

SB 705

RELATING TO PUBLIC SAFETY.

Requires the release on supervised parole prior to expiration of the maximum sentence.

NEIL ABERCROMBIE
GOVERNOR



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No. _____

TESTIMONY ON SENATE BILL 705
A BILL RELATING TO PUBLIC SAFETY
Ted Sakai, Interim Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental
and Military Affairs
Senator Will Espero, Chair

Tuesday, January 29, 2013, 2:50 PM
State Capitol, Conference Room 224

Senator Espero and Members of the Committee:

The Department of Public Safety supports Senate Bill 705, Relating to Public Safety, which requires inmates to be released on parole prior to the expiration of their maximum term of incarceration. The language in this bill was part of the original legislation package under the Justice Reinvestment initiative. Statistical information provided by the Council of State Government indicated that inmates that were released at the end of their maximum term of incarceration with no supervision recidivated at a higher rate than that of inmates placed on parole. In their study that covered inmates released in Fiscal Year 2008, 53% of the inmates released on their maximum term were arrested for a misdemeanor or felony within three years. In comparison, parolees released during the same time frame recidivated at 28%. The Department recommends that this bill be amended to exclude mandatory release of inmates that are high risk or have displayed negative behavior in prison.

It is unfortunate that an appropriation was not considered for this bill as

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the Hawaii Paroling Authority would need additional resources to properly supervise these additional parolees. Many of these inmates did not receive programming during their incarceration and would require services and treatment in the community.

Thank you for this opportunity to testify.

NEIL ABERCROMBIE
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TESTIMONY IN SUPPORT OF SENATE BILL 705
A BILL RELATING TO PUBLIC SAFETY

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Tuesday, January 29, 2013; 2:50 PM
State Capitol, Conference Room 224

Chair Espero, Vice Chair Baker, and Members of the Senate Committee on Public Safety,
Intergovernmental and Military Affairs:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in support of Senate Bill 705, with the amendments proposed by the Department of Public Safety and the Hawai'i Paroling Authority. Senate Bill 705 requires inmates to be released on parole prior to the expiration of their maximum term of incarceration.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one, if compensation were not available.

One of the key elements to reducing recidivism and supporting a safer community is to make sure that all offenders receive a comprehensive pre-release risk assessment so they can receive appropriate post-release supervision, programming, and treatment. The Justice Reinvestment

Task Force analysis of Hawai'i's prison population identified a small number of offenders that were maxing-out in prison. The question for these offenders is not whether the community wants them to max-out or not. The question is whether the community can afford for these offenders to max-out in prison and then be released with nobody watching them, or whether the community will be safer and more secure if these offenders max-out to parole, where they will receive intensive post-release supervision and programming.

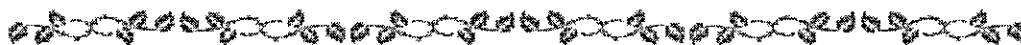
Given that some offenders are clearly at the highest risk to re-offend, the community will clearly benefit if these offenders are supervised for a period of time under intense post-release supervision. With the exceptions identified by the Department of Public Safety and the Hawai'i Paroling Authority, allowing offenders to avoid parole does not make for a safer community because it is more difficult, and perhaps impossible, to do safety planning for crime victims because there is no knowledge of the whereabouts of the released offender, no ability to intensively supervise the offender post-release, and no ability to incorporate safety strategies in the interest of crime victims and the community. Senate Bill 705, with amendments proposed by the Department of Public Safety and the Hawai'i Paroling Authority, provides an opportunity for crime victims to plan for the release of the offender and to coordinate the interests of crime victims with an intensive form of parole supervision upon release.

Thank you for providing the Commission with an opportunity to testify in favor Senate Bill 705 with amendments proposed by the Department of Public Safety and the Hawai'i Paroling Authority.

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COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Rosalyn Baker, Vice Chair

Tuesday, January 29, 2013

2:50 p.m.

Room 224

STRONG SUPPORT FOR SB 705 - PUBLIC SAFETY

Aloha Chair Espero, Vice Chair Baker and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 Hawai'i individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 705 requires the release on supervised parole prior to expiration of the maximum sentence.

Community Alliance on Prisons is in strong support of this measure that replaces a section of the SB 2776, a Justice Reinvestment bill that was inexplicably removed at the eleventh hour of the 2012 conference committee.

