



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Testimony in SUPPORT of SB 2776 SD2
Relating to Public Safety

HOUSE COMMITTEE ON PUBLIC SAFETY
Rep. Henry Aquino, Chair
Rep. Ty Cullen, Vice Chair

March 15, 2012
9:00 AM, Room 309

Chair Aquino, Vice Chair Cullen, and committee members, thank you for hearing SB 2776 SD2 Relating to Public Safety. I respectfully request your support of this important measure.

As you know, this is one of the priorities of my administration. We want to stop the practice of sending our prisoners out of state because it sends public dollars out of Hawaii instead of creating jobs and community service opportunities here at home.

In the last 9 months, the Justice Reinvestment Working Group has met with the Council on State Governments Justice Center consultants to analyze our criminal justice system and make policy recommendations to realize cost savings and reinvest those savings back into our system to reduce recidivism, decrease the prison population, and strengthen public safety.

We have also been working with the Hawaii Paroling Authority and have additional amendments that PSD will be presenting in their testimony.

I would like to defer to Martha Tourney, Deputy Director of the Department of Public Safety, who will provide more details about the proposed legislation.

Thank you again for consideration of this measure.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
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Honolulu, Hawaii 96813

BERT Y. MATSUOKA
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MEMBER

MICHAEL A. TOWN
MEMBER

TOMMY JOHNSON
ADMINISTRATOR

No. _____

TESTIMONY ON SENATE BILL 2776, SD2
RELATING TO PUBLIC SAFETY

BY

HAWAII PAROLING AUTHORITY
Bert Y. Matsuoka, Chairman

House Committee on Public Safety and Military Affairs
Representative Henry J.C. Aquino, Chair
Representative Ty Cullen, Vice Chair

Thursday, March 15, 2012; 9:00a.m.
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Cullen, and Members of the Committee:

The Hawaii Paroling Authority (HPA) is in support of S.B. 2776, SD2.

There has been much work placed into establishing the elements of this SD 2. The HPA along with a number of other State, County and Community groups have met and discussed the issues of public safety, corrections, probation, parole, recidivism and other topics related to our criminal justice system. With the assistance of the Council of State Governments Justice Center, this bill was crafted.

The Justice Reinvestment Initiative has fostered valuable discussion between groups and has set the stage for future dialog on matters of mutual concern.

The current content of the bill is the result of much discussion. We know that there may be a need for further conversations; however, the basic premise of the initiative is well represented in this SD2.

Thank you for the opportunity to testify on this matter.

**Testimony of the Office of the Public Defender, State of Hawaii,
to the House Committee on Public Safety & Military Affairs and
House Committee on Labor & Public Employment**

March 15, 2012

S.B. No. 2776 SD2: RELATING TO PUBLIC SAFETY

Chairs Aquino and Rhoads and members of the committees:

We support passage of S.B. No. 2776 SD2 which contains a number of statutory changes based upon the recommendations made by the Governor's Justice Reinvestment initiative. We believe that the proposals contained in this bill can greatly relieve stress upon the criminal justice system while maintaining public safety.

In Section 3 on page 7, the bill would require a pretrial risk assessment for all adult offenders within three working days of admission to a correctional center. This expedited risk assessment would assure that those offenders who can be safely released pending their trial would be released in a prompt manner. Certain high-risk offenders such as those facing probation violations, revocations of bail and revocations of supervised release would be exempt from this provision assuring that high-risk law violators will remain in custody and not jeopardize public safety.

In section 5 on page 11, the number of members of the Hawaii Paroling Authority (HPA) would increase from the current three members to five. This would allow the HPA to conduct more hearings thus allowing for more interaction and supervision between the inmate and the parole authorities. It would also allow the HPA to conduct business when more than one HPA member is unavailable.

In section 9 on page 14, the bill would require that certain non-sex offenders who are reimprisoned for a parole violation but who have not: 1) been charged with a new felony offense; 2) absconded from the state; or 3) committed prior parole violations, be detained for no more than six months. This provision would assure that those who are rearrested for a positive drug test or technical violation of parole and who are low-risk offenders will not suffer from excessive prison terms.

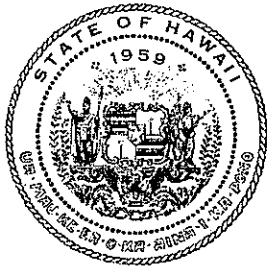
Section 12 on pages 17 regarding restitution will assure that inmates make progress toward restitution even while incarcerated.

In section 13 on page 18, supervised release prior to the expiration of an inmate's maximum sentence is established. This procedure is for inmates who are approaching the expiration of their maximum sentences but who have not yet been paroled. This provision would assure that those offenders receive a period of supervision while they are still under the jurisdiction of the Department of Public Safety. Under the current laws, an offender simply walks out of prison unsupervised once he/she "maxes out" (sentence expires). This provision would protect the public against such a situation.

Hawaii is in need of reform to its criminal justice system. The Justice Reinvestment project conducted a data-driven analysis of our current system and formulated a number of suggestions to make the system more efficient while not sacrificing public safety. S.B. No. 2776 SD2 would accomplish some of the reforms suggested by this project. We strongly support these changes and urge the passage of this measure.

