
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. 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 facilities or institutions to hold
5 inmates subject to investigation by ombudsman. Every contract
6 entered into between the department and a correctional facility
7 or institution, including contracts with private or out-of-state
8 entities, shall require the correctional facility or institution
9 to cooperate and participate fully in any investigation of a
10 state correctional facility or contracted facility, as defined
11 under section 96-1, and conducted under chapter 96."

12 SECTION 2. Section 96-1, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

15 ""Contracted facility" means any correctional facility or
16 institution with which or for which the department of public
17 safety has contracted to hold inmates, and any officer,
18 employee, or member thereof acting, or purporting to act, in the



1 exercise of the officer's, employee's, or member's official
2 duties."

3 SECTION 3. Section 96-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "agency" to read as
5 follows:

6 "(a) "Agency" includes any permanent governmental entity,
7 department, organization, contracted facility, or institution,
8 and any officer, employee, or member thereof acting or
9 purporting to act in the exercise of the officer's, employee's,
10 or member's official duties, except:

- 11 (1) The judiciary and its staff;
- 12 (2) The legislature, its committees, and its staff;
- 13 (3) An entity of the federal government;
- 14 (4) A multistate governmental entity;
- 15 (5) The governor and the governor's personal staff;
- 16 (6) The lieutenant governor and the lieutenant governor's
17 personal staff;
- 18 (7) The mayors of the various counties; and
- 19 (8) The councils of the various counties."

20 SECTION 4. Section 96-7, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "§96-7 Notice to complainant and agency. If the ombudsman
2 decides not to investigate, [~~he~~] the ombudsman shall inform the
3 complainant of that decision and shall state [~~his~~] the reasons.

4 If the ombudsman decides to investigate, [~~he~~] the ombudsman
5 shall notify the complainant of [~~his~~] the decision and [~~he~~]
6 shall also notify the agency of [~~his~~] the intention to
7 investigate."

8 SECTION 5. Section 96-9, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) In an investigation, the ombudsman may make inquiries
11 and obtain information as the ombudsman thinks fit, enter
12 without notice to inspect the premises of an agency, and hold
13 private hearings. If the investigation involves a correctional
14 facility under chapter 353 or a contracted facility, the
15 ombudsman may visit at a suitable hour."

16 SECTION 6. Section 353-16.2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§353-16.2 Transfer of inmates to out-of-state**
19 **institutions; ombudsman investigation.** (a) The director may
20 effect the transfer of a committed felon to any correctional
21 institution located in another state regardless of whether the
22 state is a member of the Western Interstate Corrections Compact;



1 provided that the institution is in compliance with appropriate
2 health, safety, and sanitation codes of the state, provides a
3 level of program activity for the inmate that is suitable, and
4 is operated by that state, by any of its political subdivisions,
5 or by a private institution; and provided further that the
6 transfer is either:

- 7 (1) In the interest of the security, management of the
8 correctional institution where the inmate is presently
9 placed, or the reduction of prison overcrowding; or
10 (2) In the interest of the inmate.

11 (b) Terms and conditions of the transfer and any
12 reimbursement for expenses shall be agreed upon between the
13 department and the out-of-state correctional institution prior
14 to transfer.

15 (c) Any out-of-state correctional facility that has
16 custody of committed felons transferred from the Hawaii state
17 correctional system shall cooperate and participate fully in any
18 investigation of the contracted facility under chapter 96."

19 SECTION 7. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2011-2012 for
22 any expenses or staffing needs resulting from the ombudsman's



1 jurisdiction to investigate the administrative acts of
2 contracted facilities, as defined under section 96-1, Hawaii
3 Revised Statutes.

4 The sum appropriated shall be expended by the office of the
5 ombudsman for the purposes of this Act.

6 SECTION 8. Sections 1 and 6 shall not be applied so as to
7 impair any contract existing as of the effective date of this
8 Act in a manner violative of the Hawaii constitution or Article
9 I, section 10, of the United States Constitution.

10 SECTION 9. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect upon its approval.

13

INTRODUCED BY: 

JAN 25 2011



Report Title:

Public Safety; Ombudsman; Correctional Facilities;
Appropriation; Contracted Facilities

Description:

Authorizes the office of the ombudsman to investigate contracted facilities that hold Hawaii inmates. Defines contracted facilities. Appropriates funds to conduct investigations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

