

SB 2776

RELATING TO PUBLIC SAFETY

Description:

Based on analysis and policy options developed as part of the justice reinvestment initiative. Amends statutes to require a pre-trial risk assessment to be conducted within three working; expand the parole board and require the use of validated risk assessments to guide parole decisions; limit length of incarceration for first-time parole violators; increase victim restitution payments by inmates; require a period of parole supervision prior to the maximum sentence date.



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Testimony SB 2776
Relating to Public Safety

Governor Neil Abercrombie

SENATE COMMITTEE ON PUBLIC SAFETY
Senator Wil Espero, Chair
Senator Michelle Kidani, Vice Chair
And
SENATE COMMITTEE ON JUDICIARY
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair

January 31, 2012
2:45 pm, Room 224

Chair Espero, Chair Hee, Vice Chair Kidani, Vice Chair Shimabukuro, and committee members, thank you for hearing SB 2776 Relating to Public Safety. I respectfully request your support of this important measure.

I would also like to thank the Legislature for partnering with the administration and the Judiciary in a historic collaboration called the Justice Reinvestment Initiative. 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 8 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.

I would like to introduce Marshall Clement, Project Director, of the Justice Reinvestment Initiative, and Director Jodie Maesaka-Hirata, of the Department of Public Safety, who will provide more details about the proposed legislation.

Thank you again for consideration of this measure.

JUSTICE★CENTER
THE COUNCIL OF STATE GOVERNMENTS

**TESTIMONY ON SENATE BILL 2776
RELATING TO PUBLIC SAFETY**

**Marshall Clement, Division Director
Council of State Governments Justice Center**

Tuesday, January 31, 2012; 2:45 p.m.
State Capitol, Conference Room 224

Chair Espero, Chair Hee, Vice Chair Kidani, Vice Chair Shimabukuro, and committee members, thank you for hearing SB 2776 Relating to Public Safety and for the opportunity to discuss the research we at the Council of State Governments Justice Center have conducted over the last year.

In June, Governor Abercrombie, Chief Justice Recktenwald, Senate President Tsutsui, House Speaker Say and Department of Public Safety Director Maesaka-Hirata joined to launch a Justice Reinvestment Initiative (JRI). JRI is a data-driven approach to identify inefficiencies, develop cost-effective policy options, and plan for a reinvestment of savings that reduces recidivism and increases public safety.

To assist them in this inter-branch, research-based effort, they requested assistance from the Pew Center on the States and the U.S. Department of Justice Bureau of Justice Assistance. The CSG Justice Center was selected to provide intensive technical assistance to Hawaii to conduct a comprehensive analysis of the state's criminal justice system and to help state leaders develop policy options that could increase public safety while saving taxpayer dollars. All of this was done using federal and private funds, meaning this cost the state nothing except the time of staff to participate.

Over the past seven months, an inter-branch JRI working group chaired by the Director of Public Safety, Judge Alm, and the Senate President has guided and informed this effort. Throughout the process, we collected and analyzed data from arrests to court dispositions to probation, prison, and parole. We would like to recognize officials and staff at the Attorney General's office, the Judiciary and probation, Hawaii Paroling Authority, and of course the Department of Public Safety for their efforts to make data available and assist in the analysis throughout this process. The Department of Public Safety (PSD) deserves particular recognition for the data collection and access that Director Maesaka-Hirata and her staff provided to this process. Along with these quantitative analyses, we convened focus groups and interviews with numerous practitioners and stakeholders from around the state, including prosecutors, victim advocates, judges, parole board members, probation officers, law enforcement officials,

and others.

Overview

Overall, we found that despite a decline in crime over the past five years, the overall jail and prison population has not significantly changed. The analysis found that key areas of the criminal justice system are not operating as cost-effectively as they could to reduce crime and increase public safety.

