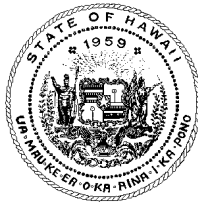


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

TESTIMONY ON SENATE BILL 2523
RELATING TO THE DEPARTMENT OF PUBLIC SAFETY.

by

Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Thursday, February 27, 2020; 10:15 a.m.
State Capitol, Conference Room 016

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 2523, and offers the following cautionary comments.

SB 2523 seeks to amend Section 353C-8.5, Hawaii Revised Statutes, by conditioning the Department's discretion to withhold disclosure of the decedent's name by adding requirements in Subsection (d) for PSD to: 1) provide the citation of relevant state or federal laws prohibiting disclosure of information deemed private, and 2) if prohibited, provide the description of the circumstances and cause of death without information identifying the decedent.

SB 2523 would amend the language in Act 234, Session Laws of Hawaii 2019, that applies to protective prohibitions in the reporting of deaths in State correctional facilities, to the Governor and the Legislature's Senate President and House Speaker, in an effort to have the Department disclose more information about the circumstances and cause of death at the expense of the deceased individual's and his/her family's privacy concerns.

Testimony on SB 2523
Senate Committee on Judiciary
February 27, 2020
Page 2

Following the law's enactment in 2019, PSD's legal counsel, the Department of the Attorney General, cautioned that the Department is bound to protect the decedent's identity and the privacy of the individual's health care information, by the federal Health Insurance Portability and Accountability Act (HIPAA), which imposes safeguards against the disclosure of private health care information. SB 2523 appears to run counter to the Attorney General's determination in this matter, and for this reason, the Department of Public Safety respectfully requests that the bill be deferred.

Thank you for the opportunity present this testimony.

SB-2523

Submitted on: 2/22/2020 9:52:11 AM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Oppose	No

Comments:

The director should inform the governor of all information on inmate death.

SB-2523

Submitted on: 2/22/2020 11:19:38 AM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair

Sen. Jarrett Keohokalole, Vice Chair

Friday, February 27, 2020

10:15 AM – Room 016

STRONG SUPPORT for SB 2523 – DEATH NOTIFICATION

Aloha Chair Rhoads, Vice Chair Keohokalole 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 more than two decades. This testimony is respectfully offered on behalf of the families of **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE**, including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 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 Kanaka Maoli, far, far from their ancestral lands.

SB 2523 authorizes the Director of Public Safety to withhold certain information regarding deaths at correctional facilities or community correctional centers. Requires the director to include in the report regarding the death that is submitted to the governor a description of the circumstances and cause of death of the individual and ensure that the description does not contain any details that could identify the deceased individual.

Community Alliance on Prison supports notification of inmate deaths and wonders why the legislature is allowing the department to hide the name of the deceased. Why is the legislature giving this department a license to hide information about deaths in a PUBLIC INSTITUTION that is funded by PUBLIC TAXPAYER MONEY?

In fact, an article¹ about Act 234 in the Miami Herald quoted the special assistant to the Attorney General: *"Krishna Jayaram, special assistant to Attorney General Clare Connors, said much of the information called for in the new law is withheld because the public safety department is subject to the federal Health Insurance Portability and Accountability Act, which protects private health care information."*

This statement raises questions:

¹ New Hawaii law shows information withheld in prison deaths, THE ASSOCIATED PRESS, JANUARY 06, 2020 10:16 AM.

<https://www.miamiherald.com/news/politics-government/national-politics/article238996073.html>

1. Is Hawai`i the only state that is subject to the Health Insurance Portability and Accountability Act?
2. Why did Hawai`i stop reporting this information? Arrests, escapes, and other incidents are reported. Why then is the public, whose hard-earned tax dollars fund these public institutions, not notified of deaths? Why is this information hidden from the public now, when it used to be reported? What changed?

1: If not (of course not, a federal law applies to all) then why do state Corrections Departments in Arizona and Nevada report information regarding deaths on their websites?

The Arizona Department of Corrections has current information on their website listing the deaths of incarcerated persons from February 21, 2020 back to 2014 with the name, the date of death, the facility where the person was incarcerated.

