

# **SB 43**

## **RELATING TO PUBLIC SAFETY.**

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.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

JODIE MAESAKA-HIRATA  
INTERIM DIRECTOR

Deputy Director  
Administration

Deputy Director  
Corrections

Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 43  
RELATING TO PUBLIC SAFETY**

by

Jodie F. Maesaka-Hirata, Interim Director  
Department of Public Safety

Senate Committee on Public Safety, Government Operations, and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

Thursday, January 27, 2011, 2:45 PM  
State Capitol, Conference Room 224

Senator Espero, Senator Kidani, and Members of the Committee:

The Department of Public Safety (PSD) opposes Senate Bill 43. The measure is unnecessary because any document or record that is material to the state's interest regarding a correctional contract can be requested by the Legislature and will be supplied by the department after obtaining the document from the contractor pursuant to the existing contract. The same applies for any private citizen that requests a document, which could be released under HRS §92F. In this case, the department will provide any appropriate release of information after obtaining the document from the contractor pursuant to the contract.

PSD contacted the Office of Information Practices, and discussed the aspects of this proposed legislation. It was agreed that if this measure were passed, it would not apply to a contractor already under contract. The provisions of this measure would have to be placed in the future contract and agreed to by the winning bidder.

There are just under 2,000 state inmates currently in contract prisons in the mainland simply because there is no adequate space in the state to safely and securely house these inmates. While there are a number of companies that contract to operate private prisons, there are few if any that would bid on any contract with this constraint in the contract. Implementing this requirement would discourage any contractor from bidding, effectively forcing the state to return the inmates to the existing state facilities, creating a situation that would clearly be violative of the inmates constitutional rights. In that, the overall effect of this measure would be greatly increased costs to the state, either by paying much more for a contractor to perform these tasks, or by paying the adverse judgments upon the return of all the inmates due to a lack of contractors to house the inmates. Again, this measure is unnecessary and inequitable.

PSD opposes this measure based on the premises that this procedure applies only to a very specific type of contractor, and that under the current circumstances, the same results can be achieved by a simple request from the Legislature or under HRS §92F, and is thus repetitive and inequitable, as well as having an unnecessary chilling effect on any bidding process pursued by department. Thank you for the opportunity to testify on this measure.

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Public Safety, Government Operations  
and Military Affairs

From: Cathy L. Takase, Acting Director

Date: January 27, 2011, 2:45 p.m.  
State Capitol, Room 224

Re: Testimony on S.B. No. 43  
Relating to Public Safety

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Thank you for the opportunity to submit testimony on S.B. No. 43.

This bill would require private entities contracting with the State to incarcerate state prisoners to provide access to the same information that the department of public safety (PSD) is required to provide under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (the UIPA) and would make these private entities subject to the same remedies as PSD for failure to comply with the UIPA.

The Office of Information Practices ("OIP") supports legislative action that definitively states whether and to what extent a nongovernmental agency performing a particular government function is subject to the UIPA, rather than leaving that determination to OIP or court interpretation. OIP further supports the general intent of the bill, which is to ensure that public access to information is the same whether maintained by a private entity with which the State has contracted to incarcerate its prisoners or maintained by PSD in operating the same type of facility. Specifically, OIP believes that a member of the public should have access to

records concerning the day-to-day operations of a private prison facility holding Hawaii prisoners to the same extent as required under the UIPA for a facility operated by PSD itself.

However, because the UIPA was written to apply to government entities in Hawaii, direct application of the UIPA to a private contractor, especially one located out-of-state, raises practical issues and obstacles to access for members of the public. Accordingly, OIP believes that the public's right of access to information about the prison operations of private contractors as it relates to state prisoners would be better addressed by directing PSD to include a contractual right to access this information when entering into contracts with private contractors. By so doing, PSD would remain responsible for providing access to the same information whether it operates the prison or contracts with a private entity to operate a prison.

In this way, the public would be able to request information directly from, or if necessary seek judicial remedies against, a state agency. This would also provide OIP with greater ability to assist in the proper disclosure of records, because OIP is better able to resolve records issues with state agencies with which it deals on a daily basis and which are directly subject to the UIPA.

