



SB2349 SD1
RELATING TO CRIMINAL JUSTICE

House Committee on Public Safety, Veterans, & Military Affairs

March 11, 2020

10:30 a.m.

Room 430

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2349 SD1, which would require all state correctional facilities to provide a minimum of 2 one-hour contact visits for inmates and their families. Contact visitation is necessary to repair and improve relationships between inmates and their families and to reduce the trauma and collateral consequences suffered especially by young children of incarcerated parents; **maintaining bonds with close family while incarcerated is critical to improving inmate rehabilitation, family stabilization, successful reintegration, and the safety of our communities.**

Addressing the unique needs of pa‘ahao, and their children and families, is of particular concern to the Native Hawaiian community. The HCR85 Task Force on prison reform recently reported that Native Hawaiians comprise 37 percent of the adult incarcerated population, while they account for just 18 percent of the general adult population in the state.ⁱ Other OHA research has further demonstrated that Native Hawaiians are more likely to have children in their households than other state households.ⁱⁱ Accordingly, given the disproportionate number of Native Hawaiians in the prison system, and the high likelihood that they may have children, there may be a significant number of Native Hawaiian ‘ohana, and especially children, being immensely and negatively impacted by the incarceration of their parents.

OHA notes that a growing body of national research demonstrates that children whose parents are incarcerated may experience great trauma as a result of their parents’ incarceration. For example, such children may struggle with challenges including separation from their families, displacement from their homes, social stigmas, emotional isolation, and a lack of financial and other resources. Consequently, children with incarcerated parents often suffer from emotional distress, developmental challenges, poor academic performance, aggressive behavior, and truancy. These children are three times more likely to suffer from depression or behavioral problems and twice as likely to suffer from learning disabilities and anxiety than the average American child.ⁱⁱⁱ Moreover, in the long-term, these children may also be much more likely to enter the criminal justice system themselves.

Regular contact visits may be one means of mitigating the trauma felt by children with incarcerated parents, and reducing the harms of our criminal justice system on the Native Hawaiian community. Contact visits provide comfort to children, by allowing

them to see that their parents are safe and healthy while in prison, and momentarily enjoy the sense of closeness to which they are accustomed.^{iv} Parents and children spending time together can also help mitigate children's feelings of abandonment and anxiety, while enabling them to strengthen or establish new bonds, and repair strained relationships. What's more, the maintenance of a parent-child and other close familial relationships can also contribute to the emotional stability of the incarcerated parent, contributing to their rehabilitation.

High-quality visitation not only ensures better outcomes for inmates and their families, it likely *improves* prison safety and security. The largest and most comprehensive study of prison visitation policies, published by the Yale Law & Policy Review, cited substantial empirical evidence to conclude that "frequent, high-quality visitation can reduce prison violence, maintain family bonds, break the intergenerational cycle of incarceration, and smooth the reentry process, thereby reducing recidivism rates." One study in Ohio found that visitation had a positive impact on prisoner behavior and prison safety.^v Moreover, a study of over 16,000 ex-inmates from Minnesota's correctional system showed that, when controlling for numerous other factors, prisoners with regular visitation were substantially less likely to recidivate or have their parole revoked.^{vi} The Yale Law & Policy Review study surmised that, "**[in] short, smart visitation policies make prison personnel and prisoners safer, decrease crime, save money, and mitigate the damage incarceration wreaks on families and communities.**"^{vii} In recognition of this mounting national data, the HCR85 Task Force implored the State to expand inmate visitation, and specifically contact visitation, as vital to inmates' family stability, rehabilitation, and successful reentry.^{viii}

For these reasons, OHA urges the Committee to **PASS** SB2349 SD1 Mahalo piha for the opportunity to testify on this measure.

ⁱ HCR85 TASK FORCE ON PRISON REFORM, FINAL REPORT: SUMMARY AND KEY RECOMMENDATIONS 2 (2019) available at <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR85-web.pdf>.

ⁱⁱ THE OFFICE OF HAWAIIAN AFFAIRS DATA BOOK, Native Hawaiian Housing Data Table 2.05 (2019), http://www.ohadatabook.com/go_newtables.19.html.

ⁱⁱⁱ Kristin Turney, *Stress Proliferation Across Generations? Examining the Relationship Between Parental Incarceration and Childhood Health*, 55 JOURNAL OF HEALTH AND SOC. BEHAVIOR 302 (2014).

^{iv} Duwe, *infra* note 6, at 1-2; Melinda Tasca et al., *Families Coming Together in Prison: An Examination of Visitation Encounters*, PUNISHMENT AND SOCIETY (2016).

