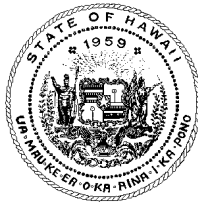


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Shari L. Kimoto**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

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

TESTIMONY ON SENATE BILL 2644  
RELATING TO CORRECTIONAL FACILITIES.

by

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, February 11, 2020; 1:35 p.m.  
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Department of Public Safety (PSD) opposes Senate Bill (SB) 2644, which seeks to ban private correctional facilities in the State of Hawaii.

The bill would restrict the Executive Branch's ability to explore all viable options in developing and/or expanding sorely-needed, in-state correctional facilities which may include partial privatization.

The overcrowded and deteriorating conditions in PSD facilities have been well-documented and widely understood, not only in Hawaii, but across the nation, including among correctional professionals, advocacy organizations, and federal agencies. The facilities are antiquated and in disrepair. The number of offenders who can be safely released short term is limited. More than 90% of inmates will be released back to the community, but vital programming that leads to successful reentry is difficult to conduct effectively under these conditions. It has been necessary for some time, in fact, imperative, for the State to significantly improve the housing and programming accommodations for the ever-growing population of offenders. It is important to note,

there has been no correctional facility built in Hawaii since 1987, and the ancient and decrepit condition of our facilities statewide demands new construction.

It should also be noted that inmates in private facilities are afforded the same federal- and state-protected rights as inmates in Hawaii-managed facilities. Inmates and visitors to the Saguaro Correctional Center in Arizona find the 12-year-old facility to be clean and conducive to participation in rehabilitative programming. The distance between Hawaii inmates in Arizona and their families and other support in Hawaii presents a different and difficult barrier.

In the 30+ years since the construction of the Halawa Medium Security facility there have been numerous advances in jail and prison design, organization, materials, and construction technologies. Precluding the State's Executive Branch from access to ideas, options, and expertise from private entities is likely to put Hawaii in a less favorable position to accomplish the objectives of developing cost-effective, safe, secure, and efficient correctional facilities which are conducive to rehabilitation and successful reentry that we all desire.

Therefore, PSD respectfully requests that the Committee on Public Safety, Intergovernmental, and Military Affairs defer this measure and allow all viable options to be considered in the development of desperately needed correctional facilities.

Thank you for the opportunity to present this testimony.

# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Tuesday, February 11, 2020

1:35 PM – Room 229

### SUPPORT for SB 2644 – BANS CORPORATE FOR-PROFIT PRISON IN HAWAII

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee!

My name is kat brady and i am the coordinator of Community Alliance on Prisons, A community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE**, including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 2644 repeals the authorization for the governor to negotiate with any person for the development or expansion of private correctional facilities and prohibits the establishment of private correctional facilities in the State.

Community Alliance on Prisons supports this measure and urges the committee to pass SB 2644.

The entrance of the corporate prison sector into the criminal justice arena has derailed justice. Many jurisdictions that allowed the construction of prisons and detention centers owned and operated by these corporations have come to rue the day when those contracts were signed. Taxpayers in many small towns were left holding the bag (read: paying, paying, and paying) when the corporation either left midway through construction or the community was left with a crumbling structure and a BIG debt.

Mahalo for this opportunity to testify.

*"Endangering human life for profit should be a universal crime."*

Suzy Kassem



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

**RANDY PERREIRA**, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirtieth Legislature, State of Hawaii  
**THE SENATE**  
Committee on Public Safety, Intergovernmental, and Military Affairs

Testimony by  
Hawaii Government Employees Association

February 11, 2020

S.B. 2644 – RELATING TO CORRECTIONAL FACILITIES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2644 which bans any establishment of any private correctional facility within the State and eliminates the Governor's ability to negotiate with any person for the development or expansion of a private in-state correctional facility.

Private correctional facilities are for-profit entities and lacks transparency and accountability. Public sector control of correctional facilities should be a basic government responsibility to ensure consistent policies, protocols and standards are maintained for incarcerated individuals. Government run facilities ensures employees are properly trained, programs and adequate medical treatment are available for these incarcerated individuals.

Thank you for the opportunity to testify in support of S.B. 2644.

Respectfully submitted,

Randy Perreira  
Executive Director

**ROBERT K. MERCER**

2467 Aha Aina Place  
Honolulu, Hawai'i 96821

*phone:* (808) 398-9594 (cell)  
*email:* mercer001@hawaii.rr.com

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February 10, 2020

TO: Committee on Public Safety, Intergovernmental, and Military Affairs

RE: SB 2644

HEARING: February 11, 2020

TIME: 1:35 p.m.

ROOM: 220

POSITION: **STRONGLY OPPOSE**

Chair Nishihara, Vice Chair Wakai, and members of the committee,

This bill would allow the governor to negotiate with private companies for “turnkey” correctional facilities to address jail and prison overcrowding. The turnkey projects would presumably include new facilities that are financed and built by private companies and leased back to the state to manage and operate.