1. Analyses found that Hawaii's pre-trial process is one of the longest in the nation. The pre-trial assessment process takes much longer in Hawaii (several months on average, whereas it takes just days or a few weeks in other jurisdictions) and budget cuts have caused these already long processes to be delayed even further. The result has been millions of dollars spent needlessly on a growing pre-trial population.
2. Prisoners are required to complete programs that don't benefit public safety. Assessments are not currently being used appropriately to put the right people in the right programs, based on the research. As a result, offenders who are most likely to be successful upon release have been spending longer behind bars and those offenders most likely to benefit from programs have been unable to get the programs they need to make the public safe.
3. Hawaii often releases those people most likely to reoffend back to communities without any supervision or monitoring. Prisoners likely to commit more crime are exploiting loopholes in the system that allows them to return to the community with nobody holding them accountable.
4. Restitution for victims is not being adequately collected. Current statutes only require people to pay ten cents to victims for every dollar they earn behind bars, even if they have hundreds and thousands of dollars deposited into their individual account.

Justice Reinvestment Policy Framework

In consultation with the inter-branch working group, the CSG Justice Center developed a package of policy options to address these inefficiencies, hold offenders more accountable, and reinvest savings in more effective public safety strategies.

The policy options from the framework included in Senate Bill 2776 would do the following:

- Increase efficiency in the pre-trial process. The bill requires PSD to conduct a pre-trial assessment within three working days. This will require resources to conduct these assessments proactively and quickly, but is much cheaper than the current process which the data suggests is longer than 39 of the largest counties in the nation.

- Increase efficiency in the parole decision-making process. The parole board in Hawaii has more responsibility and power over the length of time sentenced felony offenders serve than any other board in the country. Yet, they have fewer board members than most other states. With only three parole board members and two required at each hearing, there is little flexibility to ensure timely and complete hearings are held. This bill adds a fourth part-time member to the board to reduce the likelihood of unnecessary delays or incomplete hearings.
- Reduce reoffending by focusing prison-based programs on those who will benefit the most from treatment. This bill requires that a validated risk assessment be conducted on every sentenced offender to determine who is most likely to succeed and not reoffend after release and who is most likely to commit another crime. This bill requires that offenders most likely to be successful should be paroled after serving the sentence set by the parole board. Additional incapacitation beyond the minimum sentence date should be reserved for keeping those offenders more likely to reoffend behind bars until they complete treatment and have a suitable parole plan.
- Increase accountability and reduce recidivism by using swift, certain, and graduated sanctions for parolees. This bill calls for differentiating the severity of the response to violations. By limiting reincarceration for the first condition violation at six months, resources can be reinvested in additional parole officers and community-based programs to strengthen supervision while still imposing stiff sanctions on those that violate repeatedly, abscond, or are charged with a new felony.
- Ensure accountability by requiring a minimum period of supervision after prison for those offenders who have not been previously paroled and would otherwise be released without any transition. This bill requires that a small percentage of an offender's maximum sentence be served on parole supervision to monitor their behavior, create a safety plan for victims, and alert law enforcement. Such an approach is commonplace in most states that adopted truth in sentencing during the last two decades. In those states, most require an even greater percentage of each offender's sentence to be served under supervision at the end.
- Improve and increase victim restitution collected from offenders while they are incarcerated. This bill would increase the percentage collected from 10 percent to 25 percent, and would collect from not just wages (which typically amount to \$20 per month) but any deposits made to the individual offender's account. This will increase restitution collected for victims dramatically. In addition, the bill allows for reinvestment in a stronger system of accountability within the Crime Victim Compensation Commission to document restitution collection rates and progress.

Impact

Based on the analysis we conducted, we anticipate that this bill would contribute to increasing public safety in three ways. First, by addressing the inefficiencies that tie up resources in ways that do not reduce crime and reinvesting in ways that do. Second, by focusing resources spent on supervision, incarceration, and treatment on those individuals who are most likely to benefit from those investments in terms of reducing their

likelihood of committing another crime. Third, by increasing accountability in Hawaii's criminal justice system by mandating a period of supervision and increasing the amount of victim restitution collected.

Unless policymakers take action, the inefficiencies identified will cost Hawaii \$150 million over the next six years alone. Adopting the policies would avert all of those costs, while requiring an estimated \$7 million to be spent annually on investments in each of the following critical areas of the criminal justice system:

- Victim Services, Notification & Restitution Collection
- Prison, Reentry and Community Based Treatment Programs
- Probation and Parole Supervision
- Research and Planning

Thank you, Chair Espero, Chair Hee, and members of the committee, for the opportunity to share our research and findings with you as you work to find ways of increasing public safety while containing costs.