An article in the Honolulu Star Advertiser stated, "*Hawaii inmates considered at high risk for committing new offenses increasingly have been released from prison without any supervision -- a trend that experts say is not only out of sync with national practices, but increases the safety risk to the public.*"¹

- In 2006, 121 individuals served their maximum sentence, 15 (12%) were high risk (for committing a new crime or parole violation)
- In 2011, 247 individuals served their maximum sentence, 101 (41%) were high risk

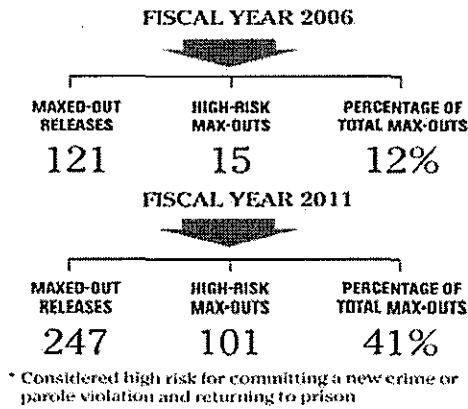
"The 2011 figure did not include parole violators, including 27 high-risk ones, who maxed out that year. That means the number of high-risk Hawaii inmates who completed their terms and were released without any transition actually was greater: 128."²

¹ *High-risk inmates freed at rising rate*, by Rob Perez, December 27, 2011.
<http://www.staradvertiser.com/s?action=login&f=v&id=136249078>

² Ibid

NO SUPERVISION ON THE OUTSIDE

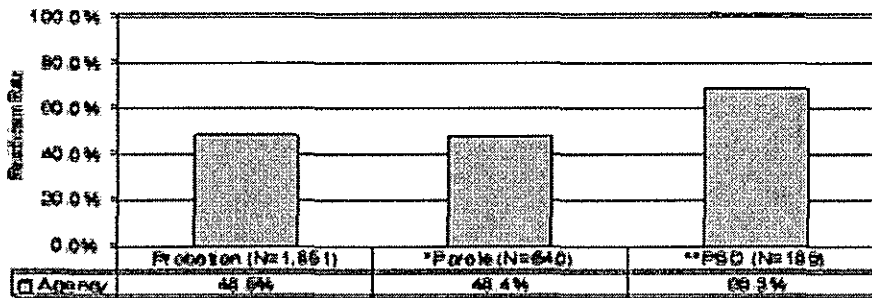
Over the past five years, the number of Hawaii inmates who completed their full sentences — “maxed out” — and were released from prison without any supervision jumped dramatically. The number of high-risk* inmates who maxed out also increased significantly. The numbers do not include parole violators who were returned to prison and subsequently maxed out.



Source: Council of State Governments Justice Center

The data from the Interagency Council on Intermediate Sanctions (ICIS) show the recidivism rate for probationers is 48.5%; the recidivism rate for parolees is 48.4%; and the recidivism rate for those who serve their maximum term and are released with no supervision and support is 69.3%.³

**Figure 1
ICIS-Defined Recidivism Rates,
by Agency, FY 2008 Cohort**



Source: CUIS 7-11
 *Release to parole
 **Maximum term release
 †(2,630) = 107, p < .001
 ICIS Recidivism defined as any rearrest, revocation, or technical violation.
 DAG/DANC Pleas not included

³ ICIS, State of Hawaii, FY 2008 Cohort 2011 Recidivism Update, page 3.
http://hawaii.gov/icis/documents/Hawaii_Recidivism_Update_2011.pdf

Research on the effects of incarceration is not conclusive, but the results of many studies point to the potential psychological harm that long term incarceration can cause. These findings are critical to policy makers who must decide how best to deal with long term inmates so that when they are released, they can return to the community as productive, law abiding citizens.⁴

The prisonization model, first developed in 1940, holds that the longer inmates are incarcerated, the more "criminalized" and distanced they become from the values and behaviours of society outside prison walls. A process involving changes within the individual inmate, prisonization results in the inmate increasingly acquiring the values, standards and behaviour patterns of the other inmates; imprisonment causes prisonization, which in turn results in the inmate assuming criminal role identities (Zingraff, 1975). Two variations on the prisonization theory have emerged. Some sociologists have argued that it is pre-imprisonment attitudes and behaviour patterns and the duration of involvement with criminal value systems prior to incarceration which are the crucial determinants of prisonization (Irwin, 1970, Irwin & Cressey, 1962, Thomas & Petersen, 1977, cited in Zamble & Porporino, 1988). Others have argued it is primarily factors within the corrections institution which determine the prisonization process. They suggested that the degree of prisonization could be affected by such factors as length of time incarcerated, interpersonal ties with other criminals, proportion of time served, social role adaptation of the inmate, post-release expectations of the inmate, degree of alienation from society, degree of alienation from the institution and self-concept of the inmate (Zingraff, 1975).⁵

More than 100 leading national and state crime victim advocates and survivors have signed on to a statement of guiding principles on sentencing, corrections, and public safety. One of the seven principles speaks directly to the issue of time served in prison:

*"While it is important for offenders to receive just punishment, the quantity of time that convicted offenders serve under any form of correctional supervision must be balanced with the quality of evidence-based assessment, treatment, programming **and supervision they receive** that can change their criminal behavior and thinking and reduce the likelihood that they will commit future crimes. For many offenses and offenders, shorter prison terms are acceptable if the resulting cost savings are reinvested in evidence-based programs that reduce recidivism."⁶*

The analysis in this study shows that there are more savings that can be garnered by thoughtfully addressing sentence length and release decisions. With the right risk assessment tools and a careful evaluation of the dynamics influencing their prison populations, states can move with confidence down this new path—one that recognizes that simply putting as many people in prison for as long as possible is not the best way to spend public dollars and protect public safety.⁷

The National Council of State Legislators convened a Sentencing and Corrections Work Group that included legislators from many states, including Representative Faye Hanohano from our Legislature. The report, entitled Principles of Effective State Sentencing and Corrections Policy, states:

⁴ EFFECTS OF LONG TERM INCARCERATION, JOHN HOWARD SOCIETY OF ALBERTA, 1999.
<http://www.johnhoward.ab.ca/pub/C35.htm>

⁵ Ibid

⁶ TIME SERVED The High Cost and Low Returns of Longer Prison Terms, Pew Center on the States, Public Safety Performance Project, June 2012, page 41.

http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Prison_Time_Served.pdf

⁷ Ibid

3. A continuum of sentencing and corrections options should be available, with prison space for the most serious offenders and adequate community programs for diversion and supervision of others.

- Ensure assessment of offender risk, needs and assets in order to provide appropriate placement, services and requirements.
- Strengthen placement decisions and supervision by encouraging coordinated interbranch efforts among courts, corrections departments, and state and local supervision agencies.
- Establish policies that consider an offender's risk and criminal history as the basis for sentencing options and program eligibility.
- Provide clear policies for violations of community supervision. Consider administrative remedies and court options for technical violations, and offer incentives for compliance with conditions and requirements.
- Consider time-served requirements and ensure that release mechanisms and policies are clear and complete.
- Allow incentives for prisoners who complete prescribed programming, treatment or training.
- **Provide appropriate levels of supervision and services for all offenders as they reenter the community.**⁸

A December 2011 article in the National Council of State Legislatures magazine entitled, "Seven Sentencing Principles"⁹ reported:

Principle 3. Make available a continuum of options, including prison space and community programs.

States are increasing the options available for suitable offenders, both to get more for their money and to ensure prison space is available for the most dangerous criminals. Community supervision options—electronic monitoring, residential programs and problem-solving courts—are far less costly than putting someone in jail or prison and usually provide more supervision than traditional probation or parole. Substance abuse and mental health treatment, both residential and in the community, often can address issues that lead people to commit crimes. Increasingly, states are allowing courts and agencies to tailor supervision based on a person's treatment needs and likelihood of committing another crime.

In 2010, state leaders in North Carolina, concerned about a 10 percent increase in prisoners forecast by 2020, considered how to improve community supervision and make the best use of treatment resources. The resulting Justice Reinvestment Act passed by the General Assembly this year requires supervision for everyone released following a felony conviction.

"Approximately 15,000 people who would have walked out of prison with no accountability now will be supervised and held accountable for following the law," says Representative David Guice

⁸ Principles of Effective State Sentencing and Corrections Policy, A Report of the NCSL Sentencing and Corrections Work Group, 2011, page 2. <http://www.ncsl.org/documents/cj/pew/WGprinciplesreport.pdf>

⁹ NCSL, Seven Sentencing Principles: December 2011.

<http://www.ncsl.org/issues-research/justice/seven-sentencing-principles.aspx>

of North Carolina. The legislation was designed, he says, to balance the dual goals of increasing public safety and reducing spending on corrections.

The law allows rule violations—such as missing appointments or drug tests—to be addressed with sanctions such as electronic monitoring or strict curfews rather than prison time. The law also calls for focusing supervision and treatment on people with the highest risks and needs. It offers incentives for prisoners to participate in programs and supports diverting some people convicted of drug felonies to community treatment.

“If we do not deal with the underlying issues and provide treatment and supervision for offenders coming out of prison,” Guice says, “we’ll see them at the front door of the courthouse again.”

In summary, releasing individuals from prison directly into the community does not protect public safety.

Community Alliance on Prisons, therefore, urges the committee to consider the research in this area and eliminate the ‘maxing out’ of individuals who have served long prison terms.

Supervision and support are necessary for the successful transition back to community life for formerly incarcerated individuals. The Justice Reinvestment Initiative allocated funds for increasing the number of parole officers to help with supervised reentry. This will enable those making the transition from prison life to community life have the chance to successfully reenter their communities.

We thank the committee for this opportunity to testify and share our research.