The problem with the turnkey idea is that it assumes the State can solve the overcrowding problem by building new facilities. That is a very wrong assumption. Our jails and prisons are overcrowded because of harsh sentencing policies, the absence of any serious effort to rehabilitate offenders, and the near complete lack of reentry services to support prisoners when they leave prison. Until we address those issues, the current policies will continue to channel men and women into our jails and prisons just as they have in the past and we will continue to incarcerate far too many people.

Our goal should be to reduce our prison population, not bring in private companies to build new correctional facilities.

The main causes of overcrowding in Hawaii are our money bail system, the large number of HOPE probation violators in Oahu’s jail, repeat offender laws, mandatory minimum sentences, and the ever-present attempts to make our already harsh sentencing laws even harsher.

With respect to harsh sentences, HB 2019, which was introduced this session, seeks to increase the penalties for four of the most commonly charged offenses -assault, burglary, criminal property damage, and theft - by one grade (i.e. fourth degree theft, a petty misdemeanor, would become a misdemeanor, third degree theft which is a misdemeanor would become a class C felony, etc). If passed, HB 2019 would almost certainly increase our prison population significantly. HB 1681, a “three strikes” bill, would have the same effect, but probably to a lesser degree.

**ROBERT K. MERCER**

2467 Aha Aina Place  
Honolulu, Hawai'i 96821

phone: (808) 398-9594 (cell)  
email: mercer001@hawaii.rr.com

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A recent study by the Vera Justice Institute showed that cities and counties that fail to address the factors driving their jail population end up with excess capacity, which results in the jail filling up within a year or two and creating more overcrowding:

Examining the experiences of some counties around the country shows that jail expansion often does not live up to the expectations of policymakers . . . . ***This is because expansion alone fails to address the root causes of overcrowding, leaving in place the very policies and practices that drove the jail's population increase in the first place.*** Indeed, there is a risk that the existence of a larger jail with more beds may reduce the incentive to make policy changes that address the factors driving overcrowding due to the temporary relief expansion provides. Jail population growth and increasing capacity can thus exist in a vicious cycle, resulting in an ever-increasing number of people in jail. The push to increase jail beds as a way to improve health and social services can also backfire: the inherent harms of incarceration may limit the effectiveness of new service capacities, and investment in corrections-based treatment services may divert needed resources for similar services and supports in the community.<sup>1</sup>

The Vera Justice study speaks directly to the situation in Hawaii. We should not let the governor or anyone else start negotiations to expand our correctional facilities until we have addressed the root causes of the overcrowding.

Thank you for allowing me to testify on this matter.

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<sup>1</sup> Chris Mai, Mikelina Belaineh, Ram Subramanian, and Jacob Kang-Brown, Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead", Vera Justice Institute, (November, 2019) 6-7.

# Testimony: SB2644 Correctional Facilities

Aloha Honorable Chair Nishihara, Honorable Vice Chair Wakai and members of the Committee on Public Safety, Intergovernmental and Military Affairs.

I am submitting testimony in SUPPORT of SB 2644, which would repeal the authorization for the governor to negotiate with any person for the development or expansion of private correctional facilities. Additionally, prohibiting the establishment of private correctional facilities in the State. It is my belief that this bill is another step towards prison reform in the right direction.

Privatized prisons promise lower costs to the State while promising the same quality and care for inmates. 1) However, this is a half truth, organizations such as, The GEO Group and CoreCivic, keep low-cost (financially) inmates while sending high-cost inmates back to the state in order to increase profit revenue. 2) These facilities are often understaffed with lower training standards for their correctional officers leading to an increase in violence and escapes. An annual revenue report by The GEO Group reported the company's total revenue for 2018 at \$2.3 billion dollars; in 2008 the company's total revenue was just under \$1 billion dollars. 3) There have been several corruption scandals around privatized prisons including one where two judges in Pennsylvania were bribed into sending 2,000 children to a for-profit prison by enacting unfair sentencing and harsh punishments. 4) CoreCivic and The GEO Group have been members of The American Legislative Exchange Council (ALEC) which is a non-profit lobbying group that advocates for tougher and longer sentencing; examples include mandatory minimum sentencing and attempts to abolish parole for violent offenders. Showing an active effort by these corporations to influence legislation to increase profit margins at the expense of the incarcerated person, tax payer and State.

Fundamentally, when a person commits a crime, they're committing it against the State. It is the State that tries and convicts an individual and it should always be the State's sole responsibility to administer justice for crimes committed. It is morally wrong to delegate that responsibility away from the State to an organization that profits off of the detainment of the convicted. If the purpose of incarceration is justice and rehabilitation, it is counter intuitive to allow for-profit prisons to operate in the State. Especially, when these facilities sole source of revenue depends on the incarceration of individuals. I'd like to see Hawaii join California in taking a stand against the privatization of our prisons in the United States.

Mahalo for the opportunity to testify in support of SB 2644,

Christopher M. Albritton





## SB 2644, RELATING TO CORRECTIONAL FACILITIES

FEBRUARY 11, 2020 · SENATE PUBLIC SAFETY,  
INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
COMMITTEE · CHAIR SEN. CLARENCE K.  
NISHIHARA

**POSITION:** Support.

**RATIONALE:** IMUAlliance supports and suggests an amendment for SB 2644, relating to correctional facilities, which repeals the authorization for the governor to negotiate with any person for the development or expansion of private correctional facilities and prohibits the establishment of private correctional facilities in the state.