OIP therefore recommends that your committee amend this bill to delete the proposal to make private contractors subject to the UIPA and replace it with a provision requiring that contracts between PSD and its private contractors give PSD the right to review records of the daily prison operations related to the Hawaii inmates. PSD itself would thus be considered to administratively maintain those records, so would be responsible for providing the records to the extent required by the UIPA.

Thank you for the opportunity to testify.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

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The Twenty-Sixth Legislature, State of Hawaii  
The Senate  
Committee on Public Safety, Government Operations and Military Affairs

Testimony by  
Hawaii Government Employees Association  
January 27, 2011

S.B. 43 – RELATING TO  
PUBLIC SAFETY

The Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, supports the purpose and intent of S.B. 43 - Relating to Public Safety. As proposed, the bill would require that contracts made directly between the state and a private contractor for the incarceration or detention of state prisoners in a privately owned prison or out-of-state detention facility to be subject to the Uniform Information Practices Act contained in Chapter 92F, Hawaii Revised Statutes. Chapter 92F, HRS is designed to make sure that the formation and conduct of public policy is conducted as openly as possible to enhance governmental accountability through the disclosure of records and information.

The contracts between the state and a private contractor for the incarceration of prisoners are worth millions of dollars annually. The public and the legislature deserve to know what the state is paying for when they incarcerate prisoners out-of-state so that they can evaluate the cost-effectiveness of such services. In addition, S.B. 43 would require the same remedies for failure of the contractors to disclose information as for government agencies who fail to comply with Chapter 92F, HRS.

Thank you for the opportunity to testify in support of S.B 43.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director



**SB43**

**RELATING TO PUBLIC SAFETY**

Senate Committee on Public Safety, Government Operations, and Military Affairs

January 27, 2011

2:45 p.m.

Room 224

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The Office of Hawaiian Affairs (OHA) offers the following comments on **SB43**, which would require 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.

The OHA Administration will recommend that the OHA Board of Trustees support SB43. As Native Hawaiians are disproportionately represented in Hawai'i's criminal justice system, many Native Hawaiians are held in out-of-state detention facilities. While we have heard reports of abuse from Native Hawaiians held in these prisons, these facilities have made it difficult for the public to obtain evidence to of the reported abuse.

State facilities are required to comply with Hawai'i's information laws whereas private entities do not. This is problematic because private detention facilities holding Hawai'i inmates are fulfilling a State of Hawai'i obligation. SB43 would ensure that these facilities have to comply with applicable information laws, thereby keeping the state informed of how its citizens are being treated. This will ultimately help prevent new cases of abuse and other problems.

The OHA Administration will make this recommendation to our Board of Trustees at its meeting on February 3, 2011. Mahalo nui for the opportunity to testify.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Thursday, January 27, 2011

2:45 PM

Room 224

SB 43 - Freedom of Information - out-of-state prisons

**STRONG SUPPORT**

[PGMTestimony@capitol.hawaii.gov](mailto:PGMTestimony@capitol.hawaii.gov)

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance the quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000 individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 43 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, Hawai'i Revised Statutes.

This is a bill whose time has come. For far too long private prisons have hidden behind a veil of corporate secrecy, while spending millions of dollars to lobby against measures like this. Hawai'i has first-hand knowledge of what can happen when there is no transparency and no accountability.

In 2009 we brought home all our women (except one, Totie Tauala) who were serving their sentences at Otter Creek Correctional Center in Wheelwright, KY because of many allegations of sexual assault. In 2010 two Hawai'i individuals were murdered at Saguaro Correctional Facility in Eloy, Arizona - Bronson Nunuha in February and Clifford Medina in June. Both men were locked down for 22 and 23 hours a day in the most secure section of a supposedly secure facility. The grieving families of these men have gotten little to no information from the department of public safety and absolutely nothing from Saguaro.

A March 13, 2008 article in TIME magazine exposed the practice of Corrections Corporation of America (CCA) of keeping two sets of internal quality assurance audit reports: one for release to government contracting agencies and another, more detailed audit report for internal use only.



