

HB 1152, HD1

Measure Title:

RELATING TO COMMITTED PERSONS' ACCOUNTS

Report Title:

Committed Persons' Accounts

Description:

Amends section 353-20, Hawaii Revised Statutes, to permit the Director of Public Safety to direct the department to have one or more accounts for committed persons. Also states that the accounts are non-interest bearing and that no interest can be paid to committed persons on the individual accounts. Effective July 1, 2025. (HB1152 HD1)

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1152, HD1
RELATING TO COMMITTED PERSONS' ACCOUNTS

by
Clayton A. Frank, Director
Department of Public Safety

Committee on Public Safety and Military Affairs
Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

Thursday, March 19, 2009, 1:30 PM
State Capitol, Conference Room 229

Senator Espero, Senator Bunda and Members of the Committee:

The Department of Public Safety (PSD) strongly supports House Bill 1152, HD1. The measure seeks to clarify that PSD may maintain more than one account per committed person pursuant to Section 353-20, Hawaii Revised Statutes. This measure also clarifies that the funds held in local financial institutions will be placed in non interest bearing accounts, and further, that no interest will be paid to the committed person on the funds held by PSD to facilitate the committed persons stay in custody. Recent litigation suggests that PSD is only permitted to have one account per committed person, and that the Department is obligated to pay interest on these accounts. The reason for having more than one account per committed person stems from years of experience in dealing with people who are incarcerated, and who rarely save funds during incarceration to be used in reestablishing themselves in the community upon release from custody. This measure provides for an account that the committed persons may use to purchase items, pay for copies, and deal with the day-to-day expenses incurred while in custody. The measure also provides for a second account that would be used to hold a portion of the funds earned by the committed person while in custody, to be used as release funds to help the released person transition back into the community. This second account could only be

accessed by the committed person on limited occasions, and would serve as a savings account to provide funds upon release into the community.

The non-interest bearing accounts in this measure will clarify the question regarding interest due on committed persons' accounts established by PSD pursuant to Section 353-20, Hawaii Revised Statutes. The accounts in question are established as a service for the committed persons, to facilitate their ability to purchase items and services within the facility. There are no charges for this service, even though thousands of hours of work are required to operate these accounts. Private banking institutions will not open accounts unless a minimum amount is placed in the account and maintained, and there are often charges to maintain a private account under any circumstances. PSD provides these services without charges in order to facilitate an orderly operation of the facility. However, if PSD is required to pay interest on these accounts, the funds to pay this interest are not allotted in the current budget. More significantly, the costs of the software to compute daily interest and the positions required to operate the software and the rest of the accounting functions far exceed PSD's present expenses.

Based on the enormous and clearly unfunded expenses that would be incurred if HB1152, HD1 were not to be enacted, PSD respectfully requests that this committee pass this measure and support its passage into statute to clarify the questions raised by the civil litigation.

Thank you for this opportunity to provide testimony on this matter.

Hepatitis Support Network of Hawai'i
Prison Reintegration and Family Reunification Program

1286 Queen Emma Street

Honolulu, Hawaii 96813

www.idlinks.com

808-942-4276

March 19, 2009

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Bunda, Vice-chair

Thursday, March 19, 2009

1:30 p.m.

Conference room 229

HB 1152

RELATING TO COMMITTED PERSONS ACCOUNT
AGAINST

My name is Andy Botts, Director of The Hepatitis Network's Prisoner Reintegration Program, and author of Nightmare In Bangkok. I **DO NOT** support this bill for several reasons. First, this bill if passed is vague at best, as it doesn't detail guidelines that specify which funds will be garnished nor an amount. Previous testimony by The Dept of Public Safety stated that only 10% of earned wages would be subject to the restricted account, yet current policy dictates that 50% of all wages are garnished for the separate account.

Next, the rationale of instituting a restricted account, under the guise of helping inmates save money is unreasonable. The meager wages earned from prison work-lines are barely sufficient at best to allow prisoners the opportunity to purchase toiletries and other necessities while incarcerated. To garnish these funds will create additional hardship on the families of the incarcerated, who will be pressed to send additional money during these tough financial times, and/or encourage illegal activities such as gambling, extortion, and drug dealing within the facilities. This would cause disorder to the security of the facilities, which is the main concern for the public's safety.