NEL ABERCROMBIE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY
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No. _____

January 31, 2012

**TESTIMONY ON SENATE BILL 2776
RELATING TO PUBLIC SAFETY**

By

**Jodie Maesaka-Hirata, Director
Department of Public Safety**

**Senate Committee on Public Safety, Government Operations and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair**

**Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair**

**Tuesday, January 31, 2012; 2:45 p.m.
State Capitol, Conference Room 224**

Chair Espero, Chair Hee, and Members of the Committees:

The Department of Public Safety (PSD) is in strong support of Senate Bill 2776, Relating to Public Safety, the result of work by the Justice Reinvestment Working Group. Included in *A New Day in Hawaii* is Governor Neil Abercrombie's initiative to return inmates housed in contracted correctional facilities to Hawaii. The Governor states "The ultimate way to reduce crime is to increase the number of strong, nurturing families and improve economic and social conditions for all." By returning prisoners to Hawaii not only are the opportunities for rehabilitation and family reunification improved, dollars spent out-of-state will be reinvested in creating jobs and community service opportunities here at home.

To this end, the Governor joined with Chief Justice Mark Recktenwald, Senate President Shan Tsutsui, House Speaker Calvin Say and Public Safety Director Jodie Maesaka-Hirata in applying for assistance from the US Department of Justice, Bureau of Justice Assistance (BJA), and the Pew Center on the States to participate in the national Justice Reinvestment Initiative (JRI). BJA describes this initiative as follows:

Justice reinvestment is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable.

The application was accepted and the State was afforded the assistance of the Justice Center of the Council of State Governments in developing Hawaii's strategy. The strategic approach is in three phases:

- 1) Analyze data and develop policy options;
- 2) Adopt new policies; and,
- 3) Measure Performance.

The Justice Center analyzed hundreds of thousands of records, from arrest and court conviction data, to probation, jail, prison and parole data; and solicited input from a wide range of stakeholders, from victim advocates, judges, prosecutors, probation, and parole.

Based on the comprehensive data presented, the Working Group considered options to manage the growth of the State jail and prison population, improve the effectiveness of community corrections and law enforcement, and identify community-based strategies to improve public safety. Two measures are introduced as part of the Governor's package to enact the recommendations of the Justice Reinvestment Working Group: Senate Bill 2776, relating to Public Safety, addresses the pre-trial process, parole and restitution; and, Senate Bill

2777, relating to Crime, addresses sentencing for felony drug offenders, terms of probation, and felony theft.

Pre-Trial Process

The pre-trial population nearly doubled over a one year period, from 624 pre-trial detainees incarcerated on June 30, 2010 to 1233 detainees incarcerated on June 30, 2011. These numbers include pre-trial misdemeanants, pre-trial felons, and probation violators awaiting a revocation hearing. The increase in the number of defendants incarcerated pre-trial is attributed to longer lengths of stay in jail rather than an increase in the number of defendants admitted post-initial appearance. Approximately 75% of pre-trial defendants are ultimately released from jail prior to trial.

If a defendant is not released at initial appearance, either because they could not make bail or were not offered release on own recognizance or supervised release, the defendant will be admitted to a Community Correctional Center until they are able to post bail or bail is reconsidered. If a motion is filed for reconsideration, the Intake Service Center will conduct a bail report that provides the judge with options for release. Currently, the time between initial appearance and a reconsideration hearing averages five weeks for pre-trial felons and one week for pre-trial misdemeanants.

Section 3 of this measure seeks to significantly reduce the time between admission to a Community Correctional Center and reconsideration hearings by mandating the completion of an objective assessment of a defendant's risk of flight or risk of committing new crimes while on release status within three working days of admission. The Intake Service Center will conduct the assessment and include the results as part of a bail report. By expediting the assessment and bail report, motions to reconsider may be heard in a timelier manner. The probation violator population is also better served by reducing the time between arrest and a subsequent revocation hearing.

We are very pleased the Intake Services Centers, the county prosecutors, the Office of the Public Defense and the Judiciary have already responded to the

findings of the Working Group and is addressing delays that may contribute to longer lengths of stay. For example, the state-wide probation violator population has been reduced by 117, or 27%, since June 30, 2011.

