

# **HB 840 HD1**

## **RELATING TO CORRECTIONAL FACILITIES**

Directs the Director of Public Safety to prepare preliminary design and request for proposals for the design, construction, and operation of a community correctional facility. Appropriates funds. (HB840 HD1)

PSM/HTH, WAM

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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DEPUTY DIRECTOR  
LAW ENFORCEMENT

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

TESTIMONY ON HOUSE BILL (HB) 840, HOUSE DRAFT (HD) 1  
RELATING TO CORRECTIONAL FACILITIES

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Health  
Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Friday, March 20, 2015, 2:00 PM  
State Capitol, Conference Room 414

Chairs Green and Espero; Vice Chairs Wakai and Baker, and Members of the Committees:

The Department of Public Safety (PSD) **supports** House Bill (HB) 840, House Draft (HD) 1, which would direct the Director of Public Safety to prepare preliminary design and request for proposals for the design, construction, and operation of a community correctional facility.

The PSD would like to ask the Committee's consideration in replacing the references in the bill from "minimum- to medium-security community correctional facility" to "multi-security level community correctional facility", as follows:

Section 1., Page 2, Lines 7 to 9:

"construction of a new, multi-security level community correctional facility to be located at, or near, the Halawa Correctional Facility." and

Section 1., Page 3, Lines 2 and 3:

"correctional facility shall be a secure, multi-security level community correctional facility..."

The PSD would also like to suggest the following amendment to Section 1, Page 3, Lines 15, 16, and 17:

“(1) The preliminary design and projected cost of the [community correctional facility] replacement for the Oahu Community Correctional Center, which shall be designed to [be accredited by the American Correctional Association] best utilize all technologies available towards producing a safe and staff-efficient community correctional center.”

The current Oahu Community Correctional Center (OCCC) is a medium-/minimum-/community-security level facility. The need is to duplicate that level of programming and to also provide a maximum-security level of housing capability. Currently, maximum-security level pre-trial detainees are housed at the Halawa Correctional Facility (HCF), a practice that should be discontinued.

Further, we recommend that the specific reference to the American Correctional Association (ACA) standards be deleted, as those standards will limit our ability to design for maximum efficiency, as well as, not insure for the “constitutional minima” standards currently applied by the courts.

We thank you for the opportunity to testify on this important bill.

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR

PAULA A. YOUNGLING  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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**TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEES  
ON  
HEALTH  
AND  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
MARCH 20, 2015, 2:00 P.M.**

**HB840, HD1  
RELATING TO CORRECTIONAL FACILITIES**

Chair Green and Chair Espero, Vice-Chair Wakai and Vice-Chair Baker, and members of the committees, thank you for the opportunity to submit testimony on HB840, HD1.

The State Procurement Office (SPO) is in SUPPORT of the intent of the measure. The SPO views the ability to enter into public-private partnerships as a creative tool for government to contract through what are called Special Procurements. HB 1028, HD1 creates a new section within HRS chapter 103D, which is where this process should be placed. Among public procurement's guiding principles are value and transparency. Value ensures prudent use of taxpayer dollars. Transparency ensures accountability and system integrity, which in turn, fosters public confidence. These guiding principles are built into chapter 103D, our State Procurement Code.

Special innovative procurements, like public-private partnerships, allow the State to procure when unusual or unique circumstances exist that require other than full competition, when standard procurement procedures would be contrary to the public interest. Special innovative procurements are an alternative process **within** the procurement code. This means that the State can effectively respond to unique needs or situations and maintain the accountability and transparency of the procurement and resulting management of the contract. In other words, special innovative procurements help to avoid costly and embarrassing missteps that can occur with exemptions. In fact, our research shows that several states currently apply similar statute, and the ABA 2007 Model Procurement Code recommends the use of special innovative procurements.

Section 2(c) of HB840, HD1 specifically, subsection (5), reads:

(c) By February 1, 2016, the director of public safety shall submit a progress report to the legislature that includes the following:

(5) Any proposed legislation required for the implementation of the final design, construction, purchase, and operation of the correctional treatment facility.

