July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2546 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2546 SD2 HD1 CD1 A BILL FOR AN ACT RELATING TO OFFENDER REENTRY.

Sincerely,

[Signature]
LINDA LINGLE
GOVERNOR
STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2546

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2546, entitled "A Bill for an Act Relating to Offender Reentry."

The purpose of this bill is to further clarify chapter 353H, Hawaii Revised Statutes, in which the comprehensive offender reentry system is codified, to allow the Department of Public Safety to work with other agencies to develop and provide inmates with services and to require the Department of Public Safety to rotate inmates back and forth if there is not enough room to bring back all inmates on the mainland. This bill also declares that the provisions of Act 8, First Special Session Laws of Hawaii 2007, which established the comprehensive offender reentry system, are mandatory instead of directory.

This bill is objectionable because the Legislature continues to mandate all aspects of offender reentry without consideration for the feasibility, practicality, and fairness of implementing such programs and services.

As an example, Senate Bill No. 2546 requires the Department of Public Safety to implement a quarterly rotation system to return out-of-state inmates with less than one year to serve while transporting inmates with longer sentences to the mainland. The provision does not make any distinction or provide priority for inmates who may benefit most from returning to Hawaii.

Moreover, this measure does little to address the liability issues created by Act 8, Special Session Laws of Hawaii.
2007, as mentioned in both my veto message for Senate Bill No. 932 and the opinion issued by the Attorney General on July 30, 2007. In addition, this measure also does not provide funding for the programs and services that were required to be implemented by the Department of Public Safety pursuant to this measure and Act 8, Special Session Laws of Hawaii 2007.

It is important that the Department of Public Safety be allowed to make its own judgments on how offender reentry can best be implemented to ensure the welfare of the inmates and protect the public.

For the foregoing reasons, I am returning Senate Bill No. 2546 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii
A BILL FOR AN ACT

RELATING TO OFFENDER REENTRY.

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

SECTION 1. The legislature finds that Act 8, First Special Session Laws of Hawaii 2007 (Act 8), established a comprehensive offender reentry system under the purview of the department of public safety that assists adult offenders with their reintegration back into our communities and offers a full continuum of services that are accessible during and immediately after their incarceration.

The intent of the legislature is that the provisions of Act 8 are mandatory, rather than "directory."

The purpose of this Act is to further clarify the provisions of chapter 353B, Hawaii Revised Statutes, relating to the offender reentry system.

SECTION 2. Section 353H-3, Hawaii Revised Statutes, is amended to read as follows:

"[+]§353H-3[+] Offender reentry system plan; creation.

(a) The department of public safety shall develop a
comprehensive and effective offender reentry system plan for adult offenders exiting the prison system.

(b) The department of public safety, in conjunction with appropriate state agencies and private entities, shall develop comprehensive reentry plans and curricula for individuals exiting correctional facilities in order to reduce recidivism and increase a person's successful reentry into the community. The reentry plans shall include, but not be limited to:

(1) Adopting an operational philosophy that considers that offender reentry begins on the day an offender enters the correctional system. Each offender entering the system shall be assessed to determine the offender's needs in order to assist the individual offender with developing the skills necessary to be successful in the community;

(2) Providing appropriate programs, including, but not limited to, education, substance abuse treatment, cognitive skills development, vocational and employment training, and other programs that help to meet the assessed needs of each individual;
(3) Developing a comprehensive network of transitional programs to address the needs of individuals exiting the correctional system;

(4) Ensuring that all reentry programs are gender-responsive;

(5) Issuing requests for proposals from community-based nonprofit programs with experience with offenders in the area of reentry; and

(6) Instituting model reentry programs for adult offenders."

SECTION 3. Section 353H-4, Hawaii Revised Statutes, is amended to read as follows:

"[§353H-4] Model programs; department of public safety. Subject to funding by the legislature, the department of public safety, Hawaii paroling authority, department of health, department of human services, and the judiciary, shall enhance the State's comprehensive offender reentry system by developing model programs designed to reduce recidivism and promote successful reentry into the community. Components of the model programs shall include but are not limited to:

(1) Highly skilled staff who are experienced in working with offender reentry programs;
(2) Individualized case management and a full continuum of care to ensure successful reentry;

(3) Life skills development workshops, including budgeting, money management, nutrition, and exercise; development of self-determination through education; employment training; special education for the learning disabled; social, cognitive, communication, and life skills training; and appropriate treatment programs, including substance abuse and mental health treatment;

(4) Parenting and relationship building classes. The department shall institute policies that support family cohesion and family participation in offenders' transition to the community, and, where possible, provide geographical proximity of offenders to their children and families; and

(5) Ongoing attention to building support for offenders from communities, community agencies, and organizations."