Parole

Hawaii has an indeterminate sentencing code, whereby maximum terms of imprisonment are set forth in statute and minimum terms are set by the Hawaii Paroling Authority (HPA). If there is mandatory minimum mandated HPA cannot set its minimum term below the mandatory minimum. Factors considered when determining the HPA minimum include aggravating and mitigating circumstances of the crime, and the criminal history of the defendant. Factors considered when determining release include behavior while incarcerated and progress made in completing programs recommended by correctional case managers.

The number of prisoners denied parole and kept in custody beyond their minimum term has increase 77% since Fiscal Year 2006, based on the end-of-year populations; on June 30, 2006, 493 inmates were incarcerated beyond their minimum expiration date while on June 30, 2011, 872 had expired minimums. In 65% of these cases, the decision to not release is attributed to program delay while incarcerated. Yet, many of those inmates are assessed as low risk for reoffending and could be released without presenting a risk to public safety to receive program services in the community.

Sections 5 and 6 of this measure increase the number of HPA members to ensure hearings can occur in a timely manner and members have adequate time to review cases prior to a hearing. Act 92, Session Laws of Hawaii 1976, reconstituted the former uncompensated Board of Paroles and Pardons as a professional board entitled the Hawaii Paroling Authority with a full-time paid chair and two part-time paid members. Since that time, there has been no increase in the number of members while the work load has increased by eight fold. Adding another part-time member will allow flexibility in scheduling hearings and reviewing cases. Chapter 23-700, Hawaii Administrative Rules, would be amended upon passage of this bill to define how to incorporate a fourth member.

When determining whether to release an inmate upon expiration of the minimum term, HPA's first consideration is public safety. The best way to measure risk is through the application of an objective risk assessment that predicts the probability of reoffending. Research in the field of substance abuse treatment, the program most commonly recommended for inmates to complete, has shown that prisoners who present a low risk of reoffending are more successful when placed in community-based treatment, freeing up beds and program space for more serious offenders. Through the application of an objective risk assessment, the members of the Hawaii Paroling Authority will be able to determine whether a low-risk inmate is appropriate for release to a community-based treatment program.

Victim Restitution and Protection

The Department has a legal and moral responsibility to protect the public now and in the future. Offenders must be held accountable for not only the crimes committed that resulted in conviction and incarceration, but also their future actions.

Under current law, inmates ordered to pay restitution have 10% of their wages earned while incarcerated deducted from their trust accounts, which victims receive annually. This is usually a pittance, as inmates earn just 25¢ an hour. Section 10 increases that share to 25% of all moneys earned plus new deposits and credits to inmate accounts, and by ensuring that victims will receive more restitution on a regular basis, restorative justice for victims will be enhanced.

Section 12 addresses parole practices but from the vantage point of protecting past and future victims. In 2011, 247 inmates were retained in prison until the expiration of their maximum term. As a result, these inmates had **NO** post-incarceration supervision and no community controls exerted on them. Of those who maxed out in 2011, 41% were assessed as high risk of reoffending. Offenders assessed as high risk have a significantly higher rate of rearrest in the first three years of release than those released to parole supervision. The CSG

Justice Center conducted independent analysis of PSD, HPA and Department of the Attorney General data to determine recidivism rates for those released from prison. Sixty-one percent of inmates who maxed out in FY 2008 were rearrested within three years, compared with 35% of those released to parole during the same period.

Mandating that a portion of the sentence must be served in the community with parole supervision increases public safety in a number of ways: 1) offenders are eligible for transitional services to adjust to life beyond the prison walls; 2) offenders can be placed in treatment services to address substance abuse and mental health issues; 3) offenders can be returned to incarceration if they violate the terms of their release; and 4) law enforcement will have a lead on where these offenders live and work.

We discovered a drafting error in the bill that must be corrected. Page 12, line 22, must be amended to read "706-606.5 (1) (c), if the authority..." Section 706-606.5(1)(c), HRS, allows under certain circumstances for the mandatory minimum to equal the maximum sentence which would preclude the proposed supervised release period prior to expiration of the maximum. While we believe this would rarely be the case, it is important that we address the possibility of any inmate being released from prison without supervision.