The Nevada Department of Corrections lists the person's inmate number, name, location at time of death, date of death, gender, admit date, county, and ethnicity. Why can't Hawai`i be as transparent?

ARIZONA DEPT OF CORRECTIONS

Inmate Death Notifications

<https://corrections.az.gov/inmate-death-notifications>

[Inmate Death Notification - Gene P. Beck](#)

02/21/2020

FLORENCE (Friday, February 21, 2020) – Inmate Gene P. Beck, 36, ADC #173474, died on Friday, February 21 from an apparent act of self-harm by hanging. Prison staff discovered him Friday morning unresponsive in his assigned medium-custody, dormitory housing location. Staff attempted life-saving measures until responding paramedics arrived on scene and pronounced him deceased at 6:38 a.m.

Beck came to ADC in 2003 after he was sentenced out of Maricopa County to serve life in prison for 1st degree murder.

His assigned housing location was ASPC-Eyman.

[Inmate Death Notification - Andy R. Ambler](#)

02/21/2020

[Read More](#)

[Inmate Death Notification - Philbert Lookingback](#)

02/19/2020

[Read More](#)

[Inmate Death Notification - Robert S. Reed](#)

02/19/2020

[Inmate Death Notification - William H. Culpepper](#)

02/07/2020

FLORENCE (Friday, February 7, 2020) – Inmate William H. Culpepper, 58, ADC #307068, died on February 5 at Mountain Vista Medical Center. He was transported to the hospital on January 28.

Culpepper was admitted to ADC in 2016 after he was sentenced out of Gila County on ten counts of sexual conduct with a minor, and other counts including molestation of a child, abuse, and public sexual indecency. His assigned housing location was ASPC-Florence.

All inmate deaths are investigated in consultation with the county medical examiner's office.

[Inmate Death Notification - Ruben Alvarez](#)

02/06/2020

[Read More](#)

[Inmate Death Notification - Ricky J. Gillin](#)

02/06/2020

[Read More](#)

[Inmate Death Notification - Lanny D. Gunter](#)

02/05/2020

[Read More](#)

[Inmate Death Notification - Marvin D. Jones](#)

01/29/2020

[Read More](#)

[Inmate Death Notification - Kenneth H. Black](#)

01/24/2020

**NEVADA DEPARTMENT OF CORRECTIONS
2019 INMATE IN CUSTODY DEATHS**

[http://doc.nv.gov/About/Statistics/Inmate Mortality Statistica/2019 Inmate Deaths/](http://doc.nv.gov/About/Statistics/Inmate_Mortality_Statistica/2019_Inmate_Deaths/)

NDOC INMATE ID #	NAME	LOCATION @ TIME OF DEATH	AGE @ DEATH	DATE OF DEATH	GENDER	ADMIT DATE	COUNTY OF COMMIT	ETHN
1011685	DOZIER, SCOTT RAYMOND	ELY STATE PRISON	48	01/05/2019	M	12/11/2007	CLARK	CAUCASIAN
61010	RANGLES, GARY	NORTHERN NEVADA CORRECTIONAL CENTER	75	01/19/2019	M	04/02/1999	WASHOE	CAUCASIAN
11978	ODOMS, JOHN	NORTHERN NEVADA CORRECTIONAL CENTER	72	01/28/2019	M	02/04/1982	CLARK	BLACK
83077	JARAMILLO, RICHARD	NORTHERN NEVADA CORRECTIONAL CENTER	57	01/26/2019	M	04/29/2013	CLARK	HISPANIC
96177	CASTLE, MICHAEL L.	NORTHERN NEVADA CORRECTIONAL CENTER	54	01/31/2019	M	04/11/2018	WASHOE	CAUCASIAN

Here is the press release on the first death listed – Mr. Dozier:



Nevada Department of Corrections

Public Information Office: 775-887-3309
PIO Brooke Santana Cell: 775-350-0037

PRESS RELEASE

February 23, 2020

For Immediate Release

The Nevada Department of Corrections (NDOC) is investigating an **apparent suicide** that occurred in the afternoon of January 5, 2019. Correctional officers found Inmate Scott Raymond Dozier, #1011685, hanging from a bed sheet tied to an air vent in his cell at Ely State prison in Ely, Nevada. Dozier was housed alone at the time. Responding staff made immediate notification to medical staff and attempted to provide emergency medical care until help arrived. Dozier was pronounced dead at approximately 4:35 PM by emergency medical staff at the scene.