Thank for the opportunity to comment on this measure.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
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March 14, 2012

Testimony in Support, SB 2776, SD 1

To: Representative Henry J.C. Aquino, Chair
Representative Ty Cullen, Vice-Chair
Members of the House Committee on Public Safety and Military Affairs

Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice-Chair
Members of the House Committee on Labor and Public Employment

From: Catherine Betts, Esq., Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support of SB 2776, SD 1

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the committee for this opportunity to provide testimony on this issue. I would like to express my support for SB 2776, SD 1 and provide comments regarding the lack of funding for victims services.

The Justice Reinvestment Initiative has provided an independent inquiry into the flaws of our criminal justice system. This bill is based on the sound data culled by the Justice Reinvestment Initiative and would amend statutes to require a quickly conducted pre trial risk assessment, an expansion of the parole board to increase frequency and efficiency of parole board hearings, an increase in restitution to victims of crime and a required period of parole supervision prior to the maximum sentence date. By focusing on how to best reintegrate the incarcerated and support their rehabilitation, this legislation would allow for safer communities, less recidivism by offenders and less waste of state funds.

The Commission respectfully requests that this bill be amended to include funds for victim services, specifically to continue funding for the automated victim notification system, victim advocacy positions, and funding for restitution monitoring so that restitution is actually collected and reaches victims.

Thank you for this opportunity to testify.

Catherine Betts, Esq.
Executive Director, Hawaii State Commission on the Status of Women

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE HENRY J.C. AQUINO, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawai'i

March 15, 2012

RE: S.B. 2776, S.D. 2; RELATING TO PUBLIC SAFETY.

Chair Aquino, Chair Rhoads, Vice-Chair Cullen, Vice-Chair Yamashita, members of the House Committee on Public Safety & Military Affairs, and members of the House Committee on Labor & Public Employment, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony expressing concerns regarding--and suggesting amendments to--S.B. 2776, S.D. 2.

Of particular concern, this bill does not include a specific timeline for transitioning to 3-day pretrial assessments (Section 3), or for developing enough parole officers and support programs to serve the anticipated influx of "low-risk" parolees (Section 10) and "nearly-maximum term" parolees (Section 14). The Department strongly believes that these things must be in place before any of the proposed measures could be reasonably implemented.

While we agree that additional measures are needed to facilitate collection of restitution payments for crime victims, Section 12 of S.B. 2776, S.D. 2, would do very little to improve current collections, as incarcerated persons constitute only a small portion of offenders who owe restitution. To more effectively facilitate the payment of restitution to crime victims, the Department suggests incorporating language from S.B. 2892, which would:

1. include unpaid restitution as valid "debt," for purposes of withholding State income tax refunds (similar to outstanding child support or judgments owed to State agencies);

2. remove a court's ability to revoke restitution once ordered as part of a defendant's sentencing (this would not affect their abilities to appeal a conviction);
3. create standards and procedures for income-withholding, similar to those used for outstanding child support payments; and
4. extend victims' access to adult probation records, to include access to payment compliance records, for purposes of enforcing restitution orders civilly.

In addition, the Committee should consider an amendment to HRS §706-746, to apply bail monies toward any restitution owed, once a defendant is sentenced. We also note that Section 12 appears to contain a typo on page 17, lines 13-15, where it should indicate that restitution shall be deducted monthly when the amount payable is over \$25; the current language only deducts restitution when the prisoner's account reaches \$25.

Going back to Section 3 of this bill, it remains unclear what the repercussions would be if the 3-day requirement is not met, or how the proposed actuarial assessment tool differs from the Hawaii Paroling Authority's ("HPA") current standards. If HPA's standards are adequate, there is no need for this provision, and if they are insufficient, or inappropriately used, then that issue would be better addressed by an administrative initiative to improve their use.

Because Section 14 addresses persons nearing their maximum term of imprisonment, that section should give HPA discretion to assess the safety of early parole for those inmates, similar to Section 10, subsection (e); we will defer to HPA and its counsel regarding sufficiency of the specific language contained in Section 10, subsection (e). If HPA has previously found an inmate unsuitable for parole, it seems unwise to release that inmate earlier than necessary, particularly if he or she does not want to be released on parole, or is likely to re-offend as soon as they are released.

We also suggest that an exception be added to Section 14, to deny early release if an inmate "has local, state or federal detainers or holds" (similar to Section 10, subsection (d)).

Although the Department supports the goals of increasing public safety and increasing the efficiency and effectiveness of our criminal justice system, proposals raised in S.B. 2776, S.D. 2, require further revisions before they can purport to achieve those goals. For these reasons, the Department of the Prosecuting Attorney continues to have concerns about--and suggests amendments to--S.B. 2776, S.D. 2. Thank you for this opportunity to testify on this bill.