The SPO requests that any proposed legislation related to the procurement method to be used to implement the final design, construction, purchase and operation of the facility be part of, and subject to, the Hawaii Public Procurement Code. Thereafter, the SPO, with input from the public, interested groups and State stakeholders, would draft rules including language that this bill tracks as key provisions based on other successful Public Private Partnerships (PPP). In order for the State Procurement Office to develop and make recommendation of rules on behalf of the Procurement Policy Board (PPB), a qualified temporary hire position is required for a period of two years to develop and implement the interim and final rules. The total cost would be approximately \$85,000 per year.

Public procurement's primary objectives are to provide everyone equal opportunity to compete for government contracts, to ensure open and transparent procurement actions, and to prevent favoritism, collusion, or fraud in awarding of contracts.

The SPO request that this bill be held and allow HB1028, HD1 to pass, creating the first step to Special Procurements within the Code.

Thank you.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 14, 2015 7:06 PM  
**To:** PSMTestimony  
**Cc:** darakawa@lurf.org  
**Subject:** Submitted testimony for HB840 on Mar 20, 2015 14:00PM

**HB840**

Submitted on: 3/14/2015

Testimony for PSM/HTH on Mar 20, 2015 14:00PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Comments Only	No

Comments: The Land Use Research Foundation of Hawaii provides the following COMMENTS in support of the intent of HB 840, HD1, which directs the Director of the Department of Public Safety (PSD) to prepare preliminary design and request for proposals for the design, construction, and operation of a community correctional facility; and appropriates funds. (HB840 HD1) LURF's COMMENTS include a suggestion that perhaps this measure could be amended and improved after: a review and analysis of existing corrections/rehabilitation programs; the completion of the ongoing PSD System wide Needs Assessment, which LURF understands is currently being conducted by a consultant; and with more public input.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Rosalyn Baker, Vice Chair

## COMMITTEE ON HEALTH

Sen. Josh Green, Chair

Sen. Glenn Wakai, Vice Chair

Friday, March 20, 2015

2:00 p.m.

Room 414

## COMMENTS on HB 840 HD1 - Construction of Correctional Treatment Facility

Aloha Chairs Espero and Green and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 840 HD1 directs the executive branch to prepare preliminary design and request for proposals for the design, construction, and operation of a correctional facility and appropriates funds.

Community Alliance on Prisons acknowledges the sub-standard and shameful conditions in which Hawai'i's incarcerated people are forced to live. Frankly, it is difficult for us to understand why the state doesn't properly maintain these facilities

Before the Legislature proceeds with this plan, we respectfully remind you that the community must be included in the planning:

*§353-16.35 Development or expansion of in-state correctional facilities. The purpose of public outreach is to help ensure that a comprehensive environmental impact document would be prepared that provides a firm basis for the decision-making process. The intent of the public outreach process is to:*

□ *Inform agency representatives, elected officials, and interested members of the public about the proposed action, the roles and responsibilities of PSD and the U.S. Department of Justice in implementing the proposed action, as well as activities to ensure compliance with HRS 343 and NEPA.*

To address this issue, the legislature enacted the following statute:

**§353-16.37 Community partnering.** *Regardless of the method for funding new prison facilities, the department of public safety shall develop and implement a community partnering process to be incorporated into the request for proposal; this partnering process shall include a community hearing for the purpose of soliciting community input. Further, a community benefit and enhancement package shall be developed by the department and the affected community to mitigate the negative aspects of building a correctional facility in the community. The benefit and enhancement package may include but is not limited to:*

- (1) Infrastructure improvements;*
- (2) Job training programs or improvements to schools and health care facilities;*
- (3) Social programs; and*
- (4) Other government functions. [L 1998, c 227, pt of §5; am L 1999, c 134, §4]*

The legislative intent is clear. The legislature has directed the Department of Public Safety to involve the community at the earliest stage of planning.