Inmate Dozier, a 48 year old, male, was committed from Clark County on December 11, 2007 and was sentenced to Death for First Degree Murder. Investigators from the NDOC Inspector General's Office, White Pine County Sheriff's Office and the coroner responded. An autopsy is being scheduled per NRS 209.3815. Next of Kin have been notified.

#2: Newspapers report the arrests, convictions, and the name of people who escape, so it is puzzling that the department, who used to report the names of people who died while in their 'care and custody' stopped reporting this information. The Legislature must demand transparency, accountability and access to information about deaths in taxpayer-funded public institutions.

Community Alliance on Prisons implores the committee to ensure that deaths, suicides, and other incidents are reported to the public who pay for the safety and security of those who live and work in our correctional facilities.

Please don't let this administration get away with hiding this information that the taxpaying public has a right to know. In the spirit of accountability and transparency, we humbly ask that you pass SB 2523.

Mahalo for this opportunity to testify.

SB-2523

Submitted on: 2/24/2020 12:37:00 PM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lynette Cruz	Testifying for Hui Aloha Aina o Ka Lei Maile Alii	Support	No

Comments:

Hui Aloha Aina o Ka Lei Maile Alii strongly supports this bill in its amended form. We find it unbelievable, frankly, that such a law needs to be passed in order for families to be made aware that an incarcerated loved one could pass away and that such information could be withheld from them for any reason. It is distressing to many of us. Thank you for being sensitive to this issue and, we hope, making necessary changes.

SB-2523

Submitted on: 2/24/2020 3:15:08 PM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Support	No

Comments:

SB-2523

Submitted on: 2/24/2020 5:28:42 PM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I strongly support SB2523. Act 234 was passed last session. The department is mandated to release information yet with so much information redacted what's included is useless.

Other jurisdictions, such as Arizona & Nevada, provide updated information on their websites. Hawai'i used to release the information, why did this change/stop?

There have been 11 deaths from August 1 – January 16. Transparency is needed now.

Please support SB2523.

SB-2523

Submitted on: 2/24/2020 10:27:45 PM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

I am in Strong Support of SB2523 as the State's Department Of Public Safety has a "duty" to properly care for the persons in their custody. The death of and the circumstances surrounding the death of individuals while in the custody of the State must be made available to ensure that this duty is being met.

SB-2523

Submitted on: 2/26/2020 1:40:54 AM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristine Crawford	Individual	Support	No

Comments:

The cause of death of persons in the "care and custody" of the Department of Public Safety should not be kept from the public. Transparency and accountability should be required. I strongly support this bill.

SB-2523

Submitted on: 2/26/2020 10:32:36 AM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne	Individual	Support	No

Comments:

LATE

SB-2523

Submitted on: 2/26/2020 2:57:12 PM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R Siciliano	Individual	Support	No

Comments:

Our prisons are dehumanizing enough already. Please let's end the torture of solitary confinement.

LATE

SB-2523

Submitted on: 2/27/2020 12:26:16 AM

Testimony for JDC on 2/27/2020 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

Aloha Senator Rhoads, Senator Keohokalole, and Committee Members,

SB2523 requires the Director of the Department of Public Safety to withhold any identifying information of an inmate death. But also report details of the circumstances that led to the death.

Of course, the director of a correctional facility should notify the legislature as well as the public about any deaths that take place inside facilities. But when important details are redacted or withheld, it makes it impossible for the public, the legislature, as well as the Oversight Commission to understand what happened. There have been 11 deaths between August 1 and January 16 of this year.

Excuses justifying redaction are not valid. Other jurisdictions provide the information to the public as well as post it online. This is one more example of the secretive nature of the Department of Public Safety. Hawaii used to release this information. The public has a right to know what happens in taxpayer funded public institutions.

Accountability and transparency are essential to good government.

Please pass SB2523 but strike the requirement to withhold information about the deceased.

Mahalo,

Diana Bethel