

# DA KINE BAIL BONDS

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LATE TESTIMONY

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

## COMMITTEE ON FINANCE

Representative Marcus R. Oshiro, Chair

2/23/12, 1:00 PM, Rm. 308

HB 2514, Relating to Public Safety

Chair Oshiro and Members of the Finance Committee,

My name is Mona Wood-Sword, here on behalf of my clients, Duane and Beth Chapman, of Da Kine Bail Bonds, who are currently attending a conference on the mainland. We are vehemently opposed to the first section of HB 2514, relating to pre-trial release.

The Chapmans have had a combined forty-plus years of experience in the bail bonds industry, interviewing thousands for pre-trial release, many thousands more for bail bonds, and have also captured over 6,000 fugitives.

We ask you to consider the following issues pertaining to this bill's pre-trial provision.

First, three days is not sufficient time to achieve an accurate, fair and verifiable assessment in each case, and would also place undue hardship on the pre-trial staff. We support a minimum of two weeks for a proper felony interview and accurate verification.

Second, there is a vast difference between a pre-trial two-party release on their own recognizance, where the court trusts another person's assessment of the defendant, and a bail bond sold by a bail agent - which is a third-party release, when a family member has paid a premium and placed collateral or indemnity on the line to ensure the defendant shows up at their court date.

In the case of a pre-trial two-party interview, when the defendant is released, there are no consequences to anyone if the defendant fails to show up for their court date. Whereas, in a third-party release that involves a bail agent, there is a financial penalty if the defendant does not show up at court.

The third issue involves cost to the State. In the pre-trial two-party interview format, it will cost the State money to pay the interviewers' wages, not to mention the pension costs, and, if the defendant does not show up for court, the costs to retrieve them.

Currently, under the third-party release bail bond format, there is no cost to the State if the person does not show up in court; In fact, the State makes money. The bail bondsman is responsible to make sure the defendant shows up in court, and must forfeit bail if the defendant fails to appear.

If the intent of HB 2514 is to reduce the overcrowding of our prisons, there are other alternatives to achieve this that will prove more efficient, and save taxpayers money, including allowing bail agents the same access to defendants as pre-trial interviewers, and passing bills like SB 2158, which allows bail on weekends and holidays, which is currently not the case.

We are also very concerned that allowing felons on the street after a quick interview process, and on their own recognizance, is not in the best interest of the safety of the general public.

We sincerely hope you will also oppose the first section of HB 2514, for the reasons we have outlined, above.

Mahalo nui for allowing us to testify!

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

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Executive Director

**LATE**

TESTIMONY ON HOUSE BILL 2514, HD2  
RELATING TO PUBLIC SAFETY

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

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

Thursday, February 23, 2012; 11:00 AM  
State Capitol, Conference Room 308

Good morning Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to provide testimony in support of House Bill 2514, HD2, with the amendments proposed by the Hawaii paroling authority. House Bill 2514, HD2 provides that pretrial risk assessments be conducted within three days of an offenders admission to a correctional center; increases the number of parole board members; requires that a validated risk assessment instrument be used by the parole board in determining the offender's risk for reoffense and suitability for community supervision for purposes of making parole decision; provides for the release on parole of certain low risk offenders who have completed their minimum sentence; limits the period of confinement for certain parole violators to six months; provides for a 25% garnishment of all inmate funds to pay restitution; and provides that offenders receive a period of supervision prior to the expiration of their minimum term; and provides for the reinvestment of savings in more effective victim and public safety strategies.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental

health or rehabilitative services, or bury a loved one if compensation were not available from the Commission.

