

SB 1058

Measure Title:

RELATING TO CONTROLLED SUBSTANCES

Report Title:

Controlled Substances; Diversion; Treatment

Description:

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
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PETER B. CARLISLE
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DOUGLAS S. CHIN
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THE HONORABLE WILL ESPERO, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

February 12, 2009

RE: S.B. 1058; RELATING TO CONTROLLED SUBSTANCES.

Chair Espero and members of the Senate Committee on Public Safety and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to S.B. 1058.

The purpose of S.B. 1058 is to convene a task force to review the impact diversion of minor drug offenders into drug treatment would have on the criminal justice system, drug treatment programs and public safety. S.B. 1058 defines "minor drug offenders" to be persons charged with a class B or C felony drug possession offense. The bill further proposes that the "minor drug offender" be allowed to a misdemeanor and be placed in treatment in lieu of imprisonment.

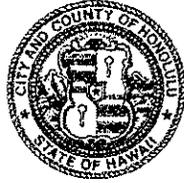
We oppose this bill since we believe that the concept to be studied by the task force will not assist persons to enter and remain in drug treatment. First of all, probation for a misdemeanor offense can only be for a maximum period of six months, which will generally be insufficient to get into and complete drug treatment. In contrast, probation for a class B or C felony is for a maximum period of five years which allows for sufficient time for defendants to get into and complete drug treatment programs and obtain supervision to assist in maintaining sobriety. In addition, we observe that are multiple avenues of diversion already extant in the criminal justice system that are available to class B and C drug addicted offenders; these include Drug Court, drug treatment as a condition of probation or parole, and mandated probation with drug treatment under Hawaii Revised Statutes sections 706-622.5 and 706-622.9.

For these reasons, we feel that conceptual basis of the task force is flawed and we therefore respectfully oppose the passage of S.B. 1058. Thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
KARL A. GODSEY
DEPUTY CHIEFS

OUR REFERENCE LK-TA

February 12, 2009

The Honorable Will Espero, Chair
and Members
Committee on Public Safety
and Military Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 1058, Relating to Controlled Substances

I am Louis Kealoha, Captain of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 1058, Relating to Controlled Substances.

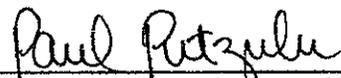
Passage of this bill will allow the attorney general to coordinate a review of the impact that diversion of minor drug possession offenders into drug treatment would have on the criminal justice system, drug treatment program resources, and public safety. The results will help the agencies make better decisions and better serve our community.

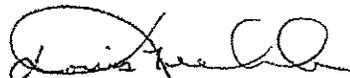
The Honolulu Police Department urges you to support Senate Bill No. 1058, Relating to Controlled Substances.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

for: 
BOISSE P. CORREA
Chief of Police


LOUIS KEALOHA, Captain
Narcotics/Vice Division

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817
Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Thursday, February 12, 2009
1:15 PM
Room 229
STRONG SUPPORT with Small-Kine Amendment
SB 1058 - AG Study on Diverting Low Level Drug Offenders
PSMTestimony@capitol.hawaii.gov

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

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 1058 directs the Attorney General to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

Community Alliance is in strong support of SB 1058 and respectfully asks for a small-kine amendment to the consultant parties listed. That is, we suggest that the following groups be listed as stakeholders, starting on line 20 of Page 2 of the bill, to be consulted:

- Public Defenders,
- A representative of the ACLU of Hawai'i, and
- At least one community advocacy group, such as the Drug Policy Forum of Hawai'i who have more than 15 years of experience, research, and data to share)
- Criminologists/Researchers who can ensure that the latest data is analyzed

In 2002, the Legislature passed Act 161 in 2002, which diverted first-time, nonviolent drug lawbreakers to treatment instead of prison. The opposition came from the police and prosecutors (as it has in every jurisdiction where similar laws passed) who said that first timers are never incarcerated. A cursory review of the files at Halawa by a staffer at Public Safety, however, found 48 first-time, nonviolent drug lawbreakers incarcerated there. The prosecutor's response? They shouldn't be there!

In 2004, Act 161 was changed to make it discretionary, not mandatory, to divert first-time nonviolent drug offenders to treatment. (Act 44 - HB 2003 HD1,SD1). Act 44 finally provided funding, but it changed the purpose of the law. It is not unusual today to meet many to meet many first timers in prison - most for drugs.

The rising costs of prison and the pitiful outcomes demand that we rethink what we are doing and explore other options. During times of fiscal austerity businesses try a number of things to cut costs and improve efficiency - getting a bigger bang for the buck, so to speak. In this same vein, the state can look upon these trying times as an opportunity to take a close look at what we are doing, how we are doing it, and ask if there is some way to do it better and at a lower cost. My Mom used to say that necessity is the mother of invention, and she was right.

