

STAND. COM. REP. NO.

2270

Honolulu, Hawaii

FEB 16 2012

RE: S.B. No. 2735
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Public Safety, Government Operations, and Military Affairs, to which was referred S.B. No. 2735 entitled:

"A BILL FOR AN ACT RELATING TO PRISON LITIGATION,"

begs leave to report as follows:

The purpose and intent of this measure is to require prisoners to exhaust administrative remedies before bringing a civil court action on prison conditions.

Your Committee received testimony in support of this measure from the Department of Public Safety and State Attorney General. Testimony in opposition was received from the American Civil Liberties Union of Hawai'i, and one individual. Comments were received from the Community Alliance on Prisons.

Your Committee finds that this measure is patterned after an aspect of the Federal Prison Litigation Reform Act, which was enacted in 1996. The process under this measure is currently utilized in the federal courts.

Current practice in Hawaii allows the correctional facilities the time and opportunity to address complaints internally, through the inmate grievance system, before allowing a prisoner to initiate a state lawsuit. The administrative grievance resolution system in Hawaii's correctional facilities requires a three-step procedure, with twenty days allocated to each step.



Your Committee has received complaints from prisoners about lagging response times to complaints and inadequate administrative resolution of those complaints. Your Committee is gravely concerned that prisoner complaints are not being given prompt attention and fair resolution, whatever the merits of the complaint or the reputation of the prisoner making the complaint. Inasmuch as the administrative complaint resolution process is an internal administrative matter, your Committee wishes to make clear that it will not tolerate conditions in prisons that are unacceptable by conventional and reasonable standards.

Your Committee is also concerned about the fate of Hawaii prisoners housed in mainland correctional facilities. These contract prisons are bound by the terms of the contract when it comes to prison conditions and resolving prisoner complaints. Your Committee has learned that the Department of Public Safety has not had a monitor in place for the past year or more to report on Hawaii prisoner complaints at mainland prisons. A monitor would keep the Department of Public Safety continuously informed of the welfare of Hawaii prisoners confined on the mainland. Your Committee notes that the Department of Public Safety is in the process of searching for a new monitor.

Your Committee has amended this measure by:

- (1) Limiting the administrative remedy process to sixty days, after which time the prisoner may file an action in a state court; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety, Government Operations, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2735, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Government Operations, and
Military Affairs,

Will Espero

WILL ESPERO, Chair