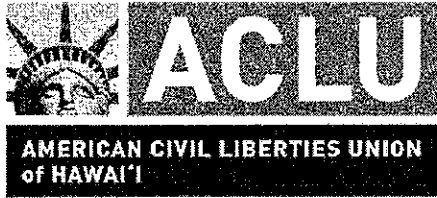
CCA's general counsel admitted in a written statement to Senator Feinstein that the company "did not make our customers aware of these documents." This blatant concealment of information from the public – and from government agencies – must be rectified. The article can be accessed at: <http://www.time.com/time/nation/article/0,8599,1722065,00.html> and In 2008 a Tennessee court ruled that private prisons serve a functionally equivalent role to public prisons. The case prevailed on appeal as well. CCA has spent millions of dollars fighting to maintain their cloak of secrecy.

Private prisons are not presently subject to FOIA requests, therefore, local residents cannot obtain basic information about violent incidents and whether their families are being put in danger (many Hawai'i families have been threatened by CCA officials at Saguaro).

Opposition to this bill is opposition to transparency.

Community Alliance on Prisons urges the committee's support of this important legislation.

Mahalo for this opportunity to testify.



Committee: Committee on Public Safety, Government Operations, and Military Affairs  
Hearing Date/Time: Thursday, January 27, 2011, 2:45 p.m.  
Place: Conference Room 224  
Re: Testimony of the ACLU of Hawaii in Support of S.B. 43,  
Relating to Public Safety

Dear Chair Espero and Members of the Committee on Public Safety, Government Operations, and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 43, Relating to Public Safety, which seeks to require 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.

This bill will increase government accountability and transparency in a system that currently offers almost none. As this Committee is undoubtedly aware, there are innumerable problems with the State’s use of private prison facilities: the State Auditor recently released a report condemning the Department of Public Safety for its illegal contracting procedures with the Corrections Corporation of America (“CCA”) and for the Department’s refusal to cooperate with the Auditor’s investigation; two inmates were murdered at the CCA-Saguaro prison in 2010; allegations of sexual assault against female prisoners at the CCA-Otter Creek prison were so rampant that the State removed nearly all the women from that facility; and a lawsuit currently pending against the State and CCA alleges that, just a few months ago, CCA-Saguaro guards abused, beat, and threatened dozens of inmates (and their families) while the State’s Contract Monitor stood by and did nothing. Clearly, greater oversight is long past due.

Private prisons are notorious for denying requests for information about their policies and procedures. The ACLU of Hawaii, for example, has been denied access to prison policies and documents because such policies and procedures are purportedly “proprietary.” With nearly 2,000 Hawaii individuals serving their sentences in prisons across the continental U.S. and millions of state tax dollars being paid to CCA, Hawaii residents should have the ability to find out whether their money is being used appropriately.

Requiring private prisons to follow state freedom of information laws will help to ensure that private prisons are held accountable for their actions. It will increase transparency in what is otherwise an extraordinarily secretive system and ultimately ensure that Hawaii inmates’ health,

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Chair Espero and Members of the Committee on  
Public Safety, Government Operations,  
and Military Affairs

January 27, 2011

Page 2 of 2

safety and rehabilitative needs are met. Further, it will help to determine whether the millions of dollars paid to private prisons to house Hawaii's inmates is the most effective use of that money.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

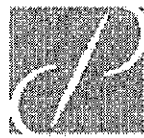
Thank you for this opportunity to testify.

Sincerely,



Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

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the  
**Drug Policy  
Forum**  
of hawaii

January 27, 2011

To: Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair and  
Members of the Committee on Public Safety, Government Operations, and  
Military Affairs

From: Jeanne Ohta, Executive Director

Re: SB 43 Relating to Public Safety (Freedom of Information Laws)  
Hearing: January 27, 2011, 2:45 p.m., Conf. Room 224

Position: STRONG SUPPORT

Good afternoon Chair Espero, Vice Chair Kidani and Members of the Committee, I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii testifying today in strong support of this measure.