REINVESTING FUNDS

The Justice Reinvestment Initiative is premised on managing the growth of correctional populations through: 1) valid risk assessments to determine which offenders are better served in community-based programs as opposed to incarceration; evidenced-based approaches, programs and services that do not jeopardize public safety yet reduce admissions to corrections and reduce the length of stay in a correctional facility; 3) expand victim services in all counties; and, 4) reinvest savings generated from reduced corrections spending into communities.

Should all the recommendations included in this measure and Senate Bill 2777 be enacted, PSD will see an average reduction in bed demand equal to 410

Senator Will Espero, Chair
Senator Clayton Hee, Chair
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beds/day in the first year, resulting in a savings of up to \$7 Million in Fiscal Year 2013. These funds will be reinvested to support community-based programs and services, increased probation and parole staff, and victim services. Attached is a list of how these funds will be expended.

The Department is currently working with the Department of Budget and Finance to develop recommendations as to how to appropriate the savings for the purposes identified in the attachment.

SUMMARY

The Department of Public Safety urges this committee to support the proposals included in this measure as a means to optimize the effectiveness of the Hawaii criminal justice system by realigning our guiding principles and reinvesting in programs and services to promote public safety and reduce recidivism. We owe this to our community. We owe this to victims of crime.

Thank you for the opportunity to testify on this important measure.

**DEPARTMENT OF PUBLIC SAFETY
 JUSTICE REINVESTMENT INITIATIVE
 SENATE BILL 2776 AND SENATE BILL 2777**

PSD	
Intake Service Center Pre-Trial Assessment	\$300,000
Risk Assessment and Prison Based Programming	\$500,000
Community Based Programs	\$1,700,000
Research and Planning	\$400,000
Re-Entry Office	\$300,000
	\$3,200,000
HPA	
Parole Determination – New Board Members	\$300,000
Parole Supervision – New Officers and Program	\$700,000
	\$1,000,000
JUDICIARY	
Probation Staff, Programs, and Training	\$800,000
	\$800,000
VICTIM SERVICES	
Safety Planning and Notification by PSD	\$800,000
Restitution Accountability by CVCC	\$600,000
Victim Witness Services by Prosecutor's Office	\$600,000
	\$2,000,000
TOTAL	\$7,000,000

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 ALAKEA STREET, GROUND FLOOR
Honolulu, Hawaii 96813

TESTIMONY ON SENATE BILL 2776
RELATING TO PUBLIC SAFETY

BY

HAWAII PAROLING AUTHORITY
Bert Y. Matsuoka, Chairman

Senate Committee on Public Safety, Government Operations and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

AND

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

Tuesday, January 31, 2011; 2:45p.m.
State Capitol, Conference Room 224

Chair Espero, Chair Hee, and Members of both Committees:

The Hawaii Paroling Authority (HPA) appreciates the legislature's interest in the various areas covered by SB 2776 and provides testimony for those areas of this measure that affects the HPA. As written, the HPA supports the intent of SB 2776, but respectfully requests that amendments are made to Section 5 and 6 to add another part-time board member for a total to two additional part-time board members.

A five (5) member parole board comprised of one full-time chair and four (4) part-time board members provides a much greater degree of flexibility while simultaneously addressing the needs of the Authority with respect to ever increasing hearing schedules and required administrative session decision making. With a five-member parole board, a simple majority of three of the five members would be required to conduct hearings. Further, the addition of two part-time board members would be less costly to the state and more fiscally prudent.

BERT Y. MATSUOKA
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MEMBER

MICHAEL A. TOWN
MEMBER

TOMMY JOHNSON
ADMINISTRATOR

No. _____

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The HPA does have concerns regarding implementation of Section's 7, 8, and 12 of this measure as there is no mention of additional parole supervision, administrative staff, or funding for additional community-based programs and services that would be required if this measure as it relates to the HPA were enacted.

Thank you for this opportunity to provide testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, GOVERNMENTS OPERATIONS, & MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Michelle Kidani, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

Tuesday, January 31, 2012

2:45 p.m.

