



GOV. MSG. NO. 686

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 7, 2010

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

Dear Madam President and Members of the Senate:

Re: House Bill No. 2266 HD1 SD1 CD1

On July 6, 2010, House Bill No. 2266, entitled "A Bill for an Act Relating to Corrections" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require the Department of Public Safety to place priority upon establishing appropriate counseling services for sexual assault within twenty-four hours of the report of an assault, and to issue policies and standards to achieve a zero-tolerance policy regarding sexual assault. In addition, this bill requires the Department of Public Safety to provide an annual report to the Legislature about its efforts to implement the federal Prison Rape Elimination Act of 2003 (PREA).

The Department of Public Safety already has implemented policies and procedures that accomplish the measure's stated purpose. The Department provides counseling services for sexual assault victims and currently has a zero tolerance policy on sexual assault. Consequently, this legislation is duplicative and unnecessary.

Additionally, implementing regulations have not yet been adopted by the Federal Government for PREA, making this bill's reporting requirements on PREA implementation premature.

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For the foregoing reasons, I allowed House Bill No. 2266 to become law as Act 194, effective July 6, 2010, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1 SECTION 1. The legislature finds that rape is a violent,
2 destructive crime--no less so when the victim is incarcerated.
3 Even as courts and human rights standards increasingly confirm
4 that prisoners have the same fundamental rights to safety,
5 dignity, and justice as individuals living at liberty in the
6 community, vulnerable men, women, and children continue to be
7 sexually victimized by other prisoners and corrections staff.
8 Tolerance of sexual abuse of prisoners in the government's
9 custody is totally incompatible with American values.

10 The United States Congress affirmed the duty to protect
11 incarcerated individuals from sexual abuse by unanimously
12 enacting the Prison Rape Elimination Act of 2003. The Act
13 called for the creation of a national commission to study the
14 causes and consequences of sexual abuse in confinement and to
15 develop standards for correctional facilities nationwide that
16 would set in motion a process to eliminate prison rape.



1 The purpose of this Act is to establish policies and
2 standards to provide appropriate treatment to victims of prison
3 rape and to prevent the occurrence of prison rape.

4 SECTION 2. The department of public safety, to the best of
5 the department's ability, shall address sexual assault in prison
6 and make every effort to seek grant moneys from the federal
7 government to implement those efforts. The department shall
8 place priority upon establishing:

- 9 (1) Appropriate counseling services for sexual assault, to
10 be made available to victims of prison rape within
11 twenty-four hours of the report of an assault; and
- 12 (2) Policies and standards of transparency to achieve a
13 zero-tolerance policy for sexual assault.

14 SECTION 3. The department of public safety, no later than
15 twenty days prior to the convening of each regular session,
16 shall annually report data to the legislature regarding:

- 17 (1) Sexual assault by persons in custody against other
18 persons in custody of the department of public safety;
- 19 (2) Sexual assault by correctional staff against persons
20 in custody of the department of public safety;



1 (3) Non-criminal sexual misconduct by staff, including
2 sexual harassment of persons in custody of the
3 department of public safety;

4 (4) Criminal cases initiated, and closed by dismissal,
5 plea, or verdict, for sexual assaults by or upon a
6 person in custody of the department of public safety;
7 and

8 (5) Civil claims filed and closed by dismissal,
9 settlement, or verdict for sexual assaults by or upon
10 a person in custody of the department of public
11 safety.

12 SECTION 4. The department of public safety shall report to
13 the legislature no later than twenty days prior to the convening
14 of the regular session of 2011 on its efforts to implement the
15 federal Prison Rape Elimination Act of 2003 in state
16 correctional facilities under the department's jurisdiction,
17 including those facilities under contract with the department.

18 SECTION 5. This Act shall take effect upon its approval.

APPROVED this day of , 2010

GOVERNOR OF THE STATE OF HAWAII

