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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1135  
RELATING TO PUBLIC SAFETY

By  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, March 14; 1:15 p.m.  
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Department of Public Safety (PSD) **supports** the intent of House Bill (HB) 1135 to delete the sunset provisions of Act 139, Session Laws of Hawaii 2012, applicable to PSD and the Hawaii Paroling Authority.

The Department also respectfully requests that HB 1135 be amended to include funding to conduct the validation study, as required by Act 139.

Thank you for the opportunity to present this testimony.



**HB1135 HD1  
RELATING TO PUBLIC SAFETY**

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

March 14, 2017

1:15 p.m.

Room 229

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1135 HD1, which would make permanent the important contributions of the Justice Reinvestment Initiative of 2012.

The Justice Reinvestment Initiative is a national movement promoting data-driven approaches to improving public safety. Twenty seven states have enacted various features of the Justice Reinvestment principals since 2010. Hawai'i's own state Justice Reinvestment Initiative, Act 139 (Session Laws 2012), currently requires the expedient administration of validated pre-trial risk assessments and limits the length of incarceration for first-time parole violators. **By relying on data-driven evaluations of defendants' flight or recidivism risks and limiting additional prison time for parole violators, these provisions allow the Department of Public Safety to reduce spending on incarceration and reinvest valuable resources into proven strategies to reduce crime and recidivism.** The Native Hawaiian Justice Task Force (NHJTF), in its 2012 report, recognized the important contributions of the Justice Reinvestment Initiative, and even recommended the implementation of additional provisions not included in Act 139.<sup>1</sup>

Accordingly, OHA supports this measure as a critical means to maintain the positive progress our state's Justice Reinvestment Initiative has made toward reforming our criminal justice system.

Therefore, OHA respectfully urges the Committee to **PASS** HB1135 HD1. Mahalo for the opportunity to testify on this important measure.

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<sup>1</sup> The Office of Hawaiian Affairs, *Native Hawaiian Justice Task Force Report* 23 n. 28 (2012), [http://19of32x2y133s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF\\_REPORT\\_FINAL\\_0.pdf](http://19of32x2y133s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, and MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Tuesday, March 14, 2017

1:15 pm

Room 229

### STRONG SUPPORT FOR HB 1135 HD1 - JUSTICE REINVESTMENT - DELETE REPEAL

Aloha Chair Nishihara, Vice Chair Wakai 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 in Hawai'i for two decades. This testimony is respectfully offered on behalf of the almost 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,700 of Hawai'i's imprisoned people 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.

Community Alliance on Prisons is in strong support of deleting the sunset provisions of Act 139.

Justice reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. It is one strategy that Hawai'i can implement to start reforming our system and using our resources where they will do the most good and the least harm.

The Department of Justice website<sup>1</sup> lists the 27 Justice Reinvestment states since 2010: Alabama, Alaska, Arkansas, Delaware, Georgia, Idaho, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Washington, West Virginia. Prior to the launch of the Justice Reinvestment Initiative in 2010, six states undertook justice reinvestment efforts that have enriched and informed the JRI, including Arizona, Connecticut, Nevada, Texas, Vermont, and Wisconsin.

Hawai'i has a great opportunity with Justice Reinvestment and we thank the committee for hearing this bill.

Mahalo for this opportunity to show Community Alliance on Prisons' strong support for Hawai'i's Justice Reinvestment Initiative law!

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<sup>1</sup> 1 JRI SITES, Department of Justice, Office of Justice Programs.

[https://www.bja.gov/programs/justicereinvestment/jri\\_sites.html](https://www.bja.gov/programs/justicereinvestment/jri_sites.html)

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**Sent:** Monday, March 13, 2017 2:21 AM  
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**Cc:** kimcoco@kimcoco.com  
**Subject:** Submitted testimony for HB1135 on Mar 14, 2017 13:15PM

**HB1135**

Submitted on: 3/13/2017

Testimony for PSM on Mar 14, 2017 13:15PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kim Coco Iwamoto	Individual	Support	No

Comments: Please accept this testimony in SUPPORT of HB1135 with the amendment that it go into effect immediately. This bill will allow the Department of Public Safety to continue implementing the Justice Reinvestment work passed by the legislature in 2012. Thank you for your time and consideration.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**HB1135**

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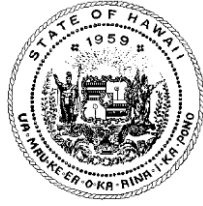
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
E. Ileina Funakoshi	Individual	Support	No

Comments:

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DAVID Y. IGE  
GOVERNOR



MARI McCAIG  
Chair

MARTHA ROSS  
Commissioner

ABELINA M. SHAW  
Commissioner

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Executive Director

**LATE**

STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

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TESTIMONY ON HB 1135 HD 1  
RELATING TO PUBLIC SAFETY

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, March 14, 2017; 1:15 PM  
State Capitol, Conference Room 229

Good afternoon Chair Nishihara, Vice Chair Wakai, and members of Senate Committee on Public Safety, Intergovernmental, and Military Affairs. Thank you for providing the Crime Victim Compensation Commission (the “Commission”) with the opportunity to testify in support of Senate Bill 1135, Relating to Public Safety, with proposed amendment. This bill proposes to remove the sunset provisions set forth in Section 14 of Act 139, Session Laws 2012. However, Section 14 of Act 139, Session Laws 2012 was amended by Section 69 of Act 231, Session Laws 2016. The Commission seeks to amend this bill to correct the language of Act 139 to reflect the amendments made to Act 139 by Act 231.