Chaminade University

O F H O N O L U L U

Testimony Presented to the
House Committee on Public Safety & Military Affairs and
House Committee on Labor & Public Employment
Thursday, March 15, 2012 at 9:00 am

by

Chaminade University of Honolulu
Bro. Bernard J. Ploeger, SM, PhD
President

SB 2776 SD2
Relating to Public Safety

Dear Chair Aquino, Chair Rhoads, Vice Chair Cullen and Vice Chair Yamashita and members of both Committees:

Thank you for the opportunity to provide testimony in **support** of SB 2776 SD2, Relating to Public Safety

I and the members of the University's Criminal Justice faculty judge that this bill is appropriately responsive to the recommendations the State Department of Public Safety received in the recent study conducted as a part of the Justice Reinvestment Initiative. We find this bill addresses many of the causes that currently contribute to our overburdened and inefficient correctional system. Given our longstanding commitment to the preparation of public safety and law enforcement officials and as the only University in the State offering a master's degree in Criminal Justice Education we wish to add our endorsement of this measure.

Thank you for allowing us to submit this testimony.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Rep. Henry Aquino, Chair

Rep. Ty Cullen, Vice Chair

Thursday, March 15, 2012

9:00 a.m.

Room 309

STRONG SUPPORT FOR SB 2776 SD2 -JUSTICE REINVESTMENT

Aloha Chair Aquino, Vice Chair Cullen and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars, always mindful that almost 1,800 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 2776 SD2 requires a pre-trial risk assessment to be conducted within three working days, expands the membership on the Hawaii paroling authority, requires the use of validated risk assessments to guide parole decisions, and limits length of re- incarceration for first-time parole violators. It also substantially increases victim restitution payments by inmates and requires release on supervised parole prior to the maximum sentence date. Makes appropriations.

Community Alliance on Prisons is in strong support of this measure.

The justice reinvestment initiative provides the first independent look at our criminal justice system by professional analysts with a broad range of experience. What they have accomplished in six short months is truly amazing. They not only pulled together data across Hawai'i's criminal justice system, they built efficiencies into our data collection system that can be built upon to help you, our policymakers, make more informed decisions based on user-friendly data sets. The Justice Center's experience in many other jurisdictions helped to inform their recommendations as they tracked how some of these recommendations are working in other places. Their recommendations are led by the desire to enhance public safety. The savings are a wonderful by-product of creating a more comprehensive and data-driven approach to dealing with crime and how we respond to it more efficiently.

It is no secret that competent assessments are crucial to programming an individual for successful reintegration back to his/her community. Hawai'i has been wasting precious resources by mandating some services/programs to individuals who don't really need that level of service. This has created a backlog in our system that has resulted in 65% of individuals being denied parole because they have not had access to the programs mandated. For instance, we know that the majority of our incarcerated population has substance abuse issues and needs, but the data show that only 14% of these individuals

need in-prison treatment. Research shows that community-based treatment is more effective and less costly than in-prison treatment; therefore, many low-level lawbreakers would be better served in community-based treatment, which would keep our money flowing in our economy.

Increasing the number of parole board members would enable them to do hold more hearings and along with a better assessment and information, they could move people through the system more effectively. Correctional best practices deem that we should be working to provide the services needed so that individuals can be released at their minimum sentence to successfully reenter the community. On average, the Board hears 25 cases a day; therefore, increasing it with two additional part-time members would expedite the system and help to avoid burn-out.

Community Alliance on Prisons supports restitution to make victim whole, although we have some concerns about the dramatic increase in restitution payments. The families that we work with are struggling to make ends meet and they are the ones who provide funds for their loved ones to purchase items like toiletries and food and needed clothing in the over-priced prison commissaries. Our concern is the impact of taking 25% of those funds from inmates who have little to spare and that the lack of funds for needed items will create a management problem at facilities and a thriving underground economy.

We support the release of individuals before their maximum term expiration with supervision, provided that it also includes support for successful reentry. The latest data from the Interagency Council on Intermediate Sanctions (ICIS) show that the rate of recidivism for those serving their maximum term and then released with no supervision or support from the 2008 cohort studied is 69.3%, while the recidivism rate for those on probation for the same period was 48.4% and parole was 48.5%. This dramatically illustrates the need for supervision and support for those exiting incarceration.

This approach requires a philosophical shift in how people are supervised. A shift from looking for mis-steps to "How can we help you successfully reenter your community and reach your goals?" We have spoken with parole and probation officials in other jurisdictions and have been told that a supportive environment is what seems to work best for most individuals and systems elsewhere. The data show and many, many experts have asserted that incentives, not sanctions, are what work for those with substance abuse problems. Since the majority of Hawai'i's crime is rooted in substance abuse, this strategy seems a logical one for us to pursue.

Community Alliance on Prisons urges the committees to support this data-driven, thoroughly researched, and thoughtful approach to reforming our criminal justice system by passing SB 2776 SD2.

Mahalo for this opportunity for us to share our perspective and testify on this important measure.



HAWAII SUBSTANCE ABUSE COALITION

SB 2776 SD2 RELATING TO PUBLIC SAFETY pre-trial risk assessment in 3 days; expand parole board; assessments guide decisions; limit incarceration; increase restitution; parole supervision prior to sentence

- HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS: Representative Henry Aquino, Chair; Representative Ty Cullen, Vice Chair
- HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT: Representative Karl Rhoads, Chair; Representative Kyle Yamashita, Vice Chair
- Thursday, March 15, 2012: 9:00 a.m.
- Conference Room 309

HSAC Supports SB2776:

Good Morning Chair Aquino, Chair Rhoads; Vice Chair Cullen, Vice Chair Rhoads; And Distinguished Committee Members. My name is Alan Johnson, Chair of the Hawaii Substance Abuse Coalition, a hui of about 20 treatment and prevention agencies across the State.