House Bill 2514 and House Bill 2515, together with a number of reinvestment funding recommendations, including \$2,000,000 for victim services, are a set of policy options developed by the Justice Reinvestment Working Group (JRI) with intensive technical assistance from the Council of State Governments Justice Center, in partnership with the Pew Center on the States. The purpose of the JRI Working Group is to improve and reform criminal justice and corrections practices in Hawai`i through the development of a comprehensive data-driven plan that would allow for the return of mainland prisoners to Hawai`i, and to redirect the cost savings to programs that hold offenders accountable, reduce recidivism, and ensure victim and public safety. JRI policy options and funding recommendations seek to assure that interventions, treatment programs, and intensive supervision are focused on individuals at the greatest risk to commit more crimes after release.

The JRI legislative package includes significant funding for a victim services component. Under this proposal, JRI Hawai`i will make Hawai`i the only state where funds are reinvested in victim services. JRI recommendations include funding for 13 new victim assistance staff in the several county prosecutors' offices, funding to continue the Statewide Automated Victim Notification Program (the "SAVIN Program"), funding to establish a Victim Services Unit in PSD, and funding for a restitution accountability program in the Commission.

The JRI reinvestment in victim services will improve restitution collections and ensure that victims receive advance notification through an automated system informing them of an offender's parole hearing and release dates. This advance notification will enable victims to exercise their right to be heard at the parole hearing. A victim services unit will also be created in PSD to staff the victim notification program, which will assist in addressing restitution shortfalls in PSD, coordinate with community victim service providers and victims to develop safety plans, and protect victims from intimidation by incarcerated offenders. Victim advocates will also be enabled to monitor and collect data on decisions made by the courts, probation, corrections, and parole.

JRI Hawai`i is the only JRI initiative that includes reinvestment funds for victim services. The JRI victim service component will ensure that victim needs, community safety, and offender accountability are in the forefront of JRI implementation, and will work hand-in-hand with other JRI initiatives to increase public safety.

The Commission serves as a member of the JRI Working Group. Part of the Commission's role as a member of the JRI Working Group has been to engage crime victims, survivors, and victim service providers and advocates in identifying key issues and concerns specific to the JRI initiative. A victim/survivor/advocate roundtable briefing and discussion was conducted in September 2011 by Anne Seymour, a consultant with the Pew Center and the Council of State Governments, and Robert Coombs from the Justice Reinvestment Team. A summary of the key priorities identified by the roundtable were presented at the September 2011 JRI Working Group meeting. The established key priorities are: 1) restitution collections shortfalls; 2) the sustainability of the SAVIN Program, which provides victim notification of changes in offender custody status and parole hearing notice; 3) the need to prioritize supervision and treatment based on offender risk and danger level; and 4) the need for information sharing with the victim services community.

### **Restitution Collection Shortfalls**

Restitution collection shortfalls have been a significant issue for crime victims in Hawai'i. Failure of the criminal justice system to collect and pay restitution leaves many crime victims without the ability to recover from the financial impacts they suffered as the result of the crime. All agencies involved in the enforcement of restitution collection must consistently provide the coordinated leadership and uniform commitment necessary to transform the Hawai'i criminal justice system so that the system successfully works for victims.

The Commission has conducted a pilot project to collect restitution from inmates and parolees (the "Restitution Project") since 2003. Since the Restitution Project was initiated, the Commission has opened over 3,200 restitution and compensation fee cases and collected over \$1,500,000. A collateral benefit of the Restitution Project was the identification by the Commission of a number of concerns impacting the procedures for the assessment and collection of restitution. When the Commission first began the Restitution Project, correctional facilities and parole officers were unable to accurately track an inmate's restitution payments making it difficult to enforce restitution orders. The county prosecutors and victim witness advocate programs did not have standardized restitution procedures, restitution was not being requested in all eligible cases and, when restitution was ordered, victim-identifying information was not always preserved, preventing the successful assessment and collection of restitution.

While many of these issues were successfully addressed, through a recent survey of restitution collection from inmates by PSD the Commission has now identified two additional areas of concern:

1. Restitution payments from inmate workline wage deductions are not being forwarded to the Commission by the correctional facilities for payment to victims on a timely basis;
2. Court ordered restitution is not being deducted from inmate wages in all cases, as required by statute, because restitution accounts are not being opened by the correctional facilities for all inmates who have been ordered by the Court to pay restitution.