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 from the Commission.

In 2015, the Commission was appointed to the Penal Code Review Committee. The recommendations of the Penal Code Review Committee were the basis of HB 2561 HD1 SD1 CD1 which became Act 231 in 2016.

Section 69 of Act 231, Session Laws 2016, amended section 14 of Act 139, Session Laws of Hawaii 2012 as follows:

“SECTION 14. This Act shall take effect on July 1, 2012; provided that:

(1) Section 3 shall take effect on January 1, 2013;

(2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012;

(3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and

(4) Sections 3, 7, 8, [10,] and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), [353-22.6,] and 353-69, Hawaii Revised Statutes, shall be reenacted in the form [on] in which they read on June 30, 2012.”

Bracketed material was deleted. Therefore, Section 2 of this bill should read:

SECTION 2. Act 139, Session Laws of Hawaii 2012, as amended by Act 231, Session Laws of Hawaii 2016, is amended by amending section 14 to read as follows:

"SECTION 14. This Act shall take effect on July 1, 2012; provided that:

(1) Section 3 shall take effect on January 1, 2013;

(2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012; and

(3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and

~~(4) Sections 3, 7, 8, and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), and 353-69, Hawaii Revised Statutes, shall be reenacted in the form on which it read on June 30, 2018]."~~

Thank you for providing the Commission with the opportunity to testify in support of House Bill 1135 HD1 with amendment.

**LATE**

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR**  
**SENATE COMMITTEE ON PUBLIC SAFETY,**  
**INTERGOVERNMENTAL, AND MILITARY AFFAIRS**  
**Twenty-Ninth State Legislature**  
**Regular Session of 2017**  
**State of Hawai'i**

March 14, 2017

RE: H.B. 1135, H.D. 1; RELATING TO PUBLIC SAFETY.

Chair Nishihara, Vice-Chair Wakai, members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to H.B. 1135, H.D. 1. This bill would remove the sunset date on Sections 3, 7, 8, 10 and 11, of Act 139 (2012), which was part of the "Justice Reinvestment Initiative" at that time.

**Section 3** of Act 139 (2012) required that the reentry intake service center be mandated to "conduct internal risk assessments...within three working days of admission to the community correctional center..." The Department continues to be against this provision because there has always been an assessment instrument used to determine whether a bail report should be prepared for the courts. Prior to passage of Act 139 (2012), if a bail report was prepared for the court, and indicated the accused is dangerous or a flight risk, the court would hold an expedited bail hearing to determine whether the accused may be placed on supervised release. This ensured a thorough assessment of the individual's risk to the community, and allowed adequate time for all necessary assessments and supporting documents to be presented to the court.

**Section 7** of Act 139 (2012) limited a parole violator to 6-months of re-incarceration, or the remaining portion of the prisoner's sentence—whichever is shorter—when parole is revoked. The Department strongly maintains that discretion should be left with the paroling authority to make that determination. In keeping with this rationale of not interfering with the paroling authority's discretion, the Department is also against the provisions of **Section 8**, which mandated release of those assessed as "low-risk," upon completion of their minimum sentence.



We agree that additional measures are needed to facilitate payment of restitution to crime victims; however, **Section 10** of Act 139 (2012) had very limited impact, as the vast majority of offenders owing restitution are not in prison, and the effect of Act 139 (2012)—and other measures since then—has been to release even more people from prison. To effectively facilitate restitution payments, the Department suggests incorporating language from H.B. 305 (2017), to:

1. include unpaid restitution as valid "debt," for purposes of withholding State income tax refunds (similar to outstanding child support or judgments owed to State agencies);
2. require that any money deposited by way of bail or bond be applied to any restitution, fines, or fees ordered by the court, before any balance is returned to a defendant;
3. create standards and procedures for income-withholding, similar to those used for outstanding child support payments; and
4. extend victims' access to payment compliance records, for purposes of enforcing restitution orders civilly if desired, without the assessment of any filing fees or surcharge.

The Committee should also consider an amendment to HRS §706-746, to remove a court's ability to revoke restitution once ordered as part of a defendant's sentencing (this would not affect their abilities to appeal a conviction).

While the Justice Reinvestment Initiative purported to provide vast savings for the State, with which additional treatment programs could then be funded, it does not appear that such savings were ever realized, and we have yet to see any significant improvement in available services. As the Department maintained in 2012, the State must ensure that all necessary treatment programs and personnel providing for supervision are in place before implementing—or making permanent—any initiatives to release prison inmates. To summarily release these individuals without adequate support or services is not only a detriment to the safety and welfare of the larger community, but is also a disservice to these individuals themselves.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of H.B. 1135, H.D. 1. Thank you for the opportunity to testify on this matter.

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**HB1135**

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Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

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