What has been the overall result?

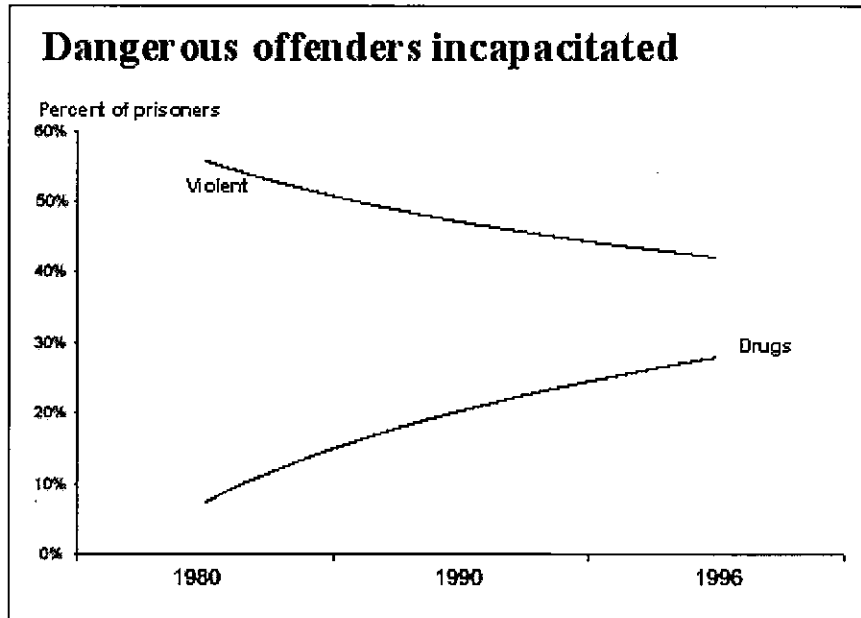
- ✚ Prisons have grown substantially over the last 25 years.
- ✚ Prisons are extremely expensive.
- ✚ 200% increase over the last 10 years only reduced violent crime by 9%.
- ✚ The huge increase is for non-violent drug addicts had little or no effect on drug dealing or use.
- ✚ Increasing the length of sentences for drug offenders costs an additional \$1.5 billion a year nationwide, with no reduction in drug crimes.
- ✚ Mandatory sentencing has led to greater racial disparity.

What works According to Research

- ✚ Use mandatory sentencing only for violent crimes, not non-violent drug addicts.
- ✚ Give discretionary decision making to probation/parole who could release “reformed” offenders
- ✚ Improve upon the numerous inefficiencies between agencies.
- ✚ Reduce long sentences for non-violent drug offenders and divert to treatment.
- ✚ Use competent assessment protocols to determine safety risk and relate it to sentencing
- ✚ Employ best practices to integrate Public Safety, Judiciary and community-based programs.

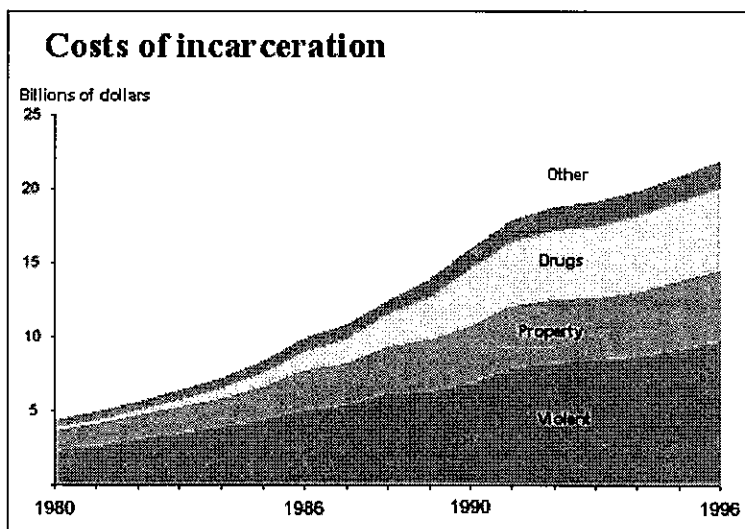
The vast majority offenders who are properly treated by supervision and community professionals are no longer committing drug related crimes.

Prisons are Full Due to Non-Violent Drug Offenders



Most incarcerated drug offenders are not violent offenders:

- ✚ 85% of drug offenders have no history of prior incarceration for violent crimes;
- ✚ 33% of drug offenders are incarcerated for possession, use, or miscellaneous drug crimes;
- ✚ 40% of federal drug offenders have no current or prior violence on their records.



As the above chart shows, more than half the cost of incarceration, which has increased dramatically since 1980, is a result of keeping non-violent offenders in prison.

We appreciate the opportunity to testify and are available for questions.

