

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on
Public Safety, Intergovernmental, and Military Affairs**

February 9, 2021

S.B. No. 1243: RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

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

The Office of the Public Defender respectfully **supports** S.B. No. 1243.

Justice Michael D. Wilson and the HCR 85 Task Force’s Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai‘i Legislature 2019 Regular Session addresses this very issue, recommending that “Hawai‘i Should Develop a Plan to Bring All of its Mainland Prisoners Back to Hawai‘i and to Stop Using Private Prisons.”¹ The 116-page report discusses the detrimental and sometimes destructive effects of separating “local” inmates from their family, friends, and their island home; the transfer of Hawai‘i inmates to the mainland being a “drastic dislocation from their home, culture, family, job prospects, and community support.” The report also questioned the fiscal wisdom of sending Hawai‘i inmates to private facilities on the mainland and suggests that the immediate financial gains are short-sighted.

In 1983 a Hawai‘i inmate, Delbert Wakinekona, challenged his transfer to a mainland prison.² Although the United States Supreme Court held that his transfer did not violate his constitutional rights, in a dissenting opinion Justice Thurgood Marshall recognized that:

[I]n addition to being incarcerated, which is the ordinary consequence of a criminal conviction and sentence, Wakinekona has in effect been

¹ Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai‘i Legislature 2019 Regular Session, “Creating Better Outcomes, Safer Communities” (December 2018) at 57, https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf.

² Olim v. Wakinekona, 461 U.S. 238 (1983).

banished from his home, a punishment historically considered to be ‘among the severest.’ For an indeterminate period of time, possibly the rest of his life, nearly 2,500 miles of ocean will separate him from his family and friends. As a practical matter, Wakinekona may be entirely cut off from his only contacts with the outside world, just as if he had been imprisoned in an institution which prohibited visits by outsiders. Surely the isolation imposed on him by the transfer is far more drastic than that which normally accompanies imprisonment.³

The Native Hawaiian Justice Task Force Report in 2012 recommended that returning prisoners to Hawai‘i should be a top priority, and that they should be returned “as soon as practicable, consistent with public safety.”⁴

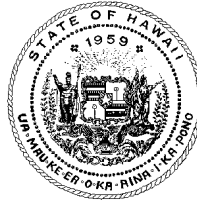
Having been a “frontline trial attorney” and having represented hundreds of clients who have been incarcerated, uprooting inmates from the island and transferring them to a mainland facility is crushing. In many cases, seeing family members, being able to briefly touch or hold a loved one, and spending time with their children are some of the things that keep inmates from losing hope and they remind those inmates that they have reasons to rehabilitate and to improve themselves. Taking this simple necessity from inmates further disenfranchises and isolates them.

Thank you for the opportunity to provide testimony in this matter.

³ Id. at 252-53 (Marshall, J. dissenting).

⁴ The Native Hawaiian Justice Task Force Report (December 2012) at 29, https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf

DAVID Y. IGE
GOVERNOR



LATE

MAX N. OTANI
DIRECTOR

Maria C. Cook
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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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

No. _____

TESTIMONY ON SENATE BILL 1243
RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES.

by
Max N. Otani, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator J. Kalani English, Vice Chair

Tuesday, February 9, 2021; 1:20 p.m.
State Capitol, Via Video Conference

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

Senate Bill (SB) 1243, seeks to require the State to phase out the use of private correctional facilities for the incarceration of Hawaii inmates. This measure would also prohibit the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii Correctional Systems Oversight Commission (HICSOC