^v Gary C. Mohr, *An Overview of Research Findings in the Visitation, Offender Behavior Connection*, OHIO DEP'T OF REHAB. & CORR. (2012), available at <http://www.asca.net/system/assets/attachments/4991/OH%20DRC%20Visitation%20Research%20Summary.pdf>. This Ohio study found a statistically significant relationship between increased visitation and decreased rule infractions, with even one visit found to have a positive correlation, and visits from parents or guardians found to be particularly significant.

^{vi} Grant Duwe & Valerie Clark, *Blessed Be the Social Tie that Binds: The Effects of Prison Visitation on Offender Recidivism*, 24 CRIM. JUST. POL'Y REV., 271, 277, 289 (2013). Tracking over sixteen thousand prisoners released from Minnesota prisons between 2003 and 2007, this study showed that, when controlling for numerous other factors, prisoners who received visits were thirteen percent less likely to be

reconvicted of a felony after release and twenty-five percent less likely to have their probation or parole revoked.

^{vii} Chesa Boudin, Trevor Stutz, & Aaron Littman, *Prison Visitation Policies: A Fifty-State Survey*, YALE LAW & POL'Y REV., 151-52 (2013) available at https://law.yale.edu/sites/default/files/area/center/liman/document/prison_visitation_policies.pdf.

^{viii} HCR85 TASK FORCE ON PRISON REFORM, FINAL REPORT: CREATING BETTER OUTCOMES, SAFER COMMUNITIES, 88-89 (2018) available at https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf. “While incarcerated, each inmate should be provided the resources and opportunity to build and maintain family relationships, strengthening the support system available upon release.” The Task Force indicated that this would require, “comfortable, friendly space for contact visits with family.”

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COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIR

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Wednesday, March 11, 2020

10:30 AM – Room 430

STRONG SUPPORT for SB 2349 SD1 - CONTACT VISITATION AT ALL HAWAII FACILITIES

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

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE**, including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 of Hawai'i's imprisoned people 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 2349 SD1 requires all state correctional facilities to allow family members to engage in contact visitation with inmates at any state correctional facility during official visiting hours. Provides that the correctional facility shall provide each inmate with the opportunity for a minimum of two in-person, contact visits per week, with each visit lasting at least one hour.

Community Alliance on Prisons is in strong support of this important bill. This bill is part of the Keiki Caucus package that was voted on by the large group of community folks and organizations that are active advocates for Hawai'i's children.

The data and research show that keeping families and loved ones connected does reduce recidivism. Let's stop the intergenerational incarceration in Hawai'i noted by the Department of Justice when they came here in 1998. Of the eight jurisdictions they visited, they found that Hawai'i had more intergenerational incarceration than any other jurisdiction they visited.

Civil Beat¹ recently spoke with the Urban Institute about ways to improve jail and prison visits and learned that:

¹ Three Hawaii Correctional Facilities Ban Contact Visits Despite Potential Benefits, Studies suggest non-contact visits can be harmful for families, especially children, By Yoohyun Jung, Wednesday, January 15, 2020.

<https://www.civilbeat.org/2020/01/three-hawaii-correctional-facilities-ban-contact-visits-despite-potential-benefits/>

“In other jurisdictions, jails partner with community-based nonprofits. For instance, in Allegheny County, Pennsylvania, nonprofit staff pat down children to check for contraband instead of jail staff, making it less intimidating.

Another example is Harris County, Texas, where the jail system is training volunteers as “ambassadors” in the lobby of the facility to help families navigate the visitation system and they’ve started offering books and coloring sheets in the lobby for children.

Prisons and jails could also host activities in the visitation rooms, such as worksheets, coloring books or providing the same book to both the incarcerated parent and children on the other side of the plexiglass, she said.

The physical environment could also be made more welcoming.

*However, at the end of the day, provided the families are ready, **contact visits still are the best option.**”*

Children of Incarcerated Parents, a Shared Sentence The Devastating Toll of Parental Incarceration on Kids, Families and Communities

By the Annie E. Casey Foundation

April 18, 2016

<https://www.aecf.org/resources/a-shared-sentence/>

Children of incarcerated parents – like all children – need strong, supportive families and communities. Making smart investments in them, their families and the places where they live can help ensure they have solid support systems.

RECOMMENDATION 1: *Ensure children are supported while parents are incarcerated and after they return.*

RECOMMENDATION 2: *Connect parents who have returned to the community with pathways to employment.*

RECOMMENDATION 3: *Strengthen communities, particularly those disproportionately affected by incarceration and reentry, to promote family stability & opportunity.*

The confinement of a parent should not doom a child to a lifetime of closed doors. Our hopes and dreams for children of incarcerated parents should be no different from the limitless horizon we seek for all of our children. They too deserve a blank page in our nation’s great storybook – and the chance to shape their part of the tale as it continues to unfold for themselves, their future families and our whole country.