Sources:

1. William J. Sabol: Crime Control and Common Sense Assumptions Underlying the Expansion of the Prison Population, Urban Institute: May 1999. <http://www.urban.org/url.cfm?ID=410405>



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

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

March 15, 2012

To: Rep. Henry Aquino, Chair
Rep. Ty Cullen, Vice Chair and
Members of the Committee on Public Safety & Military Affairs

From: Jeanne Y. Ohta, Executive Director

RE: SB 2776 SD2 Relating to Public Safety
Hearing: March 15, 2012, 9:00 a.m., Room 309

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of SB 2776 SD2 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.

The recommendations from the Justice Reinvestment Initiative are informed by their previous experience in other jurisdictions and by data. The project has the benefit of hindsight, as previous recommendations have been tracked to see how they have worked in those jurisdictions.

A goal of this project is to enhance public safety, while improving the efficiency of the criminal justice system. The savings produced by these new policies are possible because of a comprehensive, data-driven approach to dealing with crime.

This measure requires a pre-trial risk assessment to be conducted within three working days, and requires the use of validated risk assessments to guide parole decisions, and limits length of re- incarceration for first-time parole violators. Hawai'i has been wasting precious resources by mandating services and programs to individuals who don't need them.

For example, community-based treatment is more effective and less costly than in-prison treatment; therefore, many low-level, non-violent persons should be in those kinds of programs rather than in prisons, which are hugely more expensive.

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



SB2776 SD2
RELATING TO PUBLIC SAFETY
House Committee on Public Safety & Military Affairs

March 15, 2012

9:00 a.m.

Room 309

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2776 SD2, which would implement changes related to pre-trial risk assessments and parole capacity as suggested by the Justice Reinvestment Initiative.

OHA's 2010 report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," and the recently completed study by the Justice Reinvestment Initiative indicate that there is a clear need for smart justice solutions like those included in this bill. Specifically, the changes to expedite pre-trial risk assessments and increase capacity of the parole commission will reduce needless and expensive incarceration.

OHA urges the committee to PASS SB2776 SD2. Mahalo for the opportunity to testify on this important measure.



Committee: Committee on Public Safety & Military Affairs
Committee on Labor & Public Employment
Hearing Date/Time: Thursday, March 15, 2012, 9:00 a.m.
Place: Conference Room 309
Re: Testimony of the ACLU of Hawaii in Support of and With Comments to S.B. 2776, SD2, Relating to Public Safety

Dear Chairs Aquino and Rhoads and Members of the Committees on Public Safety, Government Operations, and Military Affairs and Labor and Public Employment:

The ACLU supports the elimination of excessively harsh sentencing policies that contribute to the over-incarceration of low-risk offenders. Risk assessment instruments, as provided for S.B. 2776, SD2, have the potential to identify low-risk defendants or prisoners that can be released without impacting public safety, thereby saving the state the high cost of incarcerating such people. The use of these tools helps to ensure the most effective allocation of state resources, as well as the fair and objective administration of the law.

Please consider making the following amendments to S.B. 2776, SD2:

- **Strike the existing language in section 3(b)(3), and replace with:** [The centers shall] Provide risk assessments on adult defendants prior to a bail hearing. For purposes of this paragraph, “risk assessment” means an independently validated actuarial tool that is objective, research-based, and scientifically proven using static and dynamic factors to determine a person’s likelihood of endangering public safety and risk of flight. The department of public safety shall select an assessment tool that is tested on the state’s local population for the purpose for which it will be used, and validated for accuracy at least every three years. Only adequately trained staff may conduct assessments.

Requiring that all defendants receive a risk assessment prior to a bail hearing will ensure that the court can set a proper bail based on an accurate measure of the defendant’s risk of endangering public safety. We urge the adoption of several additional requirements so that the risk assessment provides the most precise and scientifically correct results.

Please note that this amendment will exclude persons with detainers placed by the federal government and save the state a significant amount of money. Currently, for example, the Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), can place a 48-hour hold on an individual, meaning that the State can legally detain the individual for 48 hours past the individual’s designated release time. This gives ICE an opportunity to take the person into federal custody for the purposes of placing the person in removal (*i.e.*, deportation)

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proceedings. That 48 hour clock, however, typically does not begin to run until the incarcerated individual is legally “free” from the State’s custody – that is, after the person has posted bail, finished his sentence, or been released on parole. What often happens – and what this legislation seeks to make permanent – is that the State simply does not bother to release the individual on the basis that the individual will simply be taken into custody by ICE. The 48-hour clock never starts running – meaning that the State is paying to incarcerate an individual merely because ICE might want to place the person in immigration proceedings. ICE, for its part, won’t bother to spend the money to incarcerate an individual if Hawaii will do it for them for free, so individuals end up serving much longer in jail or prison than necessary.

Instead, the better course is to release the person from State custody (if appropriate to do so under the circumstances) and let ICE decide for itself whether to expend the resources to take the person into custody. Consequently, a parole decision should not be based on the existence of a federal detainer. If ICE wants to deport the individual, that decision is up to ICE; Hawaii should not pay to incarcerate an individual based solely on the immigration offense – that is the federal government’s responsibility.

- **Amend section 9(e).** If the paroled prisoner is retaken and reimprisoned for violating a condition of parole but has not: (1) Been convicted of a new felony offense; . . . the paroled prisoner shall be confined for no more than 90 days or for that portion of the paroled prisoner’s term remaining unserved at the time of parole, whichever is shorter, unless it is determined by the paroling authority that the prisoner constitutes a significant risk to the safety of others or the prisoner’s self that can only be mitigated by additional incarceration.