Room 224

STRONG SUPPORT FOR SB 2776 - RELATING TO PUBLIC SAFETY

Aloha Chairs Espero and Hee, Vice Chairs Kidani and Shimabukuro and Members of the Committees!

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, always being mindful that 6,000 Hawai'i individuals are living behind bars, including 1,800 men who are serving their sentences abroad, thousands of miles from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 2776 is based on analysis and policy options developed as part of the justice reinvestment initiative. It amends statutes to require a pre-trial risk assessment be conducted within three working days, expands the parole board and requires the use of validated risk assessments to guide parole decisions, limit the length of incarceration for first-time parole violators, increases victim restitution payments by inmates, and requires a period of parole supervision prior to the maximum sentence date.

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.

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. Perhaps a sliding scale can be implemented so that inmates with ample funds pay more than those with meager funds. Our concern is that 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.

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



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

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

January 31, 2012

To: Senator Will Espero, Chair
Senator Michelle Kidani, Vice Chair and
Members of the Committee on Public Safety, Government Operations, and Military Affairs

From: Jeanne Y. Ohta

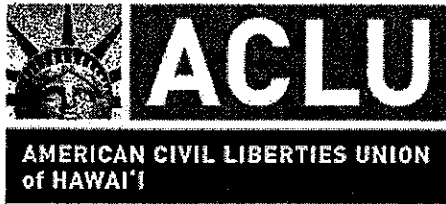
RE: SB 2776 Relating to Public Safety
Hearing: Tuesday, January 31, 2012, 3:15 p.m., Room 224

Position: Strong Support

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



Committee: Committee on Public Safety, Government Operations, and Military Affairs
Committee on Judiciary on Labor
Hearing Date/Time: Tuesday, January 31, 2012, 2:45 p.m.
Place: Conference Room 224
Re: Testimony of the ACLU of Hawaii in Support of and With Comments to S.B. 2776, Relating to Public Safety

Dear Chair Espero, Vice Chair Kidani, and Members of the Committee on Public Safety, Government Operations, and Military Affairs, and Chair Hee, Vice Chair Shimabukuro, and Members of the Committee on Judiciary and Labor:

The ACLU of Hawaii generally supports SB 2776 and the other proposals submitted as part of the Justice Reinvestment Initiative (JRI). However, we respectfully suggest the following improvements to the bill:

1. Section 7: Federal detainees

We respectfully suggest that the Committee specifically exclude detainees placed by the federal government because such an exclusion would 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) 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

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Chairs Espero and Hee and Members of PGM and JDL

January 31, 2011

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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.

2. Section 8: Reduce maximum prison time for parole violations to 90 days to conform with other states.

Currently, SB 2776 reduces the maximum prison/jail time for a technical parole violation to six months, which is a step in the right direction. However, other states that have gone through the JRI process have settled on 90 days as the maximum time, with no adverse public safety effects and significant cost savings. Although this measure is a positive one, we strongly recommend that the Committee put the time in line with other states and cap the prison/jail time at 90 days rather than six months.

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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Testimony on SB 2776 and SB 2777

Senate Committee on Public Safety, Government Operations, and Military Affairs

Chair: Sen. Will Espero

Vice-Chair: Sen. Michele Kidani

Tuesday, January 31, 2012, 1:00 p.m.

Conference Room 016

Testimony submitted by: Howard S. Garval,
President & CEO, Child & Family Service

Child & Family
SERVICE
Private, nonprofit since 1899

Good afternoon, Chair Espero and Vice-Chair Kidani and Committee members. I am Howard S. Garval, President & CEO of Child & Family Service, Hawaii's oldest and most comprehensive human service nonprofit organization with services on every island and touching the lives of 40,000 Hawaii residents from keiki to kupuna each year. I am testifying in strong support of SB 2776 and SB 2777.

There are excellent examples in states like Connecticut where I worked for 18 years before coming to Hawaii of a better and more cost-efficient way to deal with our justice and corrections systems. Both of these bills recommend important improvements that will assure safety of the public but will also be much more cost effective to the state. There are too many offenders in prison who could be released with strong parole supervision who represent minimal to no risk to the community. Meanwhile there are A Felony inmates who should not be released when their time is up without adequate supervision that will prevent the high rates of recidivism that now occur with this population.

