

JAN 23 2009

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# 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 since the passage of  
2 mandatory sentencing minimums for offenses involving crystal  
3 methamphetamine, Hawaii's prison population has dramatically  
4 increased. This rise in the incarcerated population has caused  
5 the State to contract with out-of-state private prisons to ease  
6 overcrowding. The department of public safety's 2007 annual  
7 report states that at the end of the fiscal year, Hawaii had  
8 over two thousand prisoners serving their sentences in prisons  
9 in Arizona and Kentucky operated by Corrections Corporation of  
10 America.

11           According to a March 2008 magazine story, Corrections  
12 Corporation of America "began keeping two sets of books - one  
13 for internal use that described prison deficiencies in telling  
14 detail, and a second set that is described as 'doctored' for  
15 public consumption, to limit bad publicity, litigation or fines  
16 that could derail Corrections Corporation of America's  
17 multimillion dollar contracts with federal, state or local



1 agencies." Despite these allegations, there has never been an  
2 audit of the private prisons that Hawaii has contracted with to  
3 house our prisoners.

4 Preliminary findings from consultants Criminal Justice  
5 Institute, Inc., hired by the department of public safety to  
6 conduct a reclassification of all Hawaii's incarcerated  
7 individuals, reveal that Hawaii has been over-classifying its  
8 incarcerated population. In a review of 2,400 files of the then  
9 6,010 Hawaii individuals in jails, state prisons, contract  
10 prisons in the continental United States and in Interstate  
11 Compact prisons, it was revealed that eighty-seven per cent of  
12 Hawaii's women and sixty per cent of Hawaii's men incarcerated  
13 in contract prisons are nonviolent lawbreakers. Currently, 52.1  
14 per cent of women and 41.4 per cent of men in contract prisons  
15 are classified as Minimum or Community Custody, with 55.1 per  
16 cent of the women and 64.1 per cent of the men projected to be  
17 classified as Minimum or Community Custody at the completion of  
18 the reclassification process.

19 The legislature finds that in these lean economic times,  
20 Hawaii must be smart on crime. The department of business,  
21 economic development, and tourism has asserted that for every



1 dollar leaving Hawaii, we lose three dollars in economic  
2 activity.

3 The problems at Corrections Corporation of America prisons  
4 continue. At Saguaro Correctional Center, the prison built by  
5 Corrections Corporation of America for Hawaii inmates as a  
6 program-intensive prison, problems including lack of  
7 programming, poor medical care, and two deaths since August 2008  
8 have increased the State's liability.

9 The purpose of this Act is to audit the performance of Red  
10 Rock Correctional Center, Saguaro Correctional Center, and Otter  
11 Creek Correctional Center in the delivery of services,  
12 visitation, and the department of public safety's monitoring of  
13 these contracts to ensure that Hawaii prisoners serving their  
14 sentences in these facilities are receiving the appropriate  
15 services paid by taxpayers.

16 It is fiscally responsible and sound public policy to  
17 perform independent audits of prisons holding state prisoners.  
18 The state of Colorado conducted an audit of private prisons in  
19 2005 entitled, "Private Prisons/Department of  
20 Corrections/Performance Audit April 2005", and the state of New  
21 Mexico conducted an audit of private prisons entitled, "Review



1 of Facility Planning Efforts and Oversight of Private Prisons  
2 and Health Programs, May 23, 2007".

3 SECTION 2. (a) The auditor shall conduct performance  
4 audits of Red Rock Correctional Center in Eloy, Arizona; Saguaro  
5 Correctional Center in Eloy, Arizona; and Otter Creek  
6 Correctional Center in Wheelwright, Kentucky, in the following  
7 areas:

8 (1) Services provided to Hawaii inmates by Corrections  
9 Corporation of America or its facilities, including:

- 10 (A) Medical services;
- 11 (B) Mental health services;
- 12 (C) Substance abuse treatment;
- 13 (D) Education;
- 14 (E) Vocational training;
- 15 (F) Special holding, such as the special housing  
16 intensive program and administrative segregation;  
17 and
- 18 (G) Food service;

19 (2) Facilitation of family and community connections  
20 including:

- 21 (A) Visitation;
- 22 (B) Videoconferencing;



1 (C) Telephone communication, including calls made by  
2 the inmate to an attorney or calls from an  
3 attorney to an inmate; and

4 (D) Mail, including legal mail and mail protected by  
5 the attorney-client privilege; and

6 (3) The department of public safety's oversight  
7 responsibilities including:

8 (A) Monitoring of private prisons;

9 (B) Enforcement of contract provisions; and

10 (C) Public access to contracts and monitoring  
11 reports.