A key takeaway from a study by the Annie E. Casey Foundation was the number of children who have had a parent in jail or prison at some point in their childhood.

Key Parental Incarceration Takeaway

Children Who Have Experienced Parental Incarceration: 2011-2012

Nationally, the number of kids who have had a parent in jail or prison at some point in their childhood hovers around 5.1 million – a conservative estimate. Children with incarcerated parents are significantly less likely to live in neighborhoods that are able to be supportive of

families. The chart shows that seven (7) percent of U.S. children have experienced parental incarceration. Among states, the percentage varies dramatically, from only 3% in New Jersey to 13% in Kentucky. Hawai'i's correctional facilities are disproportionately populated by Kanaka Maoli and the chart shows that 5% of our keiki have experienced parental incarceration, translating to 16,000 of our people experienced parental incarceration during their childhood.

The Effects of Prison Visitation on Offender Recidivism

https://mn.gov/doc/assets/11-11MNPrisonVisitationStudy_tcm1089-272781.pdf

Minnesota Department of Corrections (St. Paul, MN) 2011

Visitation has a significant effect on recidivism. "Any visit **reduced the risk of recidivism by 13 percent for felony reconvictions and 25 percent for technical violation revocations**, which reflects the fact that visitation generally had a greater impact on revocations. The findings further showed that more frequent and recent visits were associated with a decreased risk of recidivism" (p. 27).

Inmate Social Ties and the Transition to Society Does *Visitation Reduce Recidivism?*

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.865.9780&rep=rep1&type=pdf>

William D. Bales, Daniel P. Mears - Florida State University

...Consonant with the few extant empirical studies of the topic (e.g., Adams and Fischer 1976; Holt and Miller 1972; Ohlin 1951), **any visitation and more frequent visitation were both associated with a lower likelihood of recidivism.** Additional, more nuanced analyses conveyed similar findings, such as the notion that visitation over many different months exerts a greater effect than visits over fewer months. **Visitation was also associated with delaying the onset, or timing, of recidivism.**

Blessed Be the Social Tie That Binds: The Effects of Prison Visitation on Offender Recidivism

<https://doi.org/10.1177/0887403411429724> - Grant Duwe and Valerie Clark, December 2011

...we found that **visitation significantly decreased the risk of recidivism**, a result that was robust across all of the Cox regression models that were estimated. The results also showed that visits from siblings, in-laws, fathers, and clergy were the most beneficial in reducing the risk of recidivism, whereas visits from ex-spouses significantly increased the risk. The findings suggest that revising prison visitation policies to make them more "visitor friendly" could yield public safety benefits by helping offenders establish a continuum of social support from prison to the community.

Community Alliance on Prisons urges the committees to pass this measure.

Mahalo for the opportunity to share our research and to testify!

SB-2349-SD-1

Submitted on: 3/9/2020 10:39:37 PM

Testimony for PVM on 3/11/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shirota	Individual	Support	No

Comments:

SB-2349-SD-1

Submitted on: 3/10/2020 1:16:18 AM

Testimony for PVM on 3/11/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristine Crawford	Individual	Support	No

Comments:

I strongly support this bill. Not allowing contact visitation is inhumane. Contact visitation reduces recidivism. It helps people who are imprisoned and their loved ones.

SB-2349-SD-1

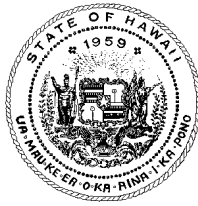
Submitted on: 3/10/2020 8:22:39 AM

Testimony for PVM on 3/11/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Support	No

Comments:

DAVID Y. IGE
GOVERNOR



NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
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Shari L. Kimoto
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LATE

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
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No. _____

TESTIMONY ON SENATE BILL 2349, SENATE DRAFT 1
RELATING TO CRIMINAL JUSTICE.

by
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety, Veterans, and Military Affairs
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gates, Vice Chair

Wednesday, March 11, 2020; 10:30 a.m.
State Capitol, Conference Room 430

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

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 2349, Senate Draft (SD) 1, and respectfully requests that it be deferred, based on the following comments.

SB 2349, SD1 seeks to mandate contact visitation for inmates of correctional facilities, providing each inmate with a minimum of two contact visits per week, and allow the use of video or other types of electronic communication technologies to supplement, not replace, contact visits. The Department recognizes the importance of the positive impacts that result when incarcerated individuals maintain meaningful connections with family members, especially as a critical element in inmates' rehabilitation. PSD further believes that contact visitation extended to family members, particularly children, can help to strengthen the parent-child relationship, while reducing the trauma that children may experience when separated from a parent. The Department agrees that contact visits between inmates and their children is a best practice that should continue in all correctional settings whenever possible.