A study, if it is independent, will take an unbiased look at diverting nonviolent drug lawbreakers and do a cost-benefit analysis of our current system and projections for law changes. This is another great use of the Sentencing Simulation Model that is a tool for legislators to see the impact of legislation before it becomes law. The bill to fund this terrific project is forthcoming and should be supported. It's the unintended consequences of policies enacted into law that cause many problems.

In these lean times, we need to explore every option to promote justice, protect public safety, and preserve precious resources.

Community Alliance on Prisons urges passage of SB 1058.

Mahalo for this opportunity to testify.



Via E-mail: PSMTestimony@Capitol.hawaii.gov
Committee: Committee on Public Safety and Military Affairs
Hearing Date/Time: Thursday, February 12, 2009, 1:15 p.m.
Place: Room 229
Re: Testimony of the ACLU of Hawaii in Support of S.B. 1058, Relating to Controlled Substances

Dear Chair Espero and Members of the Committee on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong support of S.B. 1058, which directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice into treatment.

The ACLU of Hawaii supports every effort to develop diversion programs and health-based solutions to individuals with drug addictions. In general, these types of programs are far more cost-effective – and far more effective at reducing recidivism – than incarceration and deserve the Legislature’s full support.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
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SB1058 RELATING TO CONTROLLED SUBSTANCES

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Robert Bunda, Vice Chair

DATE: Thursday, February 12, 2009

TIME: 1:15 p.m.

PLACE: Conference Room 229

Hawaii Substance Abuse Coalition (HSAC)

Aloha, Chair Espero, Vice Chair Bunda and distinguished members. My name is Alan Johnson, Chairperson of the Hawaii Substance Abuse Coalition, which is a hui of 22 treatment agencies throughout the state.

HSAC supports SB1058

HSAC applauds the Legislature for recognizing that huge cost savings could be realized by diverting low risk, non-violent drug addicts into treatment.

Essential will be a partnership with Judiciary and Public Safety to include the use of proper assessment tools to ensure there is minimal risk and to ensure the community-based treatment program has both treatment components and addresses criminality issues.

Treatment Works and Saves Money!

According to Department of Health outcomes, treatment is effective for both adolescents and adults. The outcome data is available at <http://hawaii.gov/health/substance-abuse/prevention-treatment/treatment/adirtwo.htm>

Given the recent substantial advances in treatment methodologies over the last several years, treatment is more cost effective than customary alternatives. Treatment can save huge dollars in each and every year.

1. Fact: Alcohol and drug abuse cost over \$166 billion each year in lost productivity, law enforcement, criminal case processing, treatment and health care costs.
2. Fact: In 1997, almost 10% of the adult population and 6% of adolescents need treatment in Hawaii.

3. Fact: Treatment is 7 times more cost effective in reducing cocaine consumption than the best supply control program in the United States.
4. Fact: Treatment is far less expensive than the likely alternatives. One year of treatment costs \$11,500. One year of incarceration costs \$39,600. One year of untreated addiction costs society an estimated \$43,200.
5. Fact: \$1 invested in substance abuse treatment saves taxpayers \$7 in future costs; that \$1 invested in treatment could save \$11.54 in combined medical and social costs; for every \$1 spent on substance abuse treatment \$5.60 was returned in reduced welfare, food stamps, Medicaid, crime courts, and imprisonment.

Substance abuse treatment reduces crime

1. Fact: Thirty three percent of all criminal justice costs relate to substance abuse.
2. Fact: State court data shows that the majority of state felony convictions in 1994 were for drug (31%) or property offenses (32%). Also 33% of all murders or manslaughter incidents and over 50% of spousal murders are drug or alcohol related.
3. Fact: Over 1.6 million adults (55%) in probation and parole programs need alcohol or drug treatment.
4. Treatment works: Results of a treatment study report significant declines in criminal activity.
 - Reports of arrests of selling drugs decreased by 78.2%, from 64% to 13.9%.
 - Reports of arrests of shoplifting decreased by 81.6%, from 63.7% to 11.7%.
 - Reports of "beating someone up" decreased by 77.6%, from 49.3% to 11%.
 - Reports of arrests for any crimes decreased by 64.2%, from 48.2% to 17.2% in the comparison years.
 - Drug sales dropped by 68%;
 - Breaking and entering dropped by 61%;
 - Selling sex dropped by 54%;
 - Use of weapons or physical force dropped by 75%.