Finally, the issue of garnishment of inmate wages for any reason has been decided in numerous Supreme Court cases in the past, including a recent decision from the Hawaii Supreme Court in Blaisdell vs Dept of Public Safety. Passage of this bill circumvents the decision of our high court, which should be the final say, and undermines their capability to function without lawmakers intervening whenever an adverse decision is rendered. If this bill is passed, it will be challenged, resulting in costly litigation that doesn't justify its passage.

Andy Botts, Director

Prisoner reintegration program

Author, Nightmare In Bangkok



COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Wil Espero, Chair

Sen. Robert Bunda, Vice Chair

Thursday, March 19, 2009

1:30 pm Room 229

SUPPORT HB 1152, HD1 RELATING TO COMMITTED PERSONS' ACCOUNTS

Aloha Chair Espero, Vice Chair Bunda and Members of the Committee!

My name is Carrie Ann Shirota, and I am writing in opposition to HB 1152 HD1 Relating to Committed Persons' Accounts. My experiences as a former Public Defender and staff member of a reentry program on Maui and member of Community Alliance on Prisons have shaped my advocacy efforts to promote accountability and transparency within our correctional system. Each of us has a stake in providing opportunities within the correctional system to help individuals better prepare for their release from prison as law-abiding, contributing members of their `ohana and community.

HB 1152 HD1 seeks to amend Amends section 353-20, Hawai`i Revised Statutes, to permit the Director of Public Safety to direct the department to have one or more accounts for committed persons. The bill also states that the accounts are non-interest bearing and that no interest can be paid to committed persons in the individual accounts.

I would like to provide rebuttal responses to PSD's testimony in support of this bill.

First, PSD claims that it is necessary to have more than one account per committed person based on their experience that incarcerated persons rarely save funds during incarceration. Rather than changing the law to circumvent the Hawai`i Supreme Court's ruling, PSD should focus on providing incarcerated persons with more programs that focus on higher education, GED, and vocational training. In addition, PSD should offer classes that teach financial literacy. Equally important, PSD should pay incarcerated persons' minimum wage while working within the facility or on the work-lines. It is difficult, if not nearly impossible, to save money when you are making slave wages. As it says in the Bible, "give a man a fish, and he will eat for a day. Teach a man to fish and he will eat for a lifetime." The forced establishment of two accounts does not reflect the real world, nor does it teach incarcerated men and women the means to earn money and save money in preparation for their transition into the community.

Second, PSD claims that the second account would be used to hold a portion of the funds earned by the committed person while in custody, to be used as release money. Currently, PSD does not authorize an individual on work furlough/educational furlough or electronic monitoring furlough (EMF), to access funds from the second "restricted account." In many instances, this is when the restricted money is most needed – to purchase clothes, work tools, transportation expenses, etc. To prevent individuals from accessing funds from the restricted account during this critical period of transition into the community makes little sense.

Third, PSD asserts that if they are required to pay interest on these accounts, the funds to pay this interest are not allotted in the current budget. This begs the question – after all these years, how has PSD spent the money from interest earned on committed persons' accounts? An accounting of that interest and itemized list of expenditures is necessary to ensure transparency and accountability within the Department of Public Safety. Based upon the foregoing reasons, I respectfully ask this Committee to hold this bill.

Sincerely,
Carrie Ann Shirota, Esq.
Wailuku, Hawai`i
(808) 269-3858

Franklin Jackson
950 Luehu St Apt#403
Pearl City, Hawaii 96782
fjpearlcity@aol.com
March 19, 2009

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Bunda, Vice-chair

Thursday, March 19, 2009

1:30 p.m.

Conference room 229

HB 1152

RELATING TO COMMITTED PERSONS ACCOUNT
AGAINST

My name is Franklin Jackson. I am strongly against this bill. The practice of ripping-off the inmates goes on unnoticed because they are a minority. Slavery was abolished in America 150 years ago, yet it continues in our prisons today. Passage of this bill endorses this behavior and gives the Corrections dept a green light to do whatever they want with inmate's funds. I have personally experienced a loss of money earned while in prison, for various reasons, due to the unethical accounting practices of the authorities in control of my money. The Supreme Court has also made a decision on this matter, and there decision should be the final decision.

Mahalo for the opportunity to testify in this matter.

Franklin Jackson