

# **SB 560**

## **RELATING TO FAMILY LEAVE**

Requires the auditor to audit the use of state and federal family leave benefits by adult corrections officers of the department of public safety.

PSM/JDL, WAM

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Roz Baker, Vice Chair

## COMMITTEE ON JUDICIARY AND LABOR

Sen. Gilbert Keith-Agaran, Chair

Sen. Maile Shimabukuro, Vice Chair

Tuesday, February 12, 2015

9:10a.m.

Room 016

## STRONG SUPPORT for SB 560 - FAMILY LEAVE ACT with AMENDMENTS

Aloha Chairs Espero and Keith-Agaran and Members of the Committees!

My name is Kat Brady and I am a Community Justice Advocate. I am also the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars and the thousands of people on probation and parole. We are always mindful that more than 1,600 of 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 Kanaka Maoli, far, far from their ancestral lands.

SB 560 requires the auditor to audit the use of state and federal family leave benefits by adult corrections officers of the department of public safety.

Community Alliance on Prisons thanks you for hearing this bill and we are in strong support.

### REQUESTED AMENDMENTS:

Community Alliance on Prisons asks the auditor to:

- 1) review other 24/7 essential services, such as police, hospitals, and fire departments to determine if there is abuse of the Family and Medical Leave Act (FMLA) in their agencies, and
- 2) review the certification that is required by the department of public safety at the time the leave is requested or within five business days.

The FMLA<sup>1</sup>, enacted in 1993, entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health

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<sup>1</sup> U.S. Department of Labor, Wage & Hour Division, Family and Medical Leave Act, <http://www.dol.gov/whd/fmla/>

insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or

Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

**Your employer may require proof of the serious health condition.**<sup>2</sup> This can be a touchy issue when it comes to your own health and that of your family. It's not written in the law that you must always garner proof of the reason you need to take leave, but your boss is entitled to ask for it, and if he or she does, you must obtain certification from a health care provider. "It is a sensitive issue, and a private issue. But still, for extended leave, I counsel my employers that yes, they should seek certification. Just go about it in a responsible manner," Grant says.

The Department of Labor website states that an employer should request certification at the time you request the leave or within five business days. After that, you're allowed at least 15 calendar days to obtain proof. An employer may also contact your health care provider for authentication or clarification, but breathe easy – employers are not allowed to ask providers for additional information beyond what is contained in the certification form.

The lack of visitation at many of our facilities has prompted this audit, which is sorely needed.

We sincerely hope that the department of public safety employees are not abusing this well-intended law. There is no aloha in that!

Community Alliance on Prisons respectfully asks the committee to pass this measure.

Mahalo for this opportunity to testify.

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<sup>2</sup> 6 Things You Need to Know About the Family and Medical Leave Act - Many employees aren't aware of how FMLA works, by Jada A. Graves, US News and World Report, April 4, 2013.

<http://money.usnews.com/money/careers/articles/2013/04/04/6-things-you-need-to-know-about-the-family-and-medical-leave-act>



Committee: Committees on Public Safety, Intergovernmental and Military Affairs and  
Judiciary and Labor  
Hearing Date/Time: Thursday, February 12, 2015, 9:10 a.m.  
Place: Room 016  
Re: Testimony of the ACLU of Hawaii in **Support of S.B. 560**, Relating to  
Family Leave

Dear Chair Espero, Chair Keith-Agaran, and Committee Members:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in **support of S.B. 560**, requiring the Auditor to examine the use of leave benefits by adult corrections officers.

The ACLU of Hawaii receives frequent complaints from family members of prisoners regarding the persistent and ongoing cancellation of scheduled visitation times at Hawaii’s prisons. We believe an audit will help to determine ways in which the Legislature and the Department of Public Safety can address this issue.

Thank you for this opportunity to testify.

Daniel M. Gluck  
Legal Director  
ACLU of Hawaii

*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 50 years.*

American Civil Liberties Union of Hawai'i  
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**From:** mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]  
**Sent:** Thursday, February 05, 2015 9:00 PM  
**To:** PSMTestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** Submitted testimony for SB560 on Feb 12, 2015 09:10AM

**SB560**

Submitted on: 2/5/2015

Testimony for PSM/JDL on Feb 12, 2015 09:10AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments: Strongly Support.

**From:** mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]

**Sent:** Friday, February 06, 2015 10:13 AM

**To:** PSMTestimony

**Cc:** ezlchirpz@gmail.com

**Subject:** \*Submitted testimony for SB560 on Feb 12, 2015 09:10AM\*

**SB560**

Submitted on: 2/6/2015

Testimony for PSM/JDL on Feb 12, 2015 09:10AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lezlie Kiaha	Individual	Support	No

**COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

Sen Will Espero, Chair

Sen. Rosalyn Baker, Vice Chair

**COMMITTEE ON JUDICIARY AND LABOR**

Sen. Gilbert Keith-Agaran, Chair

Sen. Maile Shimabukuro, Vice Chair

Thursday, February 12, 2015

9:10 am

Room 016

SB560 (AUDITOR,. FAMILY LEAVE; ADULT CORRECTIONS OFFICERS)

Dear Chair Espero, Vice Chair Baker of the PSM committee and Chair Keith-Agaran and Vice Chair Shimabukuro of the Judiciary and Labor Committee, and Members of the Committees:

I am E. Ileina Funakoshi writing to **strongly support SB 560**.

With the frequency of the cancellation of visitations at the prison facilities and at the escalating cost of overtime pay, and depriving the families of inmates to weekly visitations, I believe the public is entitled to know the underlying reason for this and other problems within our prison system.

People who live on the north shore or come from neighbor islands or mainland, are not aware of the cancellation of visitation until they reach the facility because of the late notification. Policies are also not clearly stated or disseminated so visitors arrive with unacceptable clothing/footwear and are denied access to the facility.

There are other issues like how does the drugs get into the facility. Are rules being administered across the board or discretionary, i.e. is **every inmate** stripped before every visitation/workline, etc. (before & after)? What about the process of hiring the guards? Are there restrictions - relatives, education, attitudes; ability to communicate in stressful situations, and can they gain respect by their consistency and fairness in the performance of their duties.

The audit may just be the first step to look into a stagnant system and facilities so we can move forward - not only operating more efficiently, but to show the rest of the nation that we are an Aloha state and care about our ohana.

Thank you for considering this bill and the opportunity for me to provide my testimony.

Aloha,

e. ileina funakoshi

**SB560**

Submitted on: 2/10/2015

Testimony for PSM/JDL on Feb 12, 2015 09:10AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kenny Wusstig	Individual	Support	No