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THE HONORABLE DAVID Y. IGE, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawai'i

February 23, 2012

RE: S.B. 2776, S.D. 1; RELATING TO PUBLIC SAFETY.

Chair Ige, Vice-Chair Kidani and members of the Senate Committees on Ways and Means, the Department of the Prosecuting Attorney submits the following testimony expressing concerns regarding--and suggesting amendments to--S.B. 2776, S.D. 1.

While the Department understands the State's desire "to bring out-of-state prisoners back to Hawaii, reduce spending on corrections, and reinvest savings generated in strategies that would reduce recidivism and crime and increase public safety," multiple sections of this bill seem to strive for saving money or decreasing the prison populations, without retaining or including sufficient measures to uphold public safety.

First, we note that none of the proposed measures specifies a timeline for transition to 3-day pretrial assessments (Section 3), or for developing parole officers and support programs to serve the anticipated influx of "low-risk" (Section 9) and "nearly-maximum term" (Section 14) parolees. These things must be in place before any of the proposed measures could be reasonably implemented.

If Section 3 is simply a matter of moving pretrial risk assessments from the end of the pretrial process to the beginning, it is unclear how this move will shorten the overall pretrial process, which will still require all of the other existing pretrial requirements. It is also unclear what the repercussions would be if the 3-day mandate 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 being inappropriately used, then there should be an administrative initiative to improve their use.

Section 9 reserves some discretion for HPA, regarding those persons assessed by the tool as

"low-risk for re-offending," and we will defer to HPA and its counsel as to the sufficiency of this language. However, we note that Section 14 should include similar discretion for the HPA to assess the safety of releasing inmates who are nearing-maximum term. If HPA has previously found an inmate not suitable for parole, it seems unwise to release that person into the public any earlier than necessary, particularly if an inmate does not want to be released on parole, or is likely to re-offend as soon as they are released. In addition, we suggest that an exception be added to Section 14, to deny early release if the person "has local, state or federal detainers or holds."

We strongly agree that collection of restitution for crime victims is currently inadequate, but Section 12 of S.B. 2776, S.D. 1 would do very little to improve on current collections. Incarcerated persons only account for a small portion of offenders who owe restitution--which will get even smaller if many inmates are released due to other measures proposed in this bill. To more effectively facilitate payment of restitution to crime victims, the Department suggests that language from S.B. 2892 be incorporated into S.B. 2776, S.D. 1, to:

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 (which would not affect their abilities to appeal a conviction);
3. create standards and procedures for income-withholding, fashioned after similar statutes used to enforce 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. The majority of these restitution measures would not require any additional State appropriations or funding.

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. 1 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. 1. Thank you for this opportunity to testify on this bill.



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The Twenty-Sixth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
February 23, 2012

S.B. 2776, S.D. 1 - RELATING TO
PUBLIC SAFETY

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2776, S.D. 1, which makes important statutory changes based upon a series of recommendations from the Justice Reinvestment Initiative's study of Hawaii's correctional and criminal justice systems. The suggested changes could save an estimated \$108 - \$150 million over six years without compromising public safety and reducing the number of Hawaii's inmates at mainland prison facilities.

The cost of housing inmates out-of-state was \$45 million for FY 2011. Easing the need to house about 1,700 prisoners on the mainland will result in more of that money remaining in Hawaii and stimulating the local economy. We believe that the savings generated by this bill can be used to increase funding for pre-trial services, probation and parole supervision, inmate assessments and diagnostic services, community-based treatment programs, additional parole officers, additional Hawaii Paroling Authority members, and parolee supervision.

More specifically, S.B. 2776, S.D. 1 amends various statutory provisions by:

- (1) Requiring a pre-trial risk assessment to be conducted within three working days to reduce the number of inmates awaiting trial;
- (2) Expanding the parole board from three to five members and including an unspecified appropriation for this purpose;
- (3) Requiring the use of validated risk assessments to guide parole decisions;
- (4) Limiting the length of incarceration for first-time parole violators to six months;

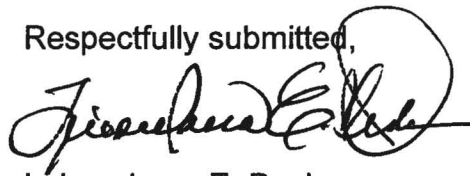
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- (5) Increasing victim restitution payments by inmates;
- (6) Requiring a period of parole supervision prior to the maximum sentence date;
- (7) Making an unspecified appropriation to hire additional parole officers to supervise parolees and reentry intake services personnel to perform pre-trial risk assessments; and
- (8) Requiring the Department of Public Safety to submit reports to the Legislature starting in 2013 through 2017 to monitor the progress of implementing this bill, including the number of inmates who were paroled, the estimated savings in bed space of inmates paroled and the number of Hawaii inmates brought back from the Mainland as a result of this legislation.

Requiring supervision for all felons after they leave prison is based on the research-backed theory that such support or monitoring reduces the likelihood of recidivism.

Thank you for the opportunity to testify in support of S.B. 2776, S.D. 1.

Respectfully submitted,



Leiomalama E. Desha
Deputy Executive Director