The Commission surveyed 224 inmate restitution cases to determine whether the correctional facilities were enforcing restitution orders as required by Hawai'i Revised Statutes (HRS).<sup>1</sup> HRS §353-22.6 provides that the PSD Director enforce restitution orders through a ten percent (10%) deduction from workline wages. Of the 224 restitution cases, 179 inmates with restitution orders worked, but there were no deductions from those inmates' workline wages for restitution and, in 65 of those cases, more than one correctional facility failed to identify that the inmate had been ordered to pay restitution. More than seven thousand dollars (\$7,000.00) in workline wage deductions were not collected because the correctional facilities failed to identify that the inmate owed restitution.

While there has been progress in addressing some of the issues that obstruct the ability of Hawai'i crime victims to recover their crime-related losses from court-ordered restitution, significant institutional barriers remain. Some of the barriers were highlighted in a recent series of articles published in the *Honolulu Star-Advertiser*. These barriers include, for offenders on probation, or otherwise supervised by the Judiciary, an inability to track how many offenders owe restitution, what they owe, and how much they have paid, and the Court's failure to enforce its own restitution orders. In response to these articles the Judiciary formed a Restitution Working Group to address these issues.

In a response to the editor, Rodney A. Maile, Administrative Director of the Courts, wrote, "...offenders' failure to fully pay court-ordered restitution is a difficult, complex and long-standing problem, but one that absolutely has to be addressed because of the hurtful impact it has on victims

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<sup>1</sup> The survey was not a random survey. Cases surveyed included, but are not limited to: 1) cases where Commission received a judgment ordering an offender to pay restitution, but no payment was ever received; 2) cases where restitution was previously paid, but there was a lack of payment activity for more than a year; and 3) recently opened cases with payments from the mainland branch or the paroling authority (cases where the paroling authority began collecting restitution, and restitution was not collected by the correctional facilities). Some offenders in the survey were already off status.

and because non-compliance with court orders undermines public trust and confidence in the justice system.”

The JRI initiative addresses some of these longstanding issues by providing funding for a restitution accountability program that tracks and reports restitution payments from PSD, parole, and the Judiciary<sup>2</sup> (in cases where restitution is ordered to repay the Commission). A second phase of JRI should include an initiative to address the issues identified by this part of the Restitution Project.

In addition, JRI initiative funding for victim advocates in the county prosecutors’ offices ensures that victims are aware of their right to receive restitution and that restitution becomes a top priority. Additionally, increasing the amount of restitution payable by inmates from 10% of inmate wages, to 25% of all funds deposited into an inmate’s account will ensure that offenders make prompt and meaningful restitution payments to crime victims.

#### **Continuing the Statewide Automated Victim Notification System**

PSD currently houses the SAVIN Program that provides automated notification to crime victims by phone or victim notification of changes in offender custody status. Federal funding for SAVIN will expire in 2012. The JRI budget proposal increases community and victim safety by providing funding to continue the SAVIN Program’s important function of providing information to crime victims and others about inmate custody status changes, such as the release date of offenders, if the offender has escaped, and the date of upcoming parole hearings. This information gives victims peace of mind and enables them to do safety planning. Advance notification to victims about upcoming parole hearings enables victims to exercise their right, under HRS, Section 801D, to speak at the hearing, and ensures that the paroling authority’s decisions are informed by the concerns of crime victims.

#### **Prioritize supervision and treatment by offender risk and danger level**

The JRI funding proposal includes funding for additional county-based victim advocates to ensure that victim and witness safety assessments are integrated into all offender custody decisions by providing timely victim and community safety information to prosecutors, Intake Services, Parole,

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<sup>2</sup> Restitution ordered pursuant to Section 706-646(2), Hawai`i Revised Statutes, which provides, in part, that “the court shall order restitution to be paid to the crime victim compensation commission in the event that the victim has been given an award for compensation under chapter 351.”

and other related personnel in PSD. These additional staff are essential in order to ensure that the pretrial risk assessments are informed by victim input and community safety concerns.

