulations similar to the proposed bill, providing notice of any death within a correctional facility. For example, Arizona and Nebraska provide public notice regarding deaths on their Department of Corrections' website. Furthermore, some jurisdictions mandate investigations whenever an inmate dies within correctional facilities. (See attachment notices).

In closing, I support SB 49. This bill promotes transparency and accountability, while being mindful of our State Constitution's provision protecting privacy, by mandating that the Department of Public Safety provide notice to the State Legislature whenever a death occurs within a correctional facility.

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

Sincerely,

Carrie Ann Shirota

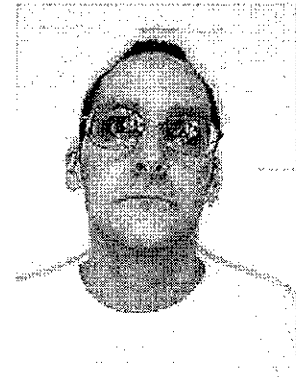
Carrie Ann Shirota

Inmate Jesse Perrigo Dies

(1/18/2010)

DATE: January 17, 2010

FOR IMMEDIATE RELEASE
NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
ROBERT P. HOUSTON, DIRECTOR
DAWN-RENEE SMITH, PIO (402.479.5713)



Jesse Perrigo #43802

JESSE PERRIGO, INMATE #43802, AT THE LINCOLN CORRECTIONAL CENTER, DIED ON JANUARY 16, 2010, AT APPROXIMATELY 1751 HOURS AT BRYANLGH WEST MEDICAL CENTER IN LINCOLN. MR. PERRIGO HAD BEEN INCARCERATED SINCE OCTOBER 26, 1992, AND WAS SERVING A LIFE SENTENCE FOR FIRST DEGREE MURDER, USE OF A FIREARM TO COMMIT A FELONY, AND POSSESSION OF A FIREARM BY FUGITIVE/FELON.

PERRIGO WAS 39 YEARS OLD. THE CAUSE OF DEATH HAS NOT YET BEEN DETERMINED. PERRIGO HAD BEEN HOSPITALIZED DUE TO AN INJURY INCIDENT WHICH OCCURRED ON JANUARY 15, 2010, AT THE LICNOLN CORRECTIONAL CENTER.

THE INCIDENT IS UNDER INVESTIGATION BY THE NEBRASKA STATE PATROL. AS IS THE CASE WHENEVER AN INMATE DIES IN THE CUSTODY OF THE DEPARTMENT OF CORRECIONAL SERVICES, A GRAND JURY WILL CONDUCT AN INVESTIGATION.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 2:00 PM
To: PGM Testimony
Cc: HawaiiVotingProject@gmail.com
Subject: Testimony for SB49 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB49

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

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 4:03 PM
To: PGM Testimony
Cc: dancercat3@hotmail.com
Subject: Testimony for SB49 on 2/15/2011 2:45:00 PM

Testimony for PGM 2/15/2011 2:45:00 PM SB49

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

Comments:

Strong support! My husband is one of the people that would benefit from HELP, not living in a cage. He is open-minded, teachable, and willing to learn, better himself, and in turn, help others. With complete sincerety and humble thanks.