12 (b) The medical, mental health, and substance abuse  
13 information collected pursuant to subsection (a)(1) shall  
14 include, but shall not be limited to:

15 (1) The number of individuals receiving medical or mental  
16 health care;

17 (2) The nature of reported illnesses or conditions;

18 (3) Accessibility of medical care as measured by the  
19 length of time that transpires between a request for  
20 medical care and the delivery of appropriate services  
21 in response to the request;

22 (4) The medical emergency plan for each facility; and



1           (5) The number of serious illnesses and deaths that have  
2           taken place at each facility over the last year.

3           (c) The education and vocational training information  
4 collected pursuant to subsection (a)(1) shall include, but not  
5 be limited to:

6           (1) The number of individuals participating in each  
7           program;

8           (2) The number of individuals on waiting lists for each  
9           program;

10          (3) The criteria for entry into each program; and

11          (4) The accessibility of each program as measured by the  
12 length of time that transpires between a request for  
13 admission to a program and actual admission.

14          (d) The special holding facilities information collected  
15 pursuant to subsection (a)(1) shall include:

16          (1) The total number of beds in special housing intensive  
17          program;

18          (2) The criteria for entering the special housing  
19          intensive program including clarification on whether  
20          the program is voluntary or mandated;



1 (3) The length of the special housing intensive program  
2 with a description of how an individual moves through  
3 the phases of the program;

4 (4) Criteria for write-ups that send numerous Hawaii  
5 inmates into administration segregation, only to have  
6 charges dismissed after serving time there;

7 (5) The number of administrative segregation units; and

8 (6) The number of Hawaii inmates serving time in  
9 administrative segregation units as well as the length  
10 of time served and the nature and disposition of the  
11 offense that sent the individual into the  
12 administrative segregation unit.

13 (e) The food services information collected pursuant to  
14 subsection (a) (1) shall include information regarding:

15 (1) The number of special diets ordered by the dietician  
16 for the inmates;

17 (2) Complaints about not receiving special medically-  
18 ordered diets; and

19 (3) The frequency of the inclusion of fresh fruit and  
20 vegetables in the diets of Hawaii inmates as outlined  
21 in the contract between the State of Hawaii and  
22 Corrections Corporation of America.



1 (f) The facilitation of community communications  
2 information collected pursuant to subsection (a)(1) shall  
3 include the criteria and process for visitation,  
4 videoconferencing, and telephone communication including, but  
5 not limited to, the process for and frequency of updating  
6 visitor, videoconferencing, and telephone lists.

7 (g) The oversight and monitoring information collected  
8 pursuant to subsection (a)(1) shall include, but not be limited  
9 to:

- 10 (1) The frequency and nature of monitor visits;
- 11 (2) The names of all monitors on the various monitoring  
12 teams;
- 13 (3) All monitors' and audit reports;
- 14 (4) All contract violations or other violations committed  
15 by Corrections Corporation of America and the nature  
16 of these violations;
- 17 (5) Fines assessed or remedies employed to address the  
18 foregoing violations; and
- 19 (6) The public's access to all monitoring and audit  
20 reports.

21 SECTION 3. Upon receipt of auditor's results by the  
22 department of public safety, the department shall have ninety






1 days to implement the recommendations of the auditor and shall  
2 submit a report to the legislature twenty days before the next  
3 regular session of the legislature explaining how the  
4 recommendations were implemented or why the recommendations were  
5 not implemented.

6 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



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By Request



**Report Title:**

Private Prison Performance Audit

**Description:**

Authorizes the auditor to conduct performance audits of private prisons housing Hawaii inmates, namely Red Rock Correctional Center, Saguaro Correctional Center, and Otter Creek Correctional Center.