SB 43 would require privately owned prisons or out-of-state detention facilities holding prisoners under contract with the State to follow state freedom of information laws pursuant to §92F Hawaii Revised Statutes.

This measure is necessary because the State has chosen to contract with private entities to take over what is essentially a public function, incarceration. In doing so, incarcerated individuals, their families, and the public are denied access to open records and knowing the results of internal investigations and audit reports. The current situation allows private entities to withhold and conceal information from not only the public, but the contracting agency.

Since private prisons are responsible for the health, welfare, and safety of inmates and must also ensure that their civil rights are maintained, they should not be allowed to operate in secrecy. Restrictions to information cannot be allowed merely because the State chooses to contract out its responsibilities. Private prisons should be made to adhere to the same requirements as those of prisons managed by the State.

We urge you to pass this measure out of committee. Thank you for allowing me to testify today.

**Board of Directors**

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TESTIMONY

The Libertarian Party  
c/o 1658 Liholiho St #205  
Honolulu, HI 96822

January 24, 2011

RE: SB 43 to be heard Thursday, January 27, 2011, in conference room 224.

To the members of the Senate Committee on Public Safety and Military Affairs

We support passage of SB 43 that makes private prisons that accept Hawaii inmates, subject to the same information disclosure rules that our state run facilities must adhere too. This is simple common sense and should be a required part of any contract between the State of Hawaii and a private prison operator.

Sincerely:



Tracy Ryan  
Oahu County Chair  
The Libertarian Party of Hawaii

(808) 534-1846

[tracyar@hawaiiintel.net](mailto:tracyar@hawaiiintel.net)

PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Michelle Kidani, Vice Chair

Thursday, January 27, 2011

2:45 p.m.

Room 224

SB 43

SUPPORT

Aloha Sen. Espero, Sen. Kidani, and members of the committee. Mahalo for this opportunity to testify on this important issue.

I am writing in support of SB 43. An educated populace can be held responsible for the kinds of activities that go on in our society. The ability to access information is one way to contribute to that education. If we don't know what the facts are relating to the decisions we make, then we'll make bad decisions, but really, can we be held responsible? Our responsibility is to know the facts first. I believe your responsibility is to make sure the laws reflect our right to access information, to access the facts about things that impact on us. You can make sure that the people have as much information as they need, as we need, to make good decisions.

Taxpayer money, public money, should not be spent to support any non-governmental organization that does not allow access to information about their policies and practices. How can you know how those funds are being spent? Pass the bill, create the law, and hold them to it.

Mahalo,  
Lynette Cruz  
Assistant Professor of Anthropology  
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CARRIE ANN SHIROTA  
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## COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Thursday, January 27, 2011

2:45 PM in Room 224

PGMTestimony@capitol.hawaii.gov

### SUPPORT: SB 43 Freedom of Information – Out-of-state prisons

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee:

I am writing in support of SB 43 that 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, Hawai'i Revised Statutes.

As you aware, Hawai'i has earned the dubious distinction of exporting the largest percentage of its prison population to out-of-state private prisons. In 1995, Hawai'i "temporarily" transferred 300 prisoners to private prisons in Texas, and later banished more inmates to private prisons in Arizona, Colorado, Kentucky, Minnesota, Mississippi, New Mexico and Oklahoma. By the end of 2008, Hawai'i held one-third of its combined jail and prison population (2014 of 6014) and 54 % of its prisoners (2014 of 3732) in out-of state facilities.<sup>1</sup> Currently, Hawai'i has a contract with Corrections Corporation of America (CCA) to house a majority of its adult male prisoner population at Saguaro and Red Rock correctional facilities in Arizona.

#### ***Track Record of Escapes, Riots, Violence, Sex Assaults & The Rise of Prison Gangs***

Proponents of prison privatization argue that bad things occur at both public and private prisons. Indeed, that is true. However, numerous studies confirm that private prisons have higher levels of assaults (on inmates and staff),<sup>2</sup> escapes, disturbances, and drug use.<sup>3</sup> They also

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<sup>1</sup> Johnson, David T. Janet T. Davidson and Paul Perrone. 2011. *Hawai'i's Imprisonment Policy and the Performance of Parolees Who Were Incarcerated In-State and on the Mainland*, University of Hawai'i, Manoa & State of Hawai'i Department of the Attorney General.

