H.B. NO. 3185

A BILL FOR AN ACT

RELATING TO PRISON LITIGATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 661, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§661- Exhaustion of administrative remedies; action by prisoners, when limited.** (a) No action shall be brought in any state court, with respect to prison conditions under any state or federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

(b) As used in this chapter, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, or sentenced for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program. The term does not apply to juveniles incarcerated in youth correctional facilities."

SECTION 2. New statutory material is underscored.

1 SECTION 3. This Act shall take effect upon its approval.

2

3 INTRODUCED BY: Calvin K.Y. Say

4 BY REQUEST

JAN 22 2008

H___.B. NO. 3185

Report Title:
Prison litigation; exhaust administrative remedies

Description:
Requires inmates to exhaust their administrative remedies before filing a lawsuit in State court, to avoid frivolous lawsuits.

HB 3185

JUSTIFICATION SHEET

DEPARTMENT: PUBLIC SAFETY

TITLE: A BILL FOR AN ACT RELATING TO PRISON LITIGATION.

PURPOSE: To require the exhaustion of available administrative remedies prior to the filing of any lawsuit by a prisoner.

MEANS: Add new section to chapter 661, Hawaii Revised Statutes.

JUSTIFICATION: Requiring inmates to exhaust administrative remedies prior to filing lawsuits enables the Department of Public Safety to have the opportunity to resolve issues with inmates prior to the expensive and time consuming process of civil litigation. In addition, this process would also help prevent frivolous lawsuits from clogging the judicial system, and at a minimum would provide the courts with verification that the issue had been investigated prior to litigation.

Impact on the public: There should be a positive impact on the public, as this measure should cut government expenditures on frivolous filings and claims.

Impact on the department and other agencies: This act should help clear the frivolous litigation from the court calendar for the Judiciary. This act will also provide the Attorney General's staff with an administrative record on which to base their defense of the government, and an effective defense for frivolous litigation.

GENERAL FUND: None.

OTHER FUNDS: None.

HB 3185

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Judiciary, Department of the Attorney General.

EFFECTIVE DATE: Upon approval.