Concerns surrounding supervision decisions and offender risk are addressed by requiring the parole board to use a validated risk assessment instrument to determine the offender's risk for reoffense and suitability for community supervision when making a parole decisions.

Further, the new PSD Victim Service Unit will coordinate with victim services providers to ensure that victims receive timely notification of offender custody status, educate offenders about the impact of crime on victims, provide safety planning for victims where the offender is going to be released, and ensure that victims are protected from harassment by incarcerated offenders. Hawai'i is currently the only state without a corrections-based victim service program.

**Share information with the victim service community**

JRI funding for victim services will ensure that information about the implementation of the JRI program is shared with the victim community and, to the extent that there are issues that impact victim and community safety, that these issue are handled as a top priority.

Thank you for providing the Commission with the opportunity to testify in support of House Bill 2514, HD2, together with the reinvestment funding recommendations submitted by the Governor.



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COMMITTEE ON FINANCE  
Representative Marcus R/ Oshiro, Chair

2/23/12, 1:00 PM, Rm. 308,

HB 2514, Relating to Public Safety

Chair Oshiro and Members of the Finance Committee, my name is James Waldron Lindblad, here in opposition to the first section of HB 2514, relating to pre-trial release.

I began my career in pretrial release in 1974 working at the Clark County Jail, in Vancouver, WA. During my work in pre-trial, I've interviewed over 2000 persons for pretrial release and at least 25,000 persons for bail bonds.

There are a number of issues that you need to consider, before you pass this bill with the pre-trial provision.

The first issue is that the three-day time frame as proposed in the bill is not realistic for felony release. The three-day time limit is too quick overall and would place a burden on the pretrial worker. The three-day model cannot achieve accurate fair and verifiable assessment results. I believe a minimum of two weeks is required for a proper felony interview and verification.

The second is that one needs to understand the huge difference between a pretrial two-party release on their own recognizance where the court must trust only the defendant based on another person's assessment and a bail bond sold by a bail agent which is a three party release in which a family member has paid a premium and placed collateral or indemnity on the line to ensure results.

In the two-party interview, when the felon is released, there are no consequences to anyone for that persons failure to show up for their court date, while in a third party release, such a bail agent, there is a financial penalty if the felon does not show up.

The third is the cost to the State. In the pre-trial interview format, it will cost the state money to pay the interviewer wages, not to mention the pension cost, plus if the interviewee does not show up for court, the cost to retrieve the person. Currently under the third-party bail bond format, there is no cost to the state if the person does not show up; in fact the State makes money. The bail bondsman is responsible to make sure the felon shows up in court.

If the intent is to reduce the overcrowding of our prisons, there are other ways such as to allow Bail agents the same access to defendants as pretrial interviewers and to support and pass out bills such as SB 2158, which allows bail on weekends and holidays.

Allowing felons on the street just on an interview and on their own recognizance is not in the interest of the general public. Thank you for allowing me to testify.



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

LATE

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

February 23, 2012

To: Rep. Marcus Oshiro, Chair  
Rep. Marilyn Lee, Vice Chair and  
Members of the Committee on Finance

From: Jeanne Y. Ohta

RE: HB 2514 HD2 Relating to Public Safety  
Hearing: Thursday, February 23, 2012, 11:00 a.m., Room 308

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of HB 2514 HD1 Relating to Public Safety which proposes recommendations made out of the Justice Reinvestment Initiative.

DPFH supports the efforts to make the criminal justice system more efficient and more effective. These changes are necessary because of the ever increasing prison budget. States that have embraced the suggestions of the Initiative have made significant savings, without sacrificing public safety. Strategic and smart changes can reduce costs, allowing for the reallocation of resources to where they will do the most good.

We urge the committee to pass this measure. Thank you for the opportunity to provide testimony.