<sup>2</sup> James Austin and Garry Coventry, *Emerging Issues on Private Prisons*, Monograph: US Department of Justice, Bureau of Justice Assistance, NCJ 181249 (February 2001), p. 57 (Table 20).

<sup>3</sup> Scott Camp and Gerald Gaes, Federal Bureau of Prisons, Office of Research and Evaluation, *Growth and Quality of U.S. Private Prisons: Evidence from a National Survey* (2001).

have higher levels of operational problems and a comparative lack of inmate programs, such as educational, vocational, and counseling programs, which lead to inmate idleness and a lack of preparation for reentry.<sup>4</sup> Private prisons have long-term hidden costs estimated to be 20-30% above per diem costs (increased liability, increased worker compensation costs, increased law enforcement costs that are due to escapes).<sup>5</sup>

These statistics are overshadowed by real life stories – such as the recent escape at the for-profit prison in Kingman Arizona that resulted in the tragic deaths of an Oklahoma couple, sexual assaults against several Hawai`i women, the brutal murders of Bronson Nunuha and Clifford Medina and the severe assault on the gang intelligence officer at CCA’s Saguaro prison. While these incidents captured media attention, there are many untold stories by prisoners from Hawai`i confirming a dismal track record of insecure facilities, conditions amounting to cruel and unusual punishment, escapes, riots, violence, sexual assaults and the rise of prison gangs.

### ***Contract Monitors are Ineffective: Out-of-State Means Out of Mind***

Over the past fifteen years, Hawai`i has intermittently hired on-site contract monitors or sent contract monitors from its Department of Public Safety “Mainland Branch” to oversee private prison contracts. The list of prison disturbances described previously illustrates that “private facilities that house out-of-state prisoners operate almost entirely without external oversight. They are the MOST closed of all closed institutions, and they defy every effort at increasing transparency and accountability.”<sup>6</sup>

The reality is that contract monitors from Hawai`i are physically unable to routinely inspect prisons that are located thousands of miles away from the sending state. And when disturbances or even deaths occur, Hawai`i’s contract monitors are unable to respond in an exigent manner that hinders investigative fact-finding.

Furthermore, collusion is a major issue. Hawai`i’s Mainland Branch monitors initially failed to pull its female prisoners from CCA’s Otter Creek prison in Kentucky despite widespread allegations of sexual abuse by CCA staff. Although the “Mainland Branch” contract monitors made various visits to Otter Creek, Hawai`i only removed its female inmates after the

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<sup>4</sup> Judith Greene, “Lack of Correctional Services,” in *Capitalist Punishment: Prison Privatization and Human Rights*, Andrew Coyle, et al., eds. Atlanta: Clarity Press, 2003.

<sup>5</sup> Austin and Coventry, *Emerging Issues on Private Prisons*, p. 23.

<sup>6</sup> Deitch, Michele. “‘There are No Bad Prisons in Paradise’ and Other Dangerous Criminal Justice Myths,” Keynote Presentation, Unlocking Justice Conference, Chaminade University, Hawai`i, October 17, 2009.



stories of sexual abuse surfaced in the media, primarily as a result of an investigation conducted by Kentucky's Department of Corrections.<sup>7</sup>

To date, Hawai'i have never fined CCA for failing to fulfill the terms of its contract -- whether for understaffing, failure to provide programming and treatment services, and failing to ensure secure facilities and safe conditions of confinement. Instead, Hawai'i continues to reward CCA's bad behavior by renewing and expanding its contracts, and failing to publicly disclose its monitor and investigative (narrative) reports.<sup>8</sup>

**Likewise, CCA has denied requests from media, interested persons and family members (via their counsel) to review CCA's internal investigative reports, CCA's policies and procedures, etc. Whereas interested persons have the statutory authority to request information from the Department of Public Safety under Chapter 92F, CCA claims that this information is proprietary and therefore, not subject to disclosure under federal or state laws.**

Rather than having our Courts grapple with the issue of whether private prison corporations are subject to freedom of information laws, SB 43 will provide statutory clarity on this important matter. This bill would require 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, Hawai'i Revised Statutes. By enacting this bill, we will be promoting the twin goals of transparency and accountability!