SECTION 4. Section 353H-5, Hawaii Revised Statutes, is amended to read as follows:
Children of incarcerated parents; families.

The director of public safety shall:

1. Establish policies or rules that parent inmates be placed in correctional facilities, consistent with public safety and inmate security, in the best interest of the family, rather than on economic or administrative factors;

2. Consider as a factor, where appropriate, an offender's capacity to maintain parent-child contact when making prison placements of offenders;

3. [Conduct, coordinate, or promote research that examines] Promote research in collaboration with impacted state agencies, interested individuals, and organizations, including but not limited to the department of human services and other state agencies, community partners who are impacted by, or provide services to, children of incarcerated parents, and the University of Hawaii or other organization with experience and expertise in gathering and analyzing information and data to examine the impact of a parent's incarceration on the well-being of the offender's child that shall include both direct
contact with an offender's child, as well as reports of caregivers; and

(4) Conduct, coordinate, or promote research that focuses on the relationship of incarcerated fathers with their children and the long-term impact of incarceration on fathers] Promote research in collaboration with impacted state agencies, interested individuals, and organizations, including but not limited to the department of human services and other state agencies, community partners who are impacted by, or provide services to, children of incarcerated parents, and the University of Hawaii or other organization with experience and expertise in gathering and analyzing information and data to examine the relationship of incarcerated parents with their children and the long-term impact of incarceration on parents and their children."

SECTION 5. Section 353H-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director of labor and industrial relations, the department of public safety, and the Hawaii paroling authority shall [take the necessary steps] work together to ensure
offenders and ex-offenders are included and involved in utilizing state and private resources for employment and training opportunities as well as life skills and educational opportunities."

SECTION 6. Section 353H-7, Hawaii Revised Statutes, is amended to read as follows:

"[§353H-7] Return of out-of-state inmates. (a) The director of public safety shall return Hawaii inmates held in out-of-state prisons at least one year prior to the inmate's parole or release date in order for these inmates to participate in programs preparing them for reentry on the island where they have the most support; provided that inmates participating in reentry programs at the mainland facility in which they are incarcerated consent to the return.

(b) The provisions of subsection (a) shall not prevent the return of other Hawaii inmates held in out-of-state prisons with less than one year left of their sentence from being returned in preparation for reentry to the island where they have the most support.

(c) If the department of public safety lacks sufficient space in correctional facilities in the State to which to return prisoners from out-of-state, the department shall exchange..."
prisoners through a quarterly rotation system, with long-term
inmates sent to out-of-state prisons and prisoners with less
than a year to serve brought back from out-of-state prisons to
the State.

  [4(e)] (d) The department of public safety shall provide a
report to the legislature at the end of each calendar year on
any inmates not returned pursuant to this section with an
explanation of the reasoning and circumstances for
noncompliance."

SECTION 7. Section 353H-31, Hawaii Revised Statutes, is
amended to read as follows:

"[4]§353H-31[4] Adult offender reentry programs and
services. (a) The director of public safety may authorize
purchase of service contracts, in accordance with chapter 103F,
subject to legislative or other appropriate funding, for adult
offender reentry programs and services that establish or improve
the offender reentry system and in which each adult offender in
state correctional custody is provided an individualized reentry
plan.

  (b) Subject to funding by the legislature or other
appropriate sources, the department of public safety shall
authorize the purchase of service contracts for activities that:
(1) [Coordinate] With the assistance of the department of human services, the Hawaii paroling authority, the department of education, the University of Hawaii and its community colleges, and other appropriate public and private entities, coordinate the supervision and services provided to adult offenders in state custody with the supervision and services provided to offenders who have reentered the community;

(2) Coordinate efforts of various public and private entities to provide supervision and services to ex-offenders after reentry into the community, including the Hawaii paroling authority, department of human services, and other stakeholders, with the offenders' family members;

(3) Provide offenders awaiting reentry into the community with documents, such as identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, information on obtaining public assistance, and other documents useful in achieving a successful transition from prison;
(4) Involve county agencies whose programs and initiatives strengthen offender reentry services for individuals who have been returned to the county of their jurisdiction;

(5) Allow ex-offenders who have reentered the community to continue to contact mentors who remain incarcerated through the use of technology, such as videoconferencing, or encourage mentors in prison to support the ex-offenders' reentry process;

(6) Provide structured programs, post-release housing, and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community;

(7) Assist offenders, with the assistance of the Hawaii paroling authority, Hawaii public housing authority, and the department of human services, in securing permanent housing upon release or following a stay in transitional housing;