References: Please refer to <http://hawaii.gov/health/substance-abuse/prevention-treatment/treatment/adtrtwo.htm>

We appreciate the opportunity to provide information and are available for questions, if needed.



the
**Drug Policy
Forum**

February 12, 2009

To: Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair
And Members of the Committee on Public Safety and Military Affairs

From: Jeanne Ohta, Executive Director

RE: SB 1058 Relating to Controlled Substances
Hearing: February 12, 2009, 1:15 p.m., Room 229

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii. Thank you for this opportunity to testify in support of SB 1058 which directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level and felony drug offenders out of the criminal justice system into treatment.

Since 1993 the Drug Policy Forum of Hawai'i has advocated for safe, responsible, humane, and effective drug policies. DPFH supports using a public health approach to the issue of drug use, rather than continuing to resolve drug abuse problems through the criminal justice system which results in severe prison overcrowding and warehousing of Hawai'i prisoners on the U.S. continent.

The study would help determine the treatment needs under a diversion program; how costs would change for law enforcement, prosecution, judicial and correctional resources.

Current drug policies, as applied and enforced, have taken a particularly hard toll on economically disadvantaged communities through the disproportionate incarceration of Native Hawaiians and the poor, disrupting families and interfering with or denying educational, employment and housing opportunities, thereby exacerbating the social conditions that gave rise to the drug abuse in the first place.

It is time that an independent study be conducted so that policy makers can determine where to shift public resources and how diversion of low-level and felony drug offenders into treatment programs can impact the criminal justice system.

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COMMITTEE ON PUBLIC SAFETY
Sen. Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Thursday, February 12, 2009
1:15 pm
Room 229

**SUPPORT WITH AMENDMENT
SB 1058 RELATING TO CONTROLLED SUBSTANCES**

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

My name is Carrie Ann Shirota, and I am writing to comment on SB 1058 Relating to Controlled Substances. 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 rehabilitation opportunities to help individuals better prepare for their release from prison as law-abiding, contributing members of their `ohana and community.

SB 1058 directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

Recent findings from the Urban Institute on Substance Abuse and Reentry provide support for SB 1058:

- A majority of prisoners have extensive substance abuse histories.
- Prisoners identify drug use as the primary cause of many of their past and current problems
- Despite high levels of drug use, relatively few prisoners receive drug treatment while incarcerated. In Hawai`i, a report commissioned by PSD indicated that less than 15% of all prisoners receive substance abuse treatment. *See Ten Year Corrections Master Plan Update.*

In light of overcrowded prisons and the enormous costs associated with incarceration, it behooves our community to focus on diversion to substance abuse treatment and alternatives to incarceration.

Amendment

I would support this bill if the diversion study was conducted by independent researchers in the field of criminology.

Mahalo for the opportunity to submit testimony on SB 1058.

Respectfully submitted,

Carrie Ann Shirota, Esq.
Wailuku, Hawai`i 96793
(808) 269-3858

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Thursday, February 12, 2009
1:15 PM
Room 229
STRONG SUPPORT

SB 1058 - AG Study on Diverting Low Level Drug Offenders
PSMTestimony@capitol.hawaii.gov

Chair Hanohano, Vice Chair Aquino and Committee Members:

I am writing to express strong support for SB 1058, which directs the Attorney General to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

It is said that first-time, nonviolent drug offenders should be sent to treatment rather than prison, but apparently, in practice many end up in prison. Prison is not the right setting to treat drug abusers, and in addition, it is extremely expensive to lock up people who are not a threat to society. This bill addresses these two problems by helping people get the treatment they need as well as reducing the costly burden on taxpayers of incarcerating nonviolent offenders.

I urge you to pass SB 1058.

Thank you,

Diana Bethel
1441 Victoria St.
Honolulu, Hawaii 96822

TO: COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS
Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

FROM: Carmael Kamealoha Stagner, private citizen & spouse of inmate incarcerated
at Saguaro Correctional Facility

DATE: February 7, 2009

SUBJECT: TESTIMONY IN FAVOR OF 1058

DATE: Thursday, February 12, 2009

TIME: 1:15 p.m.

PLACE: Conference Room 229

PSMTestimony@Capitol.hawaii.gov .

SB 1058

RELATING TO CONTROLLED SUBSTANCES.

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.

Honorable committee chairpersons Senator Will Espero and Senator Robert Bunda,

This testimony is in favor of correlation studies in support of diversion programs for arrestees, which recommend treatment services in lieu of prison sentences.

Please include in this effort current status reports from the Department of Public Safety substance abuse program completions and recidivism rates, Department of Vocational Rehabilitation work force programming for offenders/parolees, community treatment providers' milieu and outcomes of law-involved program participants, clean and sober housing programs, and additional agencies that support treatment services for offenders with addiction problems.

Thank You.