The bottom line is that privately owned prison operators must be held to the same public disclosures standards as our government agencies and officials in Hawai'i. After all, these contracts are paid for by Hawai'i's taxpayers, and those confined to these private prisons are Hawai'i's citizens and residents.

Thank you for the opportunity to submit testimony in support of SB 43.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

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<sup>7</sup> DePledge, Derrick. 2009, August 19. Hawaii Pulling its Women Inmates out of Troubled Kentucky Prison, *The Honolulu Advertiser*. Urbina, Ian. 2009, August 25. Hawaii to Remove Inmates Over Abuse Charges, *The New York Times*.

<sup>8</sup> Professor Deitch explains why Hawai'i's attempts at contract monitoring has been ineffective: "The lesson here is that independent oversight of all prisons is essential, but there is truly no good solution to creating an effective and meaningful oversight structure for a system that sends so many prisoners out of state. Essentially, out of state is out of mind."

Public Safety, Government Operations and Military Affairs

Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair  
Thursday, January 27, 2011  
2:45Pm Room 224  
SB43  
Strong Support

Hello Chair Espero, Vice Chair Kidani and members of the committee,

My Name is Cathy Tilley and my son is an inmate at the Saguaro Correctional Facility in Eloy Arizona. I strongly support SB43 that would require Out of state detention facilities holding under a contract with the state of Hawaii to follow state freedom of information laws. This is something that should have been mandated before we ever sent our people to these out of state facilities. We have every right to know what is going on at these facilities , how they are spending our money , how they are treating our inmates and when there is a problem how they are handling it. Terrible things have happened at these facilities and we still do not have any answers. It is inexcusable that we allow these large corporations to hide behind closed doors and not have to explain to the public and especially the families and loved ones of the inmates what is going on. I strongly urge you to please support this bill so we all know what these private facilities are doing.

Sincerely,  
Cathy Tilley  
621 Pauku St  
Kailua, HI 96734

**PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS**

Senator Will Espero, Chair

Senator Michelle Kidani, Vice Chair

Thursday, January 27, 2011

2:45 p.m.

Room 224

[PGMTestimony@capitol.hawaii.gov](mailto:PGMTestimony@capitol.hawaii.gov)

**SB43 Public Safety-Freedom of Information-Out of State Prisons**

**SUPPORT**

Thank you for the opportunity to strongly support SB43 that requires privately owned prisons or detention facilities located outside of Hawai'i that are under contract with our State to comply with Freedom of Information laws pursuant to Hawai'i Revised Statutes, Chapter 92F.

The lack of information available to the general public (aka taxpayers), not to mention the family and friends of those incarcerated out-of-state, about the conditions at private prisons holding inmates from Hawai'i is unacceptable. Hawai'i tax dollars have been flowing into these private prisons for far too long. To think that they have not been under the same Freedom of Information requirements that we hold our public prisons to is troublesome.

In light of the tragic deaths of two Arizona inmates from Hawai'i in 2010, the removal of women inmates from Kentucky in 2009 after alleged sexual assaults by prison staff, and various pending lawsuits over mistreatment of Hawai'i inmates in private mainland prisons, I would hope that the Hawai'i Legislature is finally ready to require some accountability and transparency from facilities that are billing us to do Hawai'i's incarceration work.

I respectfully request passage of SB43 to shine a light onto private prisons holding inmates from Hawai'i.

Sincerely,

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January 25, 2011  
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**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair  
Sen. Michelle Kidani, Vice Chair  
Thursday, January 27, 2011  
2:45 PM  
Room 224  
SB 43 – Freedom of Information – out-of-state prisons  
**SUPPORT SB 43**  
[PGMTestimony@capitol.hawaii.gov](mailto:PGMTestimony@capitol.hawaii.gov)

Dear Chair Espero, Vice Chair Kidani and Members of the Committee!