Private prisons have no place in Hawai'i. Already, our state undermines its commitment to restorative justice, each day, by criminalizing low-level offenses, like possession of small amounts of marijuana or, under Honolulu's sit-lie bans, the act of being homeless and tired. As the visitor industry reaps record profits, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and harsher drug-related punishments than other ethnic groups.

Private prisons only incentivize the cycle of crime by providing a financial motivation for the further criminalization of nonviolent offenses and imposition of longer sentences. Private prisons are run as businesses, after all. Without inmates, they cannot turn a profit. America's for-profit prison industry currently controls 126,000 Americans' lives. As Lauren Brooke-Eisen, Senior Counsel in the Brennan Center's Justice Program at the Brennan Center for Justice at NYU School of Law, has argued, "It's a \$5 billion sector—one that encompasses the operation of 65 percent of the nation's immigration detention beds. And at the same time, it is largely opaque, often unaccountable to the public or the government."

When Hawai'i began sending prisoners to the private detention centers on the mainland in 1995, the policy was proposed as a temporary measure to relieve overcrowding of local prisons. More than 20 years later though, 1,459 inmates—35 percent of Hawai'i's prison population—remain on the continental United States, locked inside a notorious private facility in the Arizona desert, midway between Tucson and Phoenix, nearly 3,000 miles from home. That prison, the Saguaro Correctional Center—named after a cactus native to the Sonoran Desert and based in the small town of Eloy—is run by the Corrections Corporation of America (CCA), recently renamed CoreCivic, the country's largest private-prison firm.

The company isn't legally obligated to respond to public information requests and regularly refuses to answer even the most basic questions about its practices. Private prisons are not subject to the same freedom of information and open records laws as other government agencies. Without access to information, of course, it is impossible to know what injuries are being suffered by detainees. Former security guards who have worked at private prisons say that prisoner abuse is rampant, since disclosure of allegations is extremely rare. In the case of at least some Hawai'i prisoners sent to the mainland—like Johnathan Namauleg, Clifford Medina, and Bronson Nunuha—private prisons have proven to be a death sentence.

In 2010, staff from the Office of the State Auditor accompanied state contract monitors conducting a quarterly inspection of Saguaro. They watched as monitors accepted the testimony of CCA staff "without verifying their statements against documentary evidence" and concluded, in a lengthy report, that Hawai'i "lacked objectivity" when monitoring CCA. This should come as little surprise, since, over the past five years, CCA has spent more than \$500,000 to lobby local politicians. Here,

we'd be remiss not to note that one of the firm's highest-paid lobbyists was Douglas Chin, Hawai'i's Attorney General, who earned more than \$100,000 for his services.

If private prisons are introduced on our shores, the Saguaro nightmare will unfold in our own backyard. Incarceration should not be a goal of our state's criminal justice system. Expansion of the prison-industrial complex through for-profit detention centers only casts a pall over the treatment of offenders, who should be afforded every opportunity to become productive members of society. At the same time, **if our state is committed to constructing a "new OCCC" capable of housing 1,300 inmates—something IMUAlliance opposes—then the introduction of private prisons is not needed.**

We must build people, not prisons. We must strive to increase people's access to justice, not time spent in jail cells.

**LATE**

**SB-2644**

Submitted on: 2/11/2020 8:09:58 AM  
Testimony for PSM on 2/11/2020 1:35:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lorenn Walker	Testifying for Hawai'i Friends of Restorative Justice	Support	No

Comments:

The Hawai'i Friends of Restorative Justice supports this bill that would ban private correctional facilities in our state. The bill should additionally be amended to prevent the state from contracting with OUT OF STATE private correctional facilities. Private correctional facilities have been studied and shown be detrimental. e.g., <http://www.justicepolicy.org/news/12006>.

Please contact me if you have any questions about our support to ban private correctional facilities: [lorenn@hawaiiifriends.org](mailto:lorenn@hawaiiifriends.org)

Lorenn Walker, JD, MPH

Director, Hawai'i Friends of Restorative Justice

**LATE**

**SB-2644**

Submitted on: 2/10/2020 10:28:52 PM  
Testimony for PSM on 2/11/2020 1:35:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jacquelyn Esser	Individual	Support	No

Comments:

When we speak of the privatization of prisons, one of the first questions we should ask is whether the goals of the private corporation are aligned with the goals of a safe community and of an accountable and responsible state. The answer is clearly no. The private prison business model depends on a simple formula: build prisons and then secure government contracts to fill them with people. When the government hands control of prisons over to for-profit companies, it destroys families for generations. Hawai'i must never let these corporate profiteers into our state to do business that profits from mass incarceration. Our government should be building communities not destroying them.

**SB-2644**

Submitted on: 2/10/2020 11:50:27 PM

Testimony for PSM on 2/11/2020 1:35:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

We need more correctional facilities and if the State cannot provide them then we should call upon the Private Sector to make more Correctional Facilities.

To many Criminals are released too early and end up back in prison within a few months of being released. More Correctional Facilities are needed!!