

**SB 284**



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 284, S.D. 1, RELATING TO CORRECTIONS.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Thursday, February 24, 2011 **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** WRITTEN COMMENTS ONLY. For more information, call  
Richard W. Stacey, Deputy Attorney General at 586-2978

---

Chair Ige and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

The bill seeks to establish a temporary pilot program primarily administered by the Department of Public Safety (PSD) for non-violent inmates to help restore culturally significant Hawaiian sites.

Wording in section 1 of the bill makes references to "Hawaiian inmates" and to the "cultural ancestry" of inmates. The Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and Article I, section 5, of the Hawaii State Constitution, requires all persons similarly situated to be treated alike, without regard to race. Although the language in the substantive portion of the bill seems clear that this program would be open to non-violent inmates without preference based on whether they are Hawaiian, the wording in

section 1 on page 1 at lines 4-9 could lead one to conclude that the program would only be available to inmates of Hawaiian ancestry. In addition, the lack of a definition of the term "non-violent" will create the potential for increased litigation and will create uncertainty on the part of PSD in the administration of the program.

Therefore, before the bill is passed, we recommend that section 1 be amended to clarify that this program would be available to appropriate non-violent inmates regardless of ancestral background, with a clear definition of what "non-violent" includes.



**SB 284 SD1**  
**RELATING TO CORRECTIONS**  
Senate Committee on Ways and Means

February 24, 2011

9:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following comments on SB 284 SD1. This bill establishes a pilot program within the Department of Public Safety (DPS) that assigns select, non-violent inmates on a work detail that restores historical sites selected by OHA. The bill also appropriates funds for this program.

OHA has very strong reservations about the means utilized to fund this program since general fund resources for this program appear to offset or reduce general fund resources allocated to OHA for its programs. This bill inappropriately seeks to reduce OHA's general funds in the amount of the DPS appropriation while at the same time asking OHA to play a major role in the project. This bill would impede the Board of Trustees' ability to allocate funds in accordance with the needs of its beneficiaries and thereby hinder OHA's efforts to fulfill its constitutional and statutory mandates.

OHA recognizes the value of culturally appropriate programs that assist incarcerated individuals with rehabilitation and reintegration into the community. In the past, OHA has supported cultural programming for incarcerated individuals (or pa'ahao) and reintegration efforts. Important service providers such as MEOBest, T.J. Mahoneys, and Hina Mauka have all received OHA grant resources previously to support Native Hawaiian pa'ahao.

OHA's recent report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," further confirms that culturally appropriate programs, like the one suggested in this bill, help pa'ahao rehabilitate and re-enter the community.

This bill does not expand resources for pa'ahao, it simply reallocates existing resources away from OHA to DPS. Since more services are needed, we strongly encourage the Committee to fund this program without incorporating the offset to OHA general revenue resources.

Thank you for the opportunity to submit comments on this legislation.

**National Association of Reformed Criminals**  
**1765 Ala Moana Blvd. #1388**  
**Honolulu, Hawaii, 96815**  
**February 24, 2011**

**COMMITTEE ON WAYS AND MEANS**

Sen. David Y. Ige, Chair

Sen. Michelle Kidani, Vice Chair

Thursday February 24, 2011

9:00 AM

Room 211

SB 284 SD1

**Support**

We support this bill, even though the Dept of Public Safety can and have been expanding the prison's community service program for these types of projects since 1983. Our only objection is to the language that restricts certain participants. This bill is designed for "select, non-violent inmates," which conflicts with the DPS security classification process that takes all factors into consideration - such as instant offense, escape history, violence, institutional conduct, etc. - before their security level is reduced to allow them to work in the community under the supervision of an ACO. Our stance is that the wording is revised to say "Select, low-custody inmates," which is the current policy, instead of non-violent inmates only, so we don't restrict someone who would benefit from this type of program.

Mahalo,

Andy Botts