By implementing many of the provisions of these bills, we can redirect resources to prevent more young people from entering the criminal justice system. Some of these funds could be redirected to the child welfare system and juvenile justice systems from which youth often graduate to adult corrections. If we can intervene sooner with young people, we can reduce the numbers who ever enter our prison doors.

I urge your support of SB 2776 and SB 2777.

Mahalo for providing the opportunity to submit testimony.

With Aloha,

Howard S. Garval, MSW
President & CEO
Child & Family Service

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND
MILITARY AFFAIRS**

Senator Will Espero, Chair

Senator Michele Kidani, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

Tuesday, January 31, 2012

2:45 p.m.

Room 224

SUPPORT SB 2776 - RELATING TO PUBLIC SAFETY

Aloha Chairs Espero and Hee and Members of the Committees:

My name is Diana Bethel, and I am a concerned citizen writing in strong support of SB 2776. SB 2776 is based on analysis and policy options developed as part of the Justice Reinvestment Initiative. It amends statutes to require a pre-trial risk assessment, expands the parole board and requires the use of validated risk assessments to guide parole decisions. It limits the length of incarceration for first-time parole violators, increases victim restitution payments, and requires a period of parole supervision prior to the maximum sentence date.

SB 2776 provides valuable recommendations that will help Hawaii's criminal justice system to become more efficient and cost-effective and, ultimately, to enhance public safety in our communities.

These recommendations have proven successful in other jurisdictions in reducing recidivism and decreasing costs. It is in the best interest of the taxpayers of Hawaii, in the best interest of public safety, as well as in the best interest of offenders for policymakers to become more open to learning from the successes and best practices of other jurisdictions. This is critical to improving our criminal justice system. We can only be assured of greater public safety if we are able to help offenders reintegrate into their communities as productive and contributing members of society. This way, all the people of Hawaii will benefit.

Thank you for this opportunity to provide testimony on this important bill. Please vote yes on SB 2776.

Mahalo,

Diana Bethel

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 1:37 PM
To: PGM Testimony
Cc: [REDACTED]
Subject: Testimony for SB2776 on 1/31/2012 2:45:00 PM

Testimony for PGM/JDL 1/31/2012 2:45:00 PM SB2776

Conference room: 224
Testifier position: Support
Testifier will be present: Yes
Submitted by: Tony Simoneau
Organization: Individual
E-mail: [REDACTED]
Submitted on: 1/30/2012

Comments:

Thank you for hearing my testimony today. I used to believe the incarcerated got what they deserved in correctional facilities. That was until embarrassingly being charged and incarcerated at Hawaii's OCCC correctional facility. The PSD Correctional Division already has many mechanisms to address the pretrial and screened non violent offenders unnecessarily being detained. These programs and policies im sorry to report are not currently being used or maximized. In my own case as a non violent offender I did not see the facilities case manager until 3 Weeks after detension,, I was not afforded to call a lawyer to advoate my release during same such time. This puts extreme resource drain on taxpayers and the state government.

PSD and its correctional department have at their disposal such programs as Supervised Release, and Policy COR.16.11 (emergency release by warden to address overcrowding) Both of which address cutting costs of incarceration and gross overpopulation issues, but currently not being efficiently utilized.

Many pretrial, non violent detainees stay incarcerated longer than need be. I know this is Hawaii, but in the mainland many have a plea in court the next day and given personal recognizance bail.

With current financial and overcrowding concerns, PSD and Corrections can ill afford to maintain "status quo", they must start utilizing the programs and policies in place, and the ones forthcoming.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 8:12 AM
To: PGM Testimony
Cc: ~~maukalani76@comcast.net~~
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Testimony for PGM/JDL 1/31/2012 2:45:00 PM SB2776

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: elaine funakoshi
Organization: Individual
E-mail: ~~maukalani76@comcast.net~~
Submitted on: 1/30/2012

Comments:

Chairs Espero & Hee, and Vice Chairs Kidani & Shimabukuro and Members:

STRONG SUPPORT for this very important measure based on the Justice Reinvestment Initiatives' findings.

I thank you for hearing this bill. It will start the ball rolling to make changes which are sorely needed and face much opposition.

Thank you for the opportunity to submit my testimony.