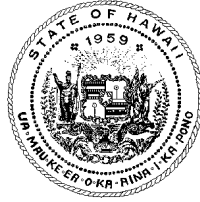


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

**TESTIMONY ON HOUSE BILL 398
RELATING TO INMATES.**

By
Max N. Otani, Director

House Committee on Corrections, Military, and Veterans Affairs
Representative Takashi Ohno, Chair
Representative Sonny Ganaden, Vice Chair

Friday, February 5, 2021; 10:00 a.m.
State Capitol, Via Video Conference

Chair Ohno, Vice Chair Ganaden, and Members of the Committee:

House Bill (HB) 389, seeks to clarify that the Department of Public Safety (PSD) retains custody of and jurisdiction over any Hawaii inmate who has been transferred to and is incarcerated at a correctional institution located outside of the State. This measure also provides that PSD may transfer any Hawaii inmate who was transferred to an out-of-state institution back to the State at any time and for any reason, and requires Hawaii inmates incarcerated outside of the State to be afforded all rights and privileges available to inmates incarcerated within the State of Hawaii.

It should be noted, PSD has always maintained custody and jurisdiction over Hawaii inmates housed on the mainland, including having the ability and authority to return them to Hawaii for any reason (i.e., programming, medical treatment, preparation for release on parole, release upon completion of sentence(s), etc.). The only exceptions would be if the inmate commits a new crime on the mainland and is convicted and sentenced for a new offense. Depending on the severity of the new offense, length of the new sentence, and

whether the new offense is ordered to be served concurrently or consecutively to sentences already being served, PSD may be required to transfer the inmate to the sentencing jurisdiction. Also, if the inmate is paroled to another sentence by the Hawaii Paroling Authority (HPA), PSD would be required to release the offender into the custody of the receiving jurisdiction.

In addition, the rights and privileges of all inmates are based on the inmate's classification/custody level, type of facility where they are housed, and programs available at the facility. As an example, neither the sex offender treatment program nor the Work Furlough program is available at Core Civics Saguaro Correctional Center in Arizona. Therefore, when inmates are scheduled to participate in these programs, PSD returns them to Hawaii so that they may participate in the programs in preparation for parole release consideration.

Finally, this measure is not needed nor necessary as PSD already has the authority this measure seeks to clarify.

Thank you for the opportunity to provide testimony on HB 398.

HB-398

Submitted on: 2/3/2021 11:34:51 AM

Testimony for CMV on 2/5/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jeff Nash | Habilitat | Support | No |

Comments:

Aloha,

I am writing today in full support of HB398. While I understand the reasons for Hawaii's decision to contract with the private prison industry, I adamantly disagree with the entire concept of "Prison for Profit." Individuals who are incarcerated there should not lose any privileges or rights because of the sates decision to enter into these immoral contracts. Any Hawaii inmate should be provided the same rights and privileges regardless of which institution they are housed in.

Respectfully,

Jeff Nash

Habilitat, Inc

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COMMITTEE ON CORRECTIONS, MILITARY AND VETERANS

Rep. Takashi Ohno, Chair

Rep. Sonny Ganaden, Vice Chair

Friday, February 5, 2021

10:00 AM

COMMENTS ON HB 398

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 more than 4,100 Hawai`i individuals living behind bars or under the “care and custody” of the Department of Public Safety on any given day. We are always mindful that 1,000 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.

Community Alliance on Prisons offers comments on this measure that clarifies that PSD retains jurisdiction over any Hawaii inmate incarcerated person who has been transferred to and is incarcerated at a correctional institution located outside of the State; provides that the department of public safety may transfer any Hawaii inmate who has been transferred to and is incarcerated at an out-of-state institution back to the State at any time and for any reason, regardless of whether that inmate faces a criminal charge in the jurisdiction in which the inmate is incarcerated; and ensure that any Hawai`i inmate incarcerated person who has been transferred to and is incarcerated at an out-of-state correctional institution is afforded all rights and privileges available to inmates persons incarcerated at correctional institutions located within Hawai`i, whether the right or privilege is available by law, rule, department policy, or any other authority.

Of course the state bears the liability for people in their 'care and custody.' Sadly, the taxpayers have borne the millions of dollars in liability that PSD has incurred through its practices.

The phrase "afforded all rights and privileges" is absurd. Hawai'i is an outlier that still believes that punishment is part of incarceration instead of the reality that incarceration IS the punishment.

Community Alliance on Prisons will NOT endorse banishing people to out of state cages, HOWEVER, we do support that a person can be returned to Hawai'i for any reason and we hope that compassion is part of the decisionmaking process.

Hawai'i has been exiling our people since the last millenium. There have been a plethora of reports outlining the problems at cages run by corporations, that are only that interested in their bottom line. Yet, the state has forced people into harm's way and takes no responsibility for the harms they have caused to individuals and families in Hawai'i.

Mahalo for allowing us to share our comments.

Our lives begin to end the day we become silent about things that matter.

Dr. Martin Luther King, Jr.

HB-398

Submitted on: 2/4/2021 7:19:19 AM

Testimony for CMV on 2/5/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Barbara Polk | Individual | Support | No |

Comments:

Chair Ohno and Vice Chair Ganadin,

I strongly support HB398. It has not been clear that the State has taken responsibility for Hawaii inmates who are serving their time on the mainland. This bill would clarify the State's responsibility, as well as ensure that inmates on the mainland have access to whatever rights and privileges those in Hawaii have.

Please pass HB398

HB-398

Submitted on: 2/4/2021 9:51:06 AM

Testimony for CMV on 2/5/2021 10:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Carrie Ann Shirota | Individual | Support | No |

Comments:

I support this clarification that Hawai'i retains custody of and jurisdiction over any incarcerated person from Hawaii who has been transferred to and incarcerated inside a jail or prison outside of Hawai'i. Mahalo.

LATE

HB-398

Submitted on: 2/4/2021 12:13:17 PM

Testimony for CMV on 2/5/2021 10:00:00 AM

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

Comments:

Aloha Chair Ohno, Vice Chair Ganaden, and Members of the Committee,

I am writing in support of HB398 which would clarify that the Department of Public Safety retains custody and jurisdiction over Hawaii inmates who are incarcerated at correctional institutions outside Hawaii. It gives the Department authorization to transfer out-of-state inmates back to Hawaii at any time and for any reason. It also requires that Hawaii out-of-state inmates be afforded all rights and privileges available to in-state inmates.

Please pass HB 389.

Mahalo,

Diana Bethel, Honolulu