
A BILL FOR AN ACT

RELATING TO PRIVATE PRISON PERFORMANCE AUDIT.

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

1 SECTION 1. The legislature finds that since the passage of
2 mandatory minimum sentences for crystal methamphetamine,
3 Hawaii's prison population has dramatically increased. This
4 rise in the incarcerated population has caused Hawaii to
5 contract with out-of-state private prisons to ease overcrowding.
6 The department of public safety's 2007 annual report states
7 that, at the end of the fiscal year, Hawaii had over two
8 thousand prisoners serving their sentences in Corrections
9 Corporation of America prisons in Arizona and Kentucky.
10 Despite a March 2008 Time magazine story reporting
11 allegations that Corrections Corporation of America "began
12 keeping two sets of books -- one for internal use that described
13 prison deficiencies in telling detail, and a second set
14 [described as] 'doctored' for public consumption, to limit bad
15 publicity, litigation or fines that could derail [Corrections
16 Corporation of America's] multimillion dollar contracts with
17 federal, state or local agencies[,] " to date, there has never



1 been an audit of the private prisons with which Hawaii has a
2 contract.

3 Preliminary findings from the department of public safety's
4 consultants, Criminal Justice Institute, Inc., hired to conduct
5 a reclassification of all Hawaii's incarcerated individuals,
6 reveal that Hawaii has been over-classifying its incarcerated
7 population. After reviewing two thousand four hundred files of
8 the then six thousand ten Hawaii individuals in jails, state
9 prisons, contract prisons on the mainland and in Interstate
10 Compact prisons, it was revealed that eighty-seven per cent of
11 Hawaii's female and sixty per cent of Hawaii's male inmates
12 incarcerated in contract prisons on the mainland are non-violent
13 lawbreakers. It was also found the 52.1 per cent of the female
14 inmates and 41.4 per cent of the male inmates are currently
15 classified as "minimum" or "community custody", with 55.1 per
16 cent of the female inmates and 64.1 per cent of the male inmates
17 projected to be classified as "minimum" or "community custody"
18 at the completion of 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
22 dollar leaving Hawaii, we lose \$3 in economic activity.



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

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

15 It is fiscally responsible and sound policy to perform
16 independent audits of prisons holding state prisoners. The
17 State of Colorado conducted an audit of private prisons in 2005
18 entitled, "Private Prisons/Department of Corrections/Performance
19 Audit April 2005" and the State of New Mexico conducted an audit
20 of private prisons entitled, "Review of Facility Planning
21 Efforts and Oversight of Private Prisons and Health Programs,
22 May 23, 2007".



1 SECTION 2. The state auditor is hereby directed to conduct
2 performance audits of private prisons housing Hawaii inmates,
3 namely Red Rock Correctional Center and Saguaro Correctional
4 Center in Eloy, Arizona and Otter Creek Correctional Center in
5 Wheelwright, Kentucky in the following areas:

6 1. Treatment and services the Corrections Corporation of
7 America is providing to Hawaii inmates, including but not
8 limited to:

- 9 (a) Medical;
- 10 (b) Mental health;
- 11 (c) Substance abuse treatment;
- 12 (d) Education;
- 13 (e) Vocational training;
- 14 (f) Special holding; such as the special housing intensive
15 program and administrative segregation; and
- 16 (g) Food services.

17 The medical, mental health, and substance abuse treatment
18 information shall also include but not be limited to the number
19 of individuals receiving medical or mental health care, the
20 nature of the reported illnesses, the accessibility of medical
21 care, the length of time between a request for medical care and
22 the delivery of those services, the medical emergency plan for



1 the facilities, and the number of serious illnesses and deaths
2 that have taken place over the past year.

3 The education and vocational training information shall
4 include but not be limited to the number of individuals
5 participating in each program, the number of individuals on
6 waiting lists for each program, the criteria for entry into each
7 program, and the accessibility for individuals to register for
8 each program.

9 The special holding facilities include the special housing
10 intensive program and administrative segregation. This
11 information shall include but not be limited to the total number
12 of beds in the special housing intensive program, the criteria
13 for entering the special housing intensive program,
14 clarification on whether the program is voluntary or mandated,
15 the duration of the special housing intensive program with a
16 description of how an individual moves through the phases of the
17 special housing intensive program, and the criteria for write-
18 ups that send numerous Hawaii inmates into administrative
19 segregation, only to have the charges dismissed after serving
20 time there. This audit shall include the number of
21 administrative segregation units, the number of Hawaii inmates
22 serving time in these units, as well as the length of time



1 served and the nature of the disposition of the offense that
2 sent the individual into this unit.

3 The food services information shall include, but not be
4 limited to, the number of special diets ordered by the
5 dietician, the complaints about not receiving special medically-
6 ordered diets, and the frequency of providing fresh fruit and
7 vegetables in the diets of Hawaii inmates.

8 2. Facilitation of family and community connections
9 including but not limited to:

- 10 (a) Visitation;
- 11 (b) Videoconferencing;
- 12 (c) Telephone communication, including attorney calls --
13 either made by the individual inmate or from an
14 attorney to the client; and
- 15 (d) Mail, including legal mail and the constitutional
16 right to privacy between attorney and client.

17 This information shall include but not be limited to the
18 criteria and process for visitation, videoconferencing, and
19 telephone communication, as well as the process for and
20 frequency of updating visitor, videoconferencing, and telephone
21 lists.



1 3. The department of public safety's responsibilities,
2 including but not limited to:

- 3 (a) Monitoring of private prisons;
- 4 (b) Enforcement of contract provisions; and
- 5 (c) Public access to contracts and monitoring reports.

6 This information shall include but not be limited to the
7 frequency and nature of monitor visits, the names of all
8 monitors on the various teams (contract, medical, educational,
9 program), all monitors' and audit reports, all contract or other
10 violations by Corrections Corporation of America and the nature
11 of these violations, fines assessed or other remedies for those
12 violations, and the public's access to all monitoring and audit
13 reports.

14 SECTION 3. The state auditor shall submit findings and
15 recommendations to the governor, the department of public
16 safety, and the legislature no later than four months prior to
17 the convening of the regular session of 2010.

18 SECTION 4. The director of public safety shall implement
19 the recommendations of the state auditor upon receipt of the
20 auditor's report.

21 The director of public safety is further directed to submit
22 to the governor and the legislature a report explaining how the





1 state auditor's recommendations were implemented, or why they
2 were not, no later than twenty days prior to the convening of
3 the regular session of 2010.

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

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INTRODUCED BY:

JAN 26 2009



Report Title:

Private Prison Performance Audit

Description:

Authorizes the state auditor to conduct performance audits of private prisons housing Hawaii inmates, namely Red Rock Correctional Center and Saguaro Correctional Center in Eloy, Arizona and Otter Creek Correctional Center in Wheelwright, Kentucky in the following areas: (1) treatment and services that Corrections Corporation of America is providing to Hawaii inmates including medical, mental health, substance abuse treatment, education, vocational training, and food services; (2) visitation, videoconferencing, and telephone communication; and (3) the department of public safety's monitoring of private prisons, enforcement of contract provisions, and public access to contracts and monitoring reports.

