

JAN 23 2009

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The legislature finds that all prisons and
2 correctional systems paid for with public moneys need
3 accountability and transparency. In this time of fiscal crisis,
4 Hawaii cannot afford correctional facilities that do not work.

5 The legislature also finds that since 1995, Hawaii has
6 transferred prisoners to private prisons in the continental
7 United States to ease overcrowding in Hawaii state prisons.
8 Currently, Hawaii contracts with one vendor, Corrections
9 Corporation of America, to house and provide services for all
10 prisoners transferred out of the State, except for approximately
11 twelve individuals transferred to other prisons under the
12 Interstate Compact Act.

13 Several Hawaii inmates have died at prisons operated or
14 managed by Corrections Corporation of America -- a Hawaii woman
15 died at Otter Creek Correctional Center in December 2005, and
16 the most recent deaths were at Saguaro Correctional Facility,
17 where there have been two more deaths since August of 2008. The



1 legislature finds that despite the more than \$50,000,000 in
2 public funds expended annually for the contracts with these
3 facilities, information concerning the enforcement of these
4 contracts has not been accessible to the public.

5 The legislature notes that in July 2008, Tennessee judge
6 chancellor Claudia Bonnyman ruled that Corrections Corporation
7 of America was a "functional equivalent" to a governmental
8 entity because its operation of jails and prisons is an
9 essential governmental function and most of its revenues are
10 taxpayer-funded. She ruled that Nashville-based Corrections
11 Corporation of America must follow the state's public records
12 laws regarding state prisons, open relevant Corrections
13 Corporation of America's files for public viewing, and make all
14 relevant Corrections Corporation of America's records available
15 for inspection during business hours. She also ruled that
16 Corrections Corporation of America is not exempt from public
17 records laws because of court orders or seals.

18 The purpose of this Act is to provide accountability and
19 transparency to the public regarding the services provided by
20 any vendor or state to house Hawaii prisoners.



1 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§353- Contracts with out-of-state detention facilities;
5 freedom of information requirement. (a) Contracts made
6 directly between the State and a nongovernmental entity or
7 through interstate compacts that provide for the incarceration
8 or detention of state prisoners or detainees in a privately
9 owned prison or other out-of-state detention facility shall:

10 (1) Require the state and contractor to provide access to
11 the same information as is required of the department
12 of public safety in chapter 92F; and

13 (2) Include the same remedies for the failure of
14 contractors to comply with this chapter as are
15 provided in chapter 92F for the failure of government
16 agencies to comply with this chapter; provided that
17 these remedies shall not be available for information
18 that is entitled to protection pursuant to section
19 92F-13 or for information that is a trade secret as
20 provided in section 482B-2.

21 (b) For purposes of this section, "privately owned prison"
22 and "other out-of-state detention facility" mean any privately



1 owned prison or other out-of-state detention facility that
2 incarcerates or detains prisoners or detainees pursuant to a
3 contract with the State."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

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Report Title:

Public Safety; Freedom of Information; Out-of-State Prisons

Description:

Requires privately owned prisons or out-of-state detention facilities holding prisoners under a contract with the State to follow state freedom of information laws pursuant to chapter 92F, Hawaii Revised Statutes.

