

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

NOTICE OF HEARING

DATE: Thursday, February 9, 2012.
TIME: 09:30 A.M.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

By James Waldron Lindblad, for Professional Bail Agents of Hawaii.

Testimony in favor of Senate Bill 2158, Relating to 24 hour Bail Release and from
whom bail may be accepted.

Bill No. and Title: Senate Bill 2158, Relating to Bail

Purpose: Senate Bill 2158 would require all law enforcement agencies including corrections staff at Oahu Prison/O.C.C.C., who hold or house defendants whose bail has been set by the court to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds from licensed bail agents at all times including when the court is closed, night, weekends and holidays. Specifies from whom bail may be accepted. Requires prompt release after acceptance of bail.

Bail Agent's Position:

Bail agents support Senate Bill 2158 because the bill adds needed clarity to the bail bond release process that will ensure prompt release for those persons whose bail has been set by the court whenever bail is offered and accepted.

In other words, persons should be able to pay bail to the agency holding them in custody and Senate Bill 2158 tells all persons how to accomplish this task.

Presently, any defendant held at O.C.C.C cannot bail out on their own because someone needs to take the bail to the court and then back to Oahu Prison. This is the same in Maui and Kauai. Defendants cannot pay bail themselves even if they have the money because they cannot travel from Oahu Prison to the courts to pay the bail and presently there is no means to pay bail at Oahu Prison which is where most persons needing bail are housed.

Senate Bill 2158 provides clarity to the taking of bail for all concerned and clarifies the bail release of a defendant by telling law enforcement agencies and Oahu Prison precisely and with clarity that they have authority to accept bail. Presently, only agencies that set bail may accept bail and that means only the court and the police have authority to release persons by accepting bail.

All persons held at Oahu Prison must pay their bail at the court and the courts are closed after hours, holidays and weekends.

The problem of bail release from Oahu Prison originated around 1987 when the legislature changed the definition of the word bail, we think, by accident as there are no committee notes on the subject and the problem has only recently been spotlighted due to the use of a new court receipt form call the BRF or bail release

form which was suppose to only replace the police bail receipt. Each circuit interprets use of the BRF form differently and First Circuit Criminal and Family Court Division have not adopted use of the BRF form. Until recently, the sheriff, by long tradition, was accepting bail after ours for both Oahu Prison and Maui Correction facility but the sheriff division will no longer accept bail for those persons not in their direct custody.

Further, the District Courts in Honolulu interpret the bail release process differently than the circuit courts by requiring use of a specific bail release form and also require all bail to be filed at the specific court division, Ewa, Kaneohe, etc., thus making release on bail for those persons held at Oahu Prison on these small amounts almost impossible because the person paying the bail needs to go to each individual court to pay the warrant to ensure a person's release once at O.C.C.C. Courts are closed nights, weekends, holidays and furlough days, but even during daytime hours the posting of bail at Honolulu District Court, Ewa Court and Kaneohe Court can take all day. This is because the court does not know why Department of Public Safety has persons in custody and relies on the facility to bring the person to court. This is backwards.

By long tradition the sheriff has accepted bail but when the sheriff division was moved from the Judiciary to Department of Public Safety and will not accept bail for persons held by the Corrections Division. Honolulu police will not accept bail for anyone not in their direct custody.

Admin Orders like Admin Order 2.1 have made several attempts to address this bail release situation but Admin Order 2.1 has not been interpreted by all law enforcement agencies in the same way. For instance, Hilo police accept bail for H.C.C.C pretrial inmates when the court is closed but Honolulu, Maui and Lihue police will accept bail only for those in their direct custody, thus limiting release for

any person held at Oahu Prison, Maui Corrections or Lihue Corrections to hours when the court is open. Further, on Oahu the district court does not really know why persons held on bail set by any district court are held at Oahu Prison and District Court staff rely on Oahu Prison's Module Five staff and records staff at Oahu Prison to tell them why the defendant is in their custody. This fact makes paying bail for any district court case very difficult and time consuming and impossible for inmates in custody to accomplish on their own. The District Court clerks at the cash bail window at 1111 Alakea now even hand a piece of paper with telephone numbers on it to person wishing to pay bail for friends or relatives held at Oahu Prison and then report back to the cash bail window. District Court staffers even require the social security number of the defendant and require the person paying the bail to complete the bail release form which is supposed to be a court receipt. Have you ever tried to fill out someone else's receipt? How can you obtain another's SSI number?

Under Senate Bill 2158, the defendant themselves or the person paying the bail could do so directly at the facility where the defendant is located and where all the information on the bail is. This is how posting bail should be and most persons assume is but it is not.

In other words, Senate Bill 2158 clarifies the duties and responsibilities of all concerned and benefits everyone by bringing about uniformity and predictability among all relevant agencies in the bail release process.

Bail agents support Senate Bill 2158.

Contact: James Waldron Lindblad

550 Halekauwila Street # 303

Honolulu, HI 96813

Phone: 808 780 8887 Cell

Fax: 808 522-1960 Web: www.808bail.com