(8) Continue, with the assistance of the department of health and the Hawaii paroling authority, to link offenders with health resources for health services
that were provided to them when they were in state
custody, including mental health, substance abuse
treatment, aftercare, and treatment services for
contagious diseases; provided that offenders who have
completed their sentence shall be solely responsible
for addressing their continued healthcare needs with
the department of health, department of human
services, or any other appropriate entity;

[(9)] (8) Provide education, job training, English as a
second language programs, work experience programs,
self-respect and life-skills training, and other
skills needed to achieve self-sufficiency for a
successful transition from prison;

[(10)] (9) Facilitate collaboration among corrections
administrators, technical schools, community colleges,
and the workforce development and employment service
sectors so that there are efforts to:

(A) [Promote,] With the assistance of the department
of labor and industrial relations, department of
taxation, department of education, and the
University of Hawaii and its community colleges,
promote, where appropriate, the employment of
persons released from prison, through efforts such as educating employers about existing financial incentives, and facilitate the creation of job opportunities, including transitional jobs, for such persons that will also benefit communities;

(B) [Connect] With the assistance of the department of labor and industrial relations, Hawaii paroling authority, trade unions, and other stakeholders, connect offenders to employment, including supportive employment and employment services, before their release to the community; and

(C) Address barriers to employment, including obtaining a [driver’s license;] a state identification card, social security card, or other standard and acceptable personal identification documents;

(10) Assess the literacy and educational needs of offenders in custody and provide appropriate services to meet those needs, including follow-up assessments and long-term services;
Address systems under which family members of offenders are involved with facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to establish and maintain a stable living situation during the reentry process where appropriate, and involving family members in the planning and implementation of the reentry process;

Include victims, on a voluntary basis, in the offender's reentry process;

Facilitate visitation and maintenance of family relationships with respect to offenders in custody by addressing obstacles such as travel, telephone costs, mail restrictions, and restrictive visitation policies;

Where appropriate, identify and address barriers to collaborating with child welfare agencies in the provision of services jointly to offenders in custody and to the children of those offenders;
(15) Collect information, to the best of the department's ability, regarding dependent children of incarcerated persons as part of intake procedures, including the number of children, age, and location or jurisdiction for the exclusive purpose of connecting identified children of incarcerated parents with appropriate services and compiling statistical information;

(16) Address barriers to the visitation of children with an incarcerated parent, and maintenance of the parent-child relationship, such as the location of facilities in remote areas, telephone costs, mail restrictions, and visitation policies;

(17) Create, develop, or enhance prisoner and family assessments curricula, policies, procedures, or programs, including mentoring programs, to help prisoners with a history or identified risk of domestic violence, dating violence, sexual assault, or stalking reconnect with their families and communities, as appropriate, and become mutually respectful;
Develop programs and activities that support parent-child relationships, such as:

(A) Using telephone conferencing to permit incarcerated parents to participate in parent-teacher conferences, where feasible and practical as determined by the government agencies involved;

(B) Using videoconferencing to allow virtual visitation when incarcerated persons are more than one hundred miles from their families;

(C) Developing books on tape programs, through which incarcerated parents read a book into a tape to be sent to their children;

(D) The establishment of family days, which provide for longer visitation hours or family activities; or

(E) The creation of children's areas in visitation rooms with parent-child activities;

Work with the judiciary, department of human services, and the Hawaii paroling authority, to expand family-based treatment centers that offer
family-based comprehensive treatment services for parents and their children as a complete family unit;

[(21)] (20) Conduct studies to determine who is returning to prison and which of those returning prisoners represent the greatest risk to community safety;

[(22)] (21) Develop or adopt procedures to ensure that dangerous felons are not released from prison prematurely;

[(23)] (22) Develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

[(24)] (23) Utilize validated assessment tools to assess the risk factors of returning offenders to the community and prioritizing services based on risk;

[(25)] (24) Facilitate and encourage timely and complete payment of restitution and fines by ex-offenders to victims and the community;

[(26)] (25) Consider establishing the use of reentry courts to:

(A) Monitor offenders returning to the community;

(B) Provide returning offenders with:
(i) Drug and alcohol testing and treatment; and
(ii) Mental and medical health assessment services;

(C) Facilitate restorative justice practices and convene family or community impact panels, family impact educational classes, victim impact panels, or victim impact educational classes;

(D) Provide and coordinate the delivery of other community services to offenders, including:
    (i) Housing assistance;
    (ii) Education;
    (iii) Employment training;
    (iv) Children and family support;
    (v) Conflict resolution skills training;
    (vi) Family violence intervention programs; and
    (vii) Other appropriate social services; and

(E) Establish and implement graduated sanctions and incentives; and

[26] Provide technology and other tools necessary to advance post-release supervision."
SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.