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No. _

TESTIMONY ON SENATE BILL 2341
RELATING TO PUBLIC SAFETY

by

Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Tuesday, January 29, 2008
2:45 p.m.
State Capitol, Conference Room 225

Senator Espero and Members of the Committee:

The Department of Public Safety (PSD) opposes Senate Bill 2341. The measure is an unnecessary and inequitable procedure that will discourage any contractor from bidding with PSD. Further, this measure only applies to PSD, and if the intent is to implement this process as a legal requirement, it should apply to all state contracts. Finally, since this measure applies to a non-governmental entity, there is no guidance on how to enforce this measure.

This measure requires a private corrections contractor who contracts to house Hawaii state inmates to submit to procedures required of state agencies under HRS §92F simply because they contract with PSD. However, any other type of contractor is not held to the same standard, either those contracting with PSD or with any other state agency. Further, any document or record that is

material to the state's interest regarding a correctional contract can be requested by the Legislature. The department will supply the documents after obtaining them from the contractor pursuant to existing contracting terms. The same applies for any private entity contracting with other State agencies.

There are over 2,000 State inmates currently in mainland contract prisons simply because there is no adequate space in the State to safely and securely house these inmates. While there are a number of companies that contract to operate private prisons, there are few private contractors, if any, that would bid on PSD contracts if they are required to release information in the same way State agencies are. Implementing this requirement would discourage any contractor from bidding, effectively forcing the State to return inmates to existing State facilities; which would create a situation that would clearly violate the Constitutional rights of inmates. In that the overall effect of this measure would greatly increase costs for the State, either by paying much more for a contractor to perform these tasks, or by paying the adverse judgments upon the return of all Hawaii inmates due to a lack of contractors housing them, this measure is unnecessary and inequitable.

PSD opposes this measure based on the premises that this procedure applies only to a very specific type of contractor, the measure would be very difficult to enforce, and that under the current circumstances, the same results can be achieved by a simple request from the Legislature under HRS §92F. This bill is repetitive and inequitable, and will have an unnecessary chilling effect on any bidding process pursued by PSD.

Thank you for the opportunity to testify.

OFFICE OF INFORMATION PRACTICES

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LATE TESTIMONY

To: Senate Committee on Public Safety

From: Paul T. Tsukiyama, Director

Date: January 29, 2008, 2:45 p.m.
State Capitol, Room 225

Re: Testimony on S.B. 2341
Relating to Public Safety

Thank you for the opportunity to submit testimony on S.B. 2341.

The Office of Information Practices ("OIP") supports the intent of this bill, which would require nongovernmental entities contracting with the State to incarcerate state prisoners to release information about prison operations in the same way that a state agency operating such a facility would be required to under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes.

It is often uncertain whether a nongovernmental entity performing a government function is subject to accountability laws such as the UIPA, and OIP welcomes legislative action to clarify the issue. This bill would make clear that although a private prison operator housing state prisoners is not itself a state agency, it must respond to UIPA requests in the same way as an agency.

OIP would suggest that this Committee consider, as a point of further clarification, addressing the question of the remedy available to a person

requesting records from a private prison operator in the event a request is denied. Under the UIPA, a person requesting records from an agency has the option of appealing to court or to OIP in the event of a denial, but because the private prison operator does not become an "agency" under the terms of this bill, it is not clear whether the same remedial scheme applies. OIP would suggest that this Committee either add language providing that a person requesting records from a private prison operator is entitled to the same remedies available under the UIPA, or add language specifying an alternative remedy.

In addition, OIP is aware that the Department of Public Safety has concerns regarding the enforceability of the measure against private entities located out of state, as well as the administrative burden that would be placed on such entities. On these issues, which are beyond OIP's jurisdiction, OIP defers to PSD's concerns.

Thank you for the opportunity to testify.



Working Together for Hawaii

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Hawaii Government Employees Association
AFSCME Local 152, AFL-CIO

The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Public Safety

Testimony by
Hawaii Government Employees Association
January 29, 2008

S.B. 2341 – RELATING TO PUBLIC SAFETY

The Hawaii Government Employees Association supports this bill. S.B. 2341 will provide much needed accountability and transparency to the public regarding the services provided under any contract made between a private contractor and the state to house Hawaii prisoners. Hawaii has housed prisoners on the Mainland since 1996 and it now costs the state more than \$50 million annually.

Each company contracting with the State to incarcerate or detain state prisoners or detainees in a privately owned prison or detention facility must release the same information about the operation of that facility that a state agency operating such a facility in Hawaii would have under the Uniform Information Practices Act (Chapter 92F, Hawaii Revised Statutes.) Thank you for the opportunity to testify in support of S.B. 2341.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, January 29, 2008

2:45 PM

Room 225

STRONG SUPPORT - SB 2341 - ACCOUNTABILITY & TRANSPARENCY BY PRISONS HOLDING HAWAII INMATES

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

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai'i for a decade. I respectfully offer our testimony always being mindful that Hawai'i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 2341 requires prisons holding Hawaii prisoners under a contract with the State to make public information about the operation of the prison, including private and interstate compact prisons.

Community Alliance on Prisons strongly supports this measure. We assert that when public funds are expended, the public has a right to know how that money is being spent.

There currently appears to be little to no accountability on the part of the contract prisons and any information that is requested is not easily accommodated, if at all. With more than 2,000 Hawai'i individuals serving their sentences in prisons across the continental U.S., accountability and transparency should be very important factors when deciding upon vendors.

In the interest of democracy, we urge you to pass SB 2341 onto the Judiciary and Labor Committee with a recommendation for passage.

Mahalo for this opportunity to testify.

COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, January 29, 2008 2:45 PM Room 225

SUPPORT – SB 2341 - RELATING TO PUBLIC SAFETY. PBS, JDL

My name is Ka`iana Haili, I am the director of Ke Kahua Pa`a and work with Nā Maka Hāloa 501c3 non profit organization. In addition, we work with numerous individuals and organizations implementing rehabilitation programs in Hawai`i and mainland facilities.

We support SB 2341 that will require prisons holding Hawaii inmates under a contract with the State to make public information about the operation of the prison. It is important that the public is informed and purposely involved with the rehabilitation of those returning to our families in our communities.

The purpose of this bill is to provide accountability and transparency to the public regarding the services provided by any vendor for any contract made with the State to house Hawaii prisoners, including those prisons housing individuals held in the US on interstate compact agreements.

The public currently receives no information about the private prisons or the interstate compact prisons holding our people. This bill mandates that information be made public.

Mahalo for your answerability

Ka`iana Haili
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COMMITTEE ON PUBLIC SAFETY

Chair: Sen. Will Espero

Vice Chair: Sen. Clarence Nishirara

Tuesday, January 29, 2008

2:45 PM

Room 225

Bill # SB 2341

Position: Strong Support

Hello Chair Espero , Vice Chair Nishihara and Members of the Committee

My name is Cathy Tilley and I am a member of the Community Allianace on Prisions and my son is an inmate at the Saguaro Correctional Facility in Arizona.

I am strongly in support of SB2341 provide accountability and transparency to the public regarding vendor contracts with the State of Hawaii. I am especially concerned with the CCA contracts where we sent our prisoners to the Mainland. It is unbelievable that these contracts and the enforcement are not available for the public to access. As a parent and a member of the community I feel we have a right to know what is in the contract and if it is being enforced. The state spends a lot of money on shipping out the inmates. As taxpayers who are paying for this huge expense we should know if we are getting what we pay for.

Sincerely,
Cathy Tilley
621 Pauku St.
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