

NEIL ABERCROMBIE
GOVERNOR



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No. _____

TESTIMONY ON SENATE BILL (SB) 1179, SENATE DRAFT (SD) 1
A BILL FOR AN ACT RELATING TO
COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES
AND DETAINEES IN CORRECTIONAL FACILITIES

by
Ted Sakai, Director
Department of Public Safety

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

Monday, February 25, 2013, 10:00 a.m.
State Capitol, Conference Room 16

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** SB 1179, SD 1 to modify an existing statute which was enacted in 2011, relating to court orders to provide medical treatment for inmates and detainees in correctional facilities. As can be surmised with many newly created statutes, implementing the specific language of the statute often encounters operational considerations previously not envisioned in the original design. There are two (2) specific operational deficiencies in the original statute that restrict the Department's ability to fully implement the original intent of the statute, and that require modification, as well as six "housekeeping items" contained in this bill.

The two most significant specific areas that require modification are: (1) the definitions of danger of harm to self or others, and (2) the hearing notification process.

We are proposing that the definitions for harm to self or others be expanded to include individuals who, although they do not pose an immediate

danger due to present physical constraints, do represent an imminent danger if these physical constraints are not present. We are seeking this expanded definition since we have encountered inmates with mental health disorders who have been relegated to long periods of isolation in segregated settings who may not present the immediate behaviors of danger to self or others. However, if released from segregated settings, it is reasonably predictable based on past behaviors that they would pose a serious danger to self or others. Presently, these individuals are relegated to indefinite seclusion, depriving them of opportunity and rights of other prisoners or detainees. The Department considers it to be inhumane to retain these inmates in such settings without attempting interventions that could conceivably permit them the rights and privileges of other prisoners.

The second significant area of change is the hearing notification process. The Department has found it unnecessarily cumbersome to attempt to contact the litany of individuals outlined in the present statute, and is seeking to expedite the notification process by restricting notification to those parties whom the inmate has designated as their emergency contact or their legal guardian while in the custody of the department, while still permitting the court to decide if other significant parties are relevant to the hearing.

There are additional minor proposed changes in the statute, that are reflected as follows: (1) permitting filings for orders in district court as well as circuit court; (2) permitting a declaration in addition to an affidavit from licensed physicians or psychologists who have personally examined the inmate; (3) deleting the erroneous reference to "commitment" and replacing it with a reference to "treatment"; (4) substituting the references to "judge" with references to "court " throughout the bill; (5) removing the inmates' inability to participate in the hearing as a condition for the court considering appointing guardianships; and (6) permitting the court order to continue to the maximum period of the order should an individual be released and returned to custody, unless it has been determined the person is no longer in need of treatment.

Thank you for the opportunity to testify on this bill.