



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

H.B. NO. 950, RELATING TO COMMITTED PERSONS ON FURLOUGH.

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, February 7, 2013

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): David M. Louie, Attorney General, or
Garry L. Kemp, Administrator, Child Support Enforcement Agency

Chair Aquino and Members of the Committee:

The Department of the Attorney General generally supports the intent of this bill. However, the Department has concerns that the bill as written could cause the state to be out of compliance with federal law, which would jeopardize federal funding. Also, the bill would adversely impact the operations of the Child Support Enforcement Agency. Therefore, the Department suggests an amendment to the part of this bill that amends section 353-17, Hawaii Revised Statutes, (HRS), to limit the amount that can be deducted from the net earnings of inmates on furlough for child support purposes.

The provisions of this bill would amend section 353-17, HRS, to include child support payments as obligations for inmates on furlough who are employed and delineates the percentage of net earnings that shall be deducted to satisfy outstanding restitution and child support orders.

Currently, the State of Hawaii is in compliance with section 466(b)(1) of the Social Security Act (42 U.S.C. §666(b)(1)) that requires the income of the non-custodial parent be withheld in an amount necessary to comply with the child support order up to the maximum amount permitted under the Consumer Credit Protection Act (15 U.S.C. §1673(b)) in cases where child support has been ordered and is being enforced by the Child Support Enforcement Agency. If this bill is passed and the agency is limited in the amount that it can require an employer to withhold from the net earnings of an employee who is an inmate on furlough to thirty percent as specified on page 2, lines 1 through 3, it would cause the State to be out of compliance with existing federal law. If the State is found to be out of compliance, it will

jeopardize federal welfare funding and federal funding of the child support enforcement programs.

In addition, the Department of the Attorney General is concerned that this bill would have an adverse impact on the Child Support Enforcement Agency's operations and personnel. In order to comply with federal requirements, the agency's state wide computer system is designed to generate income withholding notices based upon the underlying child support orders. When a new employer is identified through the state new hire reporting process, the notice is sent to the new employer. 45 C.F.R. §303.100(e)(2) and (3) requires the agency to send notice to the employer of the withholding requirement within two business days of the agency receiving the information on the employment of the non-custodial parent. If this measure passes and the agency is limited to thirty percent of the net monthly earnings for employees who are on furlough, additional resources will be necessary to modify the system to keep track of these types of employees separately from all other employees. The agency would not know what to require the employer to withhold as we would not know what the employee's net income will be. To obtain the information on the employee's net income before sending the notice to the employer will delay the process and cause the agency to be in danger of not being able to transmit funds received on behalf of a custodial parent within two business-days in accord with federal requirements. Also, these employees will have to be manually tracked to determine when they are no longer on furlough and the restriction no longer applies.

Additionally, this bill may have an adverse impact on the employer. The employer will have to keep track of these employees separately because of the different withholding requirements.

The Department of the Attorney General respectfully requests that the members of the Committee consider deleting the wording limiting the amount of child support "to be paid at thirty per cent of the net monthly earnings or the amount ordered, whichever is less," on page 2, lines 1 through 3, if this bill is to be passed.