I am a retired member of the Hawaii State Bar. Before I retired my practice included the representation of prison inmates on a wide array of issues. My work made me aware of the many ways in which our justice system is failing inmates and the community, and since retiring I have decided to try to do something about it.

SB 43 would make operators of private prisons or out-of-state detention facilities holding prisoners under a contract with the State subject to the State's Uniform Information Practices Act (UIPA), Chapter 92F, Hawai'i Revised Statutes.

The fundamental purpose of the UIPA is to make government more transparent and accountable. It is based on the notion that the free flow of information is essential to a free and democratic society. If, as is surely the case, the public interest is best served by requiring governmental agencies to be transparent and accountable, then private entities performing governmental functions such as incarceration, should be equally transparent and accountable.

I urge the committee to support SB 43.

Thank you.

**From:** Sen. Will Espero  
**Sent:** Wednesday, January 26, 2011 3:55 PM  
**To:** Marlene Uesugi  
**Subject:** FW: SB 43

**From:** Mary K. Dias [<mailto:diasohana1@hawaiiantel.net>]  
**Sent:** Wednesday, January 26, 2011 3:53 PM  
**To:** Sen. Will Espero  
**Subject:** SB 43

COMMITTEE ON PUBLIC SAFETY, GOVERNMENT  
OPERATIONS, AND MILITARY AFFAIRS

Senator Will Espero, Chair

Thursday, January 27, 2011

2:45 p.m.

Conference Room 224

State Capitol

415 South Beretania Street

SB 43

Please support SB 43. This bill would require privately owned prisons or out-of-state detention facilities to house prisoners under a contract with the State to follow state freedom of information laws pursuant to chapter 92 Hawaii Revised Statutes.

Hopefully after all of the inmates will be brought home this bill/law will never have to be implemented but until then I support it and ask that you do the same.

Mahalo,

Mary K. Dias and Ohana

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michele Kidani, Vice Chair

Thursday, January 27, 2011

2:45 pm

Rm 224

SB 43 - Public Safety; Freedom of Information; Out-of-State Prisons

Dear Chair Espero, Vice Chair Kidani, and Committee Members:

I support this bill and I thank you for the opportunity to submit my testimony.

SB 43 will help to bring transparency into the administering of our inmates. We know there's beatings going on which will not come to light for fear of repercussions, but when someone dies and information is withheld from the family, it is appalling to the community. I am referring to the recent KITV report.

Fiscally, as the recent audit showed, accountability is lacking in the expenditures vs. the operating budget.

Thank you, again, for your interest in not only the affairs of the inmates, but to cut down the expense of incarceration.

Aloha,

E. Funakoshi

455-9136

National Association of Reformed Criminals  
(NARC)

**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Thursday, January 27, 2011

2:45 PM

Room 224

SB 43 – Freedom of Information – out-of-state prisons

**STRONG SUPPORT**

NARC supports accountability and we shouldn't have to pass a law that enforces federal law under the Freedom of Information and Federal Privacy Act. However, this seems to be our only recourse to examine and enforce the contract that we have with CCA.

Mahalo,

Andy Botts

**COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

*Sen. Will Espero, Chair*

*Sen. Michelle Kidani, Vice Chair*

Thursday, January 27, 2011

2:45 PM

Room 224

SB 43 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, Hawai'i Revised Statutes.

**STRONG SUPPORT**

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee.

I am Ann Freed, representing the Women's Coalition.

SB 43 basically requires transparency in the for-profit prison system. In recent years many cases of abuse have been uncovered in these mainland institutions, including the rape of female inmates by corrections personnel.

We believe the old adage that absolute power corrupts absolutely. Requiring these corporate prisons to comply with the State Freedom of Information laws will go a long way towards uncovering abuse and corruption in these privatized institutions.

Ann S. Freed  
Co-Chair Hawai'i Women's Coalition  
Mililani, HI

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