
A BILL FOR AN ACT

RELATING TO THE HAWAII PENAL CODE.

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

1 SECTION 1. Section 706-668.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§706-668.5 Multiple sentence of imprisonment. (1) If
4 multiple terms of imprisonment are imposed on a defendant,
5 whether at the same time or at different times, or if a term of
6 imprisonment is imposed on a defendant who is already subject to
7 an unexpired term of imprisonment, the terms may run
8 concurrently or consecutively. Multiple terms of imprisonment
9 run concurrently unless the court orders or the statute mandates
10 that the terms run consecutively.

11 (2) The court, in determining whether the terms imposed
12 are to be ordered to run concurrently or consecutively, shall
13 consider the factors set forth in section 706-606.

14 (3) For defendants serving a term of imprisonment imposed
15 prior to June 18, 2008, the department of public safety shall
16 post, in all inmate housing units and the facility library at
17 each facility for a period of two months, a written notice that
18 shall include but not be limited to:



1 (a) Notice that the department of public safety may
2 recalculate the multiple terms of imprisonment imposed
3 on the defendant; and

4 (b) Notice that defendant may petition the court for
5 clarification or correction of their sentence or
6 sentences when good cause exists."

7 SECTION 2. New statutory material is underscored.

8 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

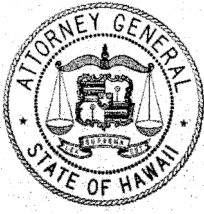
Penal Code; Multiple Sentences of Imprisonment

Description:

Requires the department of public safety to send written notice to defendants with terms of imprisonment imposed prior to June 18, 2008, to notify these defendants that the department may recalculate their multiple terms of imprisonment and their right to petition the court for clarification or correction when there is good cause. Effective 01/07/2059. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 213, S.D. 2 , RELATING TO THE HAWAII PENAL CODE.

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, March 19, 2015 **TIME:** 10:05 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Deputy Attorney General Diane K. Taira

Chair Takayama and Members of the Committee:

The Department of the Attorney General supports the intent of this measure and makes the following suggestions to ensure that the notice it requires is limited to the intended individuals and to ensure that all interested parties have an opportunity to be heard before the court.

On page 2, line 5, we suggest the insertion of the word "recalculated" before "sentence."

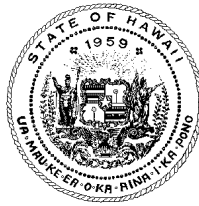
On page 2, after line 6, we suggest the addition of a new subsection (4):

For defendants petitioning the court for clarification or correction of a recalculated sentence, the petitions shall be served on the department of public safety and the department of the attorney general as parties in interest, in addition to the appropriate prosecuting attorney.

We suggest this new subsection to provide the Department of Public Safety ("DPS") an opportunity to be heard on how the sentences are calculated and to prevent a delay in notification to DPS of a changed sentence.

Thank you for this opportunity to present testimony on this measure.

DAVID Y. IGE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY
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Deputy Director
Corrections

Shawn H. Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL (SB) 213 SENATE DRAFT (SD) 2
A BILL RELATING TO THE HAWAII PENAL CODE

By

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair

Thursday, March 19, 2015, 10:05 AM
State Capitol, Conference Room 309

Chair Takayama, Vice Chair Yamashita, and Members of the Committee:

The Department of Public Safety (PSD) would like to recommend the following amendments to SB 213, SD2, which requires the PSD to provide written notice to specific incarcerated offenders serving a criminal sentence.

The PSD would like to suggest adding a Section 4 to SB 213, as follows:

“For defendants petitioning the court for a clarification or correction of a recalculated sentence, such petitions will be served on the department of public safety and/or the department of the attorney general as parties in interest.”

Also, by adding the word “recalculated” in (b) before the word “sentence”:

“Notice that the defendant may pursue review of the defendant’s recalculated sentence at the court’s discretion.”

These changes will clarify the petition process and limit the application to only recalculated sentences.

Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai'i

March 19, 2015

RE: S.B. 213, S.D. 2; RELATING TO THE HAWAII PENAL CODE.

Chair Takayama, Vice Chair Yamashita and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 213, S.D. 2.

The purpose of this bill is to require the Department of Public Safety to post written notice for defendants sentenced to multiple terms of imprisonment prior to June 18, 2008, to inform them that their sentences may be recalculated by the Department of Public Safety, and that they may petition the court for clarification or correction of their sentences for good cause. The Department appreciates the reasonable approach and revisions that were previously made to this bill by the Senate Committee on Judiciary and Labor, and the Senate Committee on Ways and Means. We believe that this requirement will provide sufficient notice to the relevant individuals.

For all of the foregoing reasons, the Honolulu Prosecuting Attorney supports the passage of S.B. 213, S.D. 2. Thank you for the opportunity to testify on this matter.

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 6:52 PM
To: pbstestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for SB213 on Mar 19, 2015 10:05AM

SB213

Submitted on: 3/16/2015

Testimony for PBS on Mar 19, 2015 10:05AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	Yes

Comments: We STRONGLY SUPPORT this bill, as it provides the Due Process to convicted persons whose sentences may be positively or negatively affected by the correction of their prison sentences. Plus, this bill inherently seeks to right a wrong that may have been committed against the convicted person, without forcing the convicted person to just sit in prison angry at the injustice levied by the "system". This sends a positive message of accountability. Please pass this bill.

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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COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Kyle Yamashita, Vice Chair

Thursday, March 19, 2015

10:05 a.m.

Room 309

SUPPORT for SB 213 with Amendment - SENTENCING

Aloha Chair Takayama, Vice Chair Yamashita and Members of the Committee!

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 213 requires multiple terms of imprisonment imposed on a defendant who is already subject to an unexpired term of imprisonment that was imposed prior to 6/18/2008 to run concurrently unless the terms are mandated by the court or statute to run consecutively. The **SD1** amended the bill : "3) For terms of imprisonment imposed prior to June 18, 2008, the department of public safety shall send **written notice to the defendant no later than six months prior to the defendant's scheduled date of release**. The written notice shall include but not be limited to: (a) Notice that the department of public safety may recalculate the multiple terms of imprisonment imposed on the defendant; and (b) Notice of the defendant's right to have the court review the defendant's sentence."

The **SD2** **deleted the 6-month notification and inserted** this language: "3) For defendants serving a term of imprisonment imposed prior to June 18, 2008, the department of public safety **shall post, in all inmate housing units and the facility library at each facility for a period of two months, a written notice** that shall include but not be limited to: (a) Notice that the department of public safety may recalculate the multiple terms of imprisonment imposed on the **defendant; and (b) Notice that defendant may petition the court for clarification or correction of their sentence or sentences when good cause exists.**"

Community Alliance on Prisons is in support of this measure with an amendment.

CAP AMENDMENT

Include both the 6 month written notice to person AND the 2-month posting at facilities

CAP respectfully asks for this amendment because this process of recalculation started in 2005 and duplicated the work already being done at each facility. Many, many people are and have been over-detained, some by as much as 7 years. This error was caused by the state, therefore, we believe that every person has a right to receive a personal notification of their rights.

That is why we ask that each person receive (a) Notice that the department of public safety may recalculate the multiple terms of imprisonment imposed on the defendant; and (b) Notice of the defendant's right to have the court review the defendant's sentence", as stated in SD1.

We also ask that the committee include the 2-month posting at facilities IN ADDITION to the letter send to the individual. The department must ensure that each person has a right to know that his sentence may be re-calculated and that he/she has the right to petition the court.

This bill codifies what has been the practice in Hawai'i. In 2008, a similar bill was passed, however it was amended to make it only prospective. In other words, those sentenced for multiple offenses *after* June 18, 2008 serve those multiple sentences concurrently **unless the court specifies that the terms are to be served consecutively**.

This bill applies to those sentenced *before* June 18, 2008. Please pass this measure.

Mahalo for this opportunity to testify.