It is well documented that community-based treatment is more effective than prison-based treatment because it is addressed in a public health modality; prison is all about security. Research shows that for every \$1 spent on drug treatment in the community, approximately \$18 is saved. Substance abuse treatment provided in the community is more cost-effective than imprisonment. Individuals with substance abuse histories compose a large portion of the prison population. Substance use/abuse plays a role in the commission of certain crimes. Treatment delivered in the community is one of the most cost-effective ways to prevent such crimes.<sup>1</sup>

Increasing investment in community-based mental health treatment, improving diversion from prison and jail, and ensuring that those leaving prison have adequate care, all will reduce the financial burden of imprisoning community members suffering with a mental illness. Mental health litigation has established the legal right to treatment in custodial facilities -- for pretrial detainees as well as sentenced inmates. Among its benefits, good mental health treatment can reduce security risks by minimizing the symptoms of mental illness, thereby decreasing potential disruptions to jail routines and injuries to staff and detainees. The problems jails experience in connection with mentally ill detainees are associated with the absence of criminal justice policies, procedures, and standards specifically addressed to this group of offenders. Deficiencies in training, communication, and resources result from viewing the jail in isolation, rather than as an integral part of a criminal justice system (that includes the police, the courts, defense attorneys, and prosecutors) with linkages to mental health and other

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<sup>1</sup> The comparative costs and benefits of programs to reduce crime, Olympia: Washington State Institute for Public Policy, Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001.



human services based in the greater community.<sup>2</sup>

A 2010 report from the Center for Economic and Policy Research<sup>3</sup> concluded:

*The United States has the highest incarceration rate in the world and also the highest rate in its history, with about 753 people per 100,000 in prison or jail in 2008. The number of incarcerated people in the United States has increased by more than 350 percent since 1980, while the overall population has grown by only 33 percent.*

*A reduction by one-half in the incarceration rate for non-violent offenders (who now make up over 60 percent of the prison and jail population) would lower the overall incarceration rate to the level reached in 1993 (which was already high by historical standards). This would also lower correctional expenditures by \$16.9 billion per year, with the large majority of these savings accruing to state and local governments. These projected savings would amount to almost one-fourth of total corrections budgets. The extensive research on incarceration and crime suggests that these budgetary savings could be achieved without any appreciable deterioration in public safety.*

There are a multitude of things we can do right now to reduce the incarcerated population, while saving lives and resources.

Fully implementing Justice Reinvestment and employing data-driven and proven-to-work strategies, as urged by the Resolutions passed by both the Democratic Party of Hawai'i and the Association of Hawaiian Civic Clubs in 2014, will reduce the incarcerated population.

It is easy to just build build build and lock folks up. Growing a criminal underclass only serves to promote criminality.

The difficulty is in crafting thoughtful, sound public policy to effectively address our social problems.

Hawai'i needs real programs that have been proven to work. **Treatment Works; Prisons Don't.**

## **BUILD PEOPLE; NOT PRISONS!**

Mahalo for this opportunity to testify.

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<sup>2</sup>Providing Services for Jail Inmates with Mental Disorders, NIJ Research in Brief, Travis, Jeremy, and January, 1997. <http://www.ncjrs.gov/txfiles/162207.txt>

<sup>3</sup>The High Budgetary Cost of Incarceration, Center for Economic and Policy Research John Schmitt, Kris Warner, and Sarika Gupta, June 2010. <http://www.cepr.net/documents/publications/incarceration-2010-06.pdf>



**COMMITTEE ON HEALTH**  
Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair

**COMMITTEE ON PUBLIC SAFETY**  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

### **OPPOSITION TO HB 840 HD – Relating to Public Safety**

We oppose this measure to build a new prison and entering public-private partnerships for prison construction.