However, the introduction of illegal contraband into correctional facilities in Hawaii is a serious, ongoing problem addressed daily by staff that jeopardizes the safety, control, and good governance of the facility. PSD's records show that facilities with contact visitation experience more frequent incidents than facilities with non-contact visitation. Sadly, inmates use their family members (e.g., girlfriends, wives, and mothers) to smuggle illegal contraband by having the courier wrap it in small bundles and hide it in their oral body cavity. For this reason, the Department's policies and procedures relative to visitation, authorize facilities to restrict contact visits by allowing visits with a glass pane between the inmate and visitor. This method has produced impressive results – the trafficking of illegal contraband into the Oahu Community Correctional Center, Halawa Correctional Facility, and the Maui Community Correctional Center, via visits, has been reduced to almost zero.

Therefore, it is critical for PSD to maintain its discretion to restrict contact visits and provide a range of alternative options, including a designated non-contact visit area; contact visits through a glass pane; and contact visits between incarcerated individuals and their children, under the custody of Child Protective Services (CPS); and contact visits between inmates and their terminally-ill family members.

The Department is also deeply concerned with the measure's requirement for two or more visits to be offered to each and every inmate at correctional facilities statewide, especially without the provision of additional funding for positions, facilities construction, and other resources. Despite taking aggressive steps to recruit staff, PSD continues to be short-staffed, and the facilities would be significantly overburdened by the requirement of an additional visit each week for every inmate. Moreover, current visitation areas require infrastructure expansion to accommodate the increased number of visitors per week. Thus, the policy changes proposed in SB 2349, SD 1 would require increased resources for construction, as well as funds to cover the substantially increased overtime.

Because Collective Bargaining Agreements mandate that essential posts take priority over other functions, the measure would ultimately lead to the cancellation of visits due to staffing shortages, contravening the original intent of legislative mandates for visitations passed in 2014 and defeating the purpose of this proposed bill.

The Department respectfully requests that SB 2349, SD 1 be deferred for the reasons stated above. Instead, PSD reiterates its support for the passage of SB 2345, SD 1 – Relating to Children and Family of Incarcerated Individuals, which seeks to establish a pilot visitation and family resource center at the Waiawa Correctional Facility (WCF), as a manageable and sensible first step in creating a model visitation program that may be replicated at other facilities. The Department was an active participant over the summer in a Department of Human Services (DHS)-led working group, collaborating with multiple community partners, as directed by HCR 205/SCR 7, passed in the 2019 Legislative session, to address this long standing and important social issue. PSD strongly supports the pilot project proposed for WCF, an outgrowth of the working group's efforts summarized in its Report to the 2020 Legislature:

<https://humanservices.hawaii.gov/wp-content/uploads/2020/01/Visiting-Centers-at-all-State-Correctional-Facilities.pdf>, with the whole-hearted intent to expand similar visitation and family resource centers at correctional facilities statewide.

Thank you for the opportunity to present this testimony.

LATE

SB-2349-SD-1

Submitted on: 3/10/2020 3:40:19 PM

Testimony for PVM on 3/11/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mandy Fernandes	ACLU of Hawaii	Support	No

Comments:

SB-2349-SD-1

Submitted on: 3/10/2020 5:38:48 PM

Testimony for PVM on 3/11/2020 10:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

Aloha Representative Takayama, Representative Gates, and Committee Members,

I am writing in strong support of SB2349 SD1. This bill would require all state correctional facilities to allow family members contact visits with inmates during official visiting hours.

Currently, contact visitation is prohibited at OCCC, MCCC, and Halawa Prison. The conditions for visiting are deplorable, with a thick glass separating loved ones. At OCCC, small, cramped kiosks are crowded into a hot, dank room. It is very difficult for children to visit a parent under these conditions.

Criminal justice research indicates that maintaining family support networks is critical to success upon reentry into the community, yet in Hawaii, this research is ignored and the taxpayers must suffer the consequences of short-sighted criminal justice policies.

Please pass SB2349 SD1 to strengthen inmates' family support networks and, at the same time, increase the chances of successful reentry and a corresponding decrease in recidivism and its costs.

Mahalo for your consideration.

Diana Bethel, Honolulu

LATE

SB-2349-SD-1

Submitted on: 3/11/2020 10:54:33 AM

Testimony for PVM on 3/11/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

It is so sad when an invalid child, who cannot sit up, to see her dad and cannot comprehend what is going on not to be able to be hugged to know she is loved by her father.

The visitation room has no air circulating; no exhaust. There are couple of wall fans, no overhead or a/c. There is no sanitizing of the little shelf or the speaking metal piece between visitor and inmate. Very unhealthy conditions considering the Corona virus is transmitted by droplets and the mouthpiece touches lips.

There are two groups who use the same mouthpiece.