The ACLU supports legislation that would limit re-incarceration for technical violations of parole. The six month confinement provided for by S.B. 2776, SD2, however, is overly harsh for a violation that could be as simple as missing a meeting. We urge the adoption of a 90 day maximum sentence, and protection for innocent persons that are charged, but not convicted, of a new felony while on parole.

- **Amend section 10(1), ¶ 2.** For purposes of this subsection, “validated risk assessment” means an independently validated actuarial tool that is objective, research-based, and scientifically proven using static and dynamic factors to determine a person’s likelihood of endangering public safety. The department of public safety shall select an assessment tool that is tested on the state’s local population for the purpose for which it will be used, and validated for accuracy at least every three years. Only adequately trained staff may

conduct assessments. A person who is assessed as low risk for re-offending shall be granted parole upon completing the minimum sentence, unless the person:

- (a) Is found to have committed misconduct while in prison that is equivalent to a felony crime within two years of the expiration of the minimum term of imprisonment;
- (b) Has any pending felony charges in the State;
- (c) Is incarcerated for a sexual offense under part V of chapter 707 or child abuse under part VI of chapter 707 and has not successfully completed a sex offender treatment program; or
- (d) Is determined by the paroling authority to currently constitute a significant risk to the safety or property of other persons that can only be mitigated by additional incarceration.

Releasing prisoners who do not pose a risk to society will greatly reduce incarceration costs by allowing people to return to the workforce. We urge the adoption of several additional risk assessment requirements, to ensure that the results are as scientifically accurate as possible. We also support eliminating the misdemeanor exception in subsection (1)(a). A person who commits misconduct as minor as knowingly accessing a computer without authorization (equivalent to a misdemeanor under § 708-895.7, Hawaii Revised Statutes) poses no threat to public safety. Excluding such prisoners from mandatory parole upon completion of the minimum sentence would require the state to waste unnecessary resources on continued incarceration. Note that this amendment will also exclude persons with federal detainees and save the state money.

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 45 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS
Rep. Henry Aquino, Chair
Rep. Ty Cullen, Vice Chair
Thursday, March 15, 2012
9:00 a.m.

SUPPORT: SB 2776 SD2 JUSTICE REINVESTMENT

Aloha Chair Aquino, Vice Chair Cullen and Members of the Committee.

I am writing in support of SB 2776 SD2 that mandates an array of "best" correctional practices based upon the independent research and recommendations of the Justice Reinvestment technical experts.

As a former Deputy Public Defender and Director of MEO's Being Empowered and Safe Together (BEST) Reintegration Program, Soros Justice Advocacy Fellow, and as a member of Community Alliance on Prisons, I support correctional policies and practices that have proven effective in reducing crime, and providing men, women and youth involved in the criminal justice system with the education, training, counseling, and treatment necessary to turn their lives around.

Successful Outcomes of Justice Reinvestment in Other States

To date, the Justice Center has partnered with fifteen states. I would like to highlight some of the successful outcomes of Justice Reinvestment Strategies in other jurisdictions:

Texas

- From January 2007 to December 2008, the Texas prison population increased by only 529 individuals; the projected increase for that period at the beginning of the 2007 legislative session was 5,141 individuals if the justice reinvestment strategies had not been implemented.¹
- Between 2006 and 2008, probation revocations to prison declined by 4 percent and parole revocations to prison plummeted 25 percent. During this same period, the parole board's rate of approvals for supervised releases rose from 26 percent to 31 percent.
- The increased availability of treatment and intermediate sanction facilities – made possible through the Justice Reinvestment Initiative – has facilitated the reduction in revocations and the enhanced use of parole.
- Although the state's nonpartisan Legislative Budget Board projected in 2007, before the enactment of the Justice Reinvestment Initiative, that the prison population would grow

by approximately 17,000 people over five years, it now projects relatively minimal growth. No shortfall in capacity is predicted until 2013, when the system will need approximately 1,300 beds.

Kansas

- From 2007 to 2009, the state prison population decreased by 4 percent. The number of probationers and parolees revoked for violating the conditions of their supervision or convicted for committing new crimes dropped by more than 20 percent for that same period, making Kansas a safer place to live. Taxpayers have not needed to fund the construction of any new facilities for the foreseeable future, and the decline in the prison population enabled policymakers to close a handful of smaller facilities in 2009

Overall, I believe that this bill is a conservative reflection of JRI's recommendation. I also have some concerns about increasing restitution and increasing the number of paroling authority members for the following reasons:

Increases in restitution will have the unintended effect of primarily punishing incarcerated persons' families. The reality is that men and women in prison earn "slave wages." And unless these wages are increased, this bill will place a burden of families on the outside already struggling to make a living.

My other concern relates to the notion that increasing the number of paroling authority members will automatically improve our system. We need to select members that espouse and implement "best practices" in their decision-making. Otherwise, we will simply increase the number of parole related hearings, but have the same outcomes as in the past that fails to promote public safety.

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

Sincerely,

Carrie Ann Shirota

PBMtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 12:01 PM
To: PBMtestimony
Cc: ewelsh@metcalfconstruction.com
Subject: Testimony for SB2776 on 3/15/2012 9:00:00 AM

Testimony for PBM 3/15/2012 9:00:00 AM SB2776

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Erin Welsh
Organization: Individual
E-mail: ewelsh@metcalfconstruction.com
Submitted on: 3/13/2012

Comments:

I am in strong support of this measure. We need to listen to these experts and bring Hawaii into the 21st century regarding the prison situation. We are wasting money, and more importantly, wasting lives. We can do better!

PBMtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 1:14 PM
To: PBMtestimony
Cc: anthonymsimoneau@gmail.com
Subject: Testimony for SB2776 on 3/15/2012 9:00:00 AM

Testimony for PBM 3/15/2012 9:00:00 AM SB2776

Conference room: 309
Testifier position: Support
Testifier will be present: Yes
Submitted by: anthony simoneau
Organization: Individual
E-mail: anthonymsimoneau@gmail.com
Submitted on: 3/13/2012

Comments:

I support measure and the implimentation of this needs to be managed by PSD correctly. As a first time offender it took two months for me to be supervised released at OCCC. I am a low risk offender and it also took me two weeks before even being able to meet with a case manager or considered for supervised release.

PBMtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 14, 2012 11:55 AM
To: PBMtestimony
Cc: maukalani78@hotmail.com
Subject: Testimony for SB2776 on 3/15/2012 9:00:00 AM

Testimony for PBM 3/15/2012 9:00:00 AM SB2776

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: elaine funakoshi
Organization: Individual
E-mail: maukalani78@hotmail.com
Submitted on: 3/14/2012

Comments:

Dear Chair Aquino, Vice Chair Cullen and Committee Members of the PBM Committee and Chair Rhoads and Vice Chair Yamashita and Committee Members of the LAB Committee

I strongly support SB2776; however, oppose the Victim Restitution section of bill. As in my previous testimonies, the inmates are penalized in many different ways, but to take 25% of their total deposit for the Victim Restitution fund is cruel to the parents/ohana who deposit hard-earned funds into their accounts. It would be fair to take 25% out of the money that they earn.

Thank you for for the opportunity to submit my testimony.

Mahalao and aloha,
elaine funakoshi

PBMtestimony

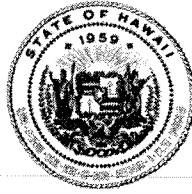
From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 9:09 PM
To: PBMtestimony
Cc: mattrifkin28@gmail.com
Subject: Testimony for SB2776 on 3/15/2012 9:00:00 AM

Testimony for PBM 3/15/2012 9:00:00 AM SB2776

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Matthew Rifkin
Organization: Individual
E-mail: mattrifkin28@gmail.com
Submitted on: 3/13/2012

Comments:

This bill makes sense in being less harsh on a first time parole violation by limiting the length of re-incarceration. This would bring Hawaii in line with other states. It is time for Hawaii to use a more compassionate approach.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Thursday, March 15, 2012
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2394, S.D. 1 - RELATING TO CONSUMER PROTECTION.

TO THE HONORABLE HENRY J.C. AQUINO, CHAIR,
TO THE HONORABLE TY CULLEN, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("DCCA"), Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify on S.B. No. 2394, S.D. 1. My name is Bruce B. Kim and I am the Executive Director of OCP. OCP supports S.B. No. 2394, S.D. 1.

Members of our armed forces and their dependents face many significant challenges. Multiple overseas deployments and coping with a spouse's prolonged absence from home can lead to a great deal of emotional and financial stress. Our

service members and their families may be particularly vulnerable to unscrupulous lenders who may charge excessive fees and interest rates, make loans without regard to the borrower's ability to repay, refinance a borrower's loans repeatedly over a short period of time without any gain for the borrower, or in worst cases, commit outright fraud or deception.

When Department of Defense ("DOD") representatives contacted OCP and asked for assistance on this measure, they made a convincing case that Hawaii needed to consider such legislation to help the DOD enforce these important consumer protection regulations for our service members and their dependents.

Hawaii's payday lending law, Chap. 480F, already affords significant protections to consumers. However 32 CFR 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents", has protections specific to service members and their families which are not found in Chap. 480F. These additional protections would provide OCP with additional enforcement avenues in pursuing unscrupulous payday lenders who try and take advantage of an unsuspecting service member or his or her dependent. Since local payday lenders are already subject to the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law No. 109-364) ("Act") and 32 CFR Part 232, providing OCP with authority to enforce these measures is an important step in the right direction. It would be another arrow in OCP's enforcement quiver against unscrupulous payday lenders in Hawaii.

This bill is a common sense reasonable measure allowing the DCCA through

OCP to enforce these important consumer protections for our service members and their dependents. It further authorizes the DCCA through OCP to enter into an agreement to access the Military Sentinel Network maintained by the Federal Trade Commission ("FTC"). OCP would benefit greatly if it was allowed access to this useful FTC database.

OCP therefore strongly supports passage of S.B. No. 2394, S.D. 1. I appreciate the opportunity to testify on behalf of this bill today and would be happy to answer any questions the Committee may have.

**Testimony to the House Committee on Public Safety and Military
Affairs and Committee on Labor and Public Employment
Thursday, March 15, 2012
09:00 AM
Conference Room 309**

RE: SENATE BILL NO. 2394, SD1, RELATING TO CONSUMER PROTECTION

Chairs Aquino and Rhoads, Vice Chairs Cullen and Yamashita, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's strong support of Senate Bill No. 2394, SD1, Relating to Consumer Protection.

The measure proposes to authorize the Director of Commerce and Consumer Affairs to enforce certain federal laws to protect military members and their families from abusive lending practices.

We concur with the comments stated in Section 1 of the proposed bill. Military members have long been vulnerable to abusive lending practices. Most are young service members aged 18-24 and have little or no experience in making major purchases. All too often they are victimized by sales people who take advantage of their inexperience.

The US Department of Defense has declared that abusive lending practices are a serious quality of life concern for service members and their families, and recommended that states act to adopt protective programs. This concern was especially prevalent over the past 10 years because of the high deployment rates faced by service members due the wars in Iraq and Afghanistan.

Thank you for the opportunity to testify in strong support of this bill.



Mar 13, 2012

**TESTIMONY IN SUPPORT OF SENATE BILL 2394 SD1
RELATING TO CONSUMER PROTECTION**

**HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS
HEARING ON THURSDAY, MARCH 15TH, AT 9:00 AM, IN CONFERENCE
ROOM 309**

Aloha Chair Aquino: The Oahu Veterans Council's delegates are deeply honored to serve at the pleasure of our veterans and their families. Our Legislative Committee voted unanimously to support SB 2394 SD1.

We are sincerely grateful for your efforts to authorize the director of commerce and consumer affairs to enforce certain federal laws, to protect military personnel and their families from abusive lending practices.

Hawaii is proud to host the largest per-capita military community in the nation. We are doing the right thing to protect our military personnel and their families from predatory lenders.

The Oahu Veterans Council respectfully urges your committee to consider passing Senate Bill 2394 SD1 as written; mahalo for allowing us to testify, regarding this extremely important issue.

Dennis Egge

Dennis Egge; Chairman, Legislative Committee



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**OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE
(MILITARY COMMUNITY AND FAMILY POLICY)**

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

DoD-State Liaison Office

**Chair Henry J.C. Aquino, House Committee on Public Safety and Military Affairs
March 14, 2012**

**Testimony of
Laurie Crehan, Ed.D.
Quality of Life Regional Liaison
Office of the Assistant Secretary of Defense, Military Community & Family Policy
DoD-State Liaison Office**

SB 2394 Relating to Consumer Protection

Testimony

Chair Aquino and members of the House Committee on Public Safety and Military Affairs, on behalf of the Deputy Assistant Secretary of Defense, I would like to thank you for the opportunity to submit testimony today on SB 2394, a bill relating to Consumer Protection in order to explain to you the Department's continuing effort to work with states to limit the terms of consumer credit extended to service members and their dependents. My name is Laurie Crehan. I am with the Department of Defense State Liaison Office which operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary of Defense for Military Community and Family Policy.

Federal Regulation

Congress gave the DoD unprecedented authority in 2006 to write a regulation that would limit credit terms provided to Service members and their families for any form of credit defined in the regulation. Title 32 of the Code of Federal Regulations, Part 232 implements the federal statute by defining the covered forms of credit -- payday, vehicle title and tax refund anticipation loans. The DoD recognized the need for Federal and State regulators to be the primary enforcers of the regulation -- Federal for tax refund anticipation loans and State for payday and vehicle title loans.

A year after the release of the regulation in August 2007, the Federal Financial Institutions Examination Council (FFIEC) released their tool for Federal and State regulators to use as part of their examinations of the creditors covered by the regulation.

Reason the DoD Supports State Enforcement Authority

Although the regulation has made a dramatic reduction in the use of the covered loans by active duty members and their families, there is evidence that some are still gaining access to these loans. A quick poll in November 2009 of 667 financial counselors working for or contracted by the DoD, along with legal assistance officers who work on military installations, revealed that about half had counseled at least one client in the preceding six months who had gotten a payday, vehicle title or tax refund anticipation loan.

Improving the Lives of Military Members and their Families

Examination has worked thus far to help gain compliance, but in the event that a creditor continues to violate the regulation, court action would be needed to enforce the criminal penalties specified in the Federal statute – and that may mean through Federal court. DoD believes compliance can be achieved more efficiently if the state credit administrator has authority to enforce the regulation through state statute. Then, the state credit administrator can determine corrective action when violations or deficient policies are identified through examinations and consumer complaints. Providing authority to the State regulator would allow for the due-process and penalties associated with non-compliance of a state rule. The policy in SB 2394 would do just that.

In Hawaii the Office of Consumer Protection is limited in what they can regulate and this concerns the Department of Defense. However, the proposed legislation you are reviewing today would ensure that payday loan establishments would be regulated within the authority provided to the Office of Consumer Protection.

We look forward to Hawaii adopting these vital protections for our Service members and their families. Thank you for your continued support for our military members and families.

Dr. Laurie Crehan
State Liaison
DoD State Liaison Office
858-361-1731