Hawai'i suffers from mass imprisonment. Instead of a new prison, this legislature should be passing laws to deter crime. We do not need 6000 people out of our total population of about 1.3 million incarcerated. We can't afford it and it is harming our disadvantaged communities further as it has in other states across the country.<sup>1</sup>

Prison does not deter crime. The U.S. Department of Justice warns that besides *not deterring crime*: "Prisons actually may have the opposite effect."<sup>2</sup> Phil Zimbardo's 1970s research shows how prisons increase violent and criminal behavior.<sup>3</sup> Prisons are "crime colleges."<sup>4</sup> The state needs to reassess its massive incarceration rate and significantly decrease the number of people imprisoned. Resources should be put into reentry and helping people desist from crime. Criminal and substance abuse desistance are studied widely<sup>5</sup> and the variables that keep people law abiding and clean and sober are well known. The two most important variables are: 1. Having a relationship with a law-abiding person; and 2. Having meaningful work or activity.<sup>6</sup> The state can help provide these with restorative interventions and work support. Continuing mass incarceration without support in the community is a disservice to the public that suffers from repeat crimes and the \$250 million annual prison system cost. The state should be developing community based housing programs, restorative justice<sup>7</sup> and other public health approaches for the majority of incarcerated people.

Public private partnerships are simply "a different way of borrowing from private investors who are looking for a profit,"<sup>8</sup> according to Northwestern University professor, Joseph Schofer. Private public partnerships come at the expense of the public eventually.<sup>9</sup> The shareholders of the private corporations are the benefactors, and the taxpayers lose out paying more for the loans in the long run.

Please decrease incarceration and stop wasting our scarce public resources on prisons, which damage our community and don't build a prison with private corporations—even Texas is far ahead of us in prison reform.<sup>10</sup>

Mahalo for your public service. Loren Walker, JD, MPH, volunteer executive director, Hawai'i Friends

<sup>1</sup> 2007, Clear, *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse*

<sup>2</sup> 2014, U.S. Dept of Justice, National Institute of Justice, *Five Things About Deterrence*, <https://ncjrs.gov/pdffiles1/nij/247350.pdf>

<sup>3</sup> 2004, American Psychological Association, *Demonstrating the Power of Social Situations via a Simulated Prison Experiment*, <http://www.apa.org/research/action/prison.aspx>

<sup>4</sup> 2011, Defina & Hannon, *Mass Incarceration: Long-Term Harm versus Short-Term Good*, Villa Nova University, [https://www.bostonfed.org/comindevc&b/2011/summer/DeFina\\_Hannon\\_mass\\_imprisonment.pdf](https://www.bostonfed.org/comindevc&b/2011/summer/DeFina_Hannon_mass_imprisonment.pdf)

<sup>5</sup> 2006, Maruna, *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*. Washington DC: APA.

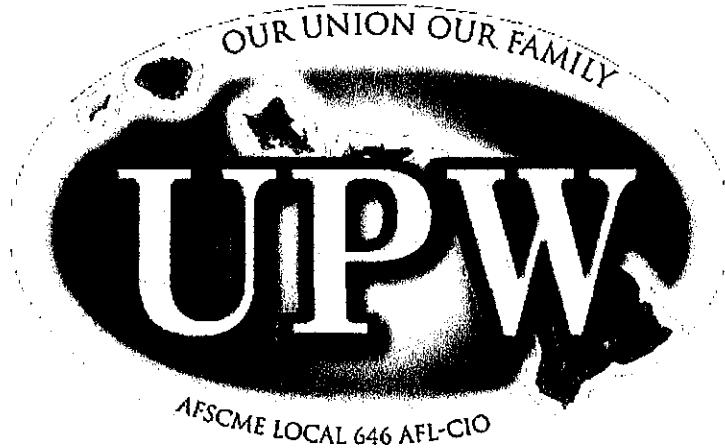
<sup>6</sup> 1996, Shover, *The Great Pretenders: Pursuits and Careers of Persistent Thieves*. Boulder, Colorado: Westview Press.

<sup>7</sup> 2001, Braithwaite, *Restorative Justice and a New Criminal Law of Substance Abuse*, *YOUTH & SOCIETY*, 33:2, 227-248, [http://www.corwin.com/upm-data/2997\\_12ys01.pdf#page=100](http://www.corwin.com/upm-data/2997_12ys01.pdf#page=100)

<sup>8</sup> 2015, Schaper, *Private Sector Included in Plan to Pay for Infrastructure Repairs*, NPR, <http://www.wbur.org/npr/378289391/private-sector-included-in-plan-to-finance-infrastructure-improvements>

<sup>9</sup> 2012, Wilkerson, *Privatizing the Public Commons*, Open Salon, [http://open.salon.com/blog/laura\\_wilkerson/2012/03/14/privatizing\\_the\\_public\\_commons](http://open.salon.com/blog/laura_wilkerson/2012/03/14/privatizing_the_public_commons)

<sup>10</sup> 2014, *Texas an unlikely model for prison reform*, SF Gate, <http://www.sfgate.com/opinion/article/Texas-an-unlikely-model-for-prison-reform-5256894.php>



The Hawaii State Senate  
The Twenty-Eighth Legislature  
Regular Session of 2015

COMMITTEE ON HEALTH

The Honorable Senator Josh Green, Chair  
The Honorable Senator Glenn Wakai, Vice Chair

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

The Honorable Senator Will Espero, Chair  
The Honorable Senator Rosalyn H. Baker, Vice Chair

DATE OF HEARING: March 20, 2015  
TIME OF HEARING: 2:00 p.m.  
PLACE OF HEARING: Conference Room 414

TESTIMONY ON HB840, HD1 RELATING TO CORRECTIONAL FACILITIES

By Dayton M. Nakanelua,  
State Director of the United Public Workers,  
AFSCME, Local 646, AFL-CIO

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

The UPW opposes HB840, HD1 relating to correctional facilities.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 19, 2015 11:31 AM  
**To:** PSMTestimony  
**Cc:** carl.campagna@kamakagreen.com  
**Subject:** \*Submitted testimony for HB840 on Mar 20, 2015 14:00PM\*

**HB840**

Submitted on: 3/19/2015

Testimony for PSM/HTH on Mar 20, 2015 14:00PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carl Campagna	Individual	Support	No

Comments:

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**To:** PSMTestimony  
**Cc:** konaking@live.com  
**Subject:** \*Submitted testimony for HB840 on Mar 20, 2015 14:00PM\*

**HB840**

Submitted on: 3/15/2015

Testimony for PSM/HTH on Mar 20, 2015 14:00PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeff Stevens	Individual	Oppose	No

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March 18, 2015

HB 840  
RELATING TO CORRECTIONAL FACILITIES  
House Committee on Health  
House Committee on Public Safety, Intergovernmental and Military Affairs  
Public Hearing – Friday, March 20, 2015 2:00pm, State Capitol, Conference Room 414

Members of the Committee,

I write to you in opposition of HB 840. Supporting this bill is supporting the idea that Hawai'i needs to mass incarcerate. Hawai'i incarcerates at a higher rate than nearly every country in the world.<sup>1</sup> This is an issue that begs for a reduction in the number of incarcerated people, not an increase in prison space. While I certainly support an end to the transfer of Hawai'i inmates to out of state prisons, I do not feel HB 840 offers us the right solution.

An investment in crime prevention and effective criminal justice and drug treatment policies could significantly reduce our state's incarceration rate. An incarceration rate 25% lower than the current rate, which would still be considered high by global standards, should be the state's goal. This reduction in incarceration would result in a prison population that could be amply provided for using our current public resources. A portion of the large sum of money necessary for a public-private prison project could be used toward the improvement and maintenance of current facilities.

Please do the right thing for our state and stop prison construction in Hawai'i.

Thank you for the opportunity to testify.

Respectfully yours,

Erin Ka'ahea-Gross  
University of Hawai'i Graduate Student

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<sup>1</sup> States of Incarceration: The Global Context, Prison Policy Initiative. [prisonpolicy.org/global](http://prisonpolicy.org/global)

**Marlene Uesugi**

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**To:** PSMTestimony  
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**Subject:** \*Submitted testimony for HB840 on Mar 20, 2015 14:00PM\*

**HB840**

Submitted on: 3/15/2015

Testimony for PSM/HTH on Mar 20, 2015 14:00PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeff Stevens	Individual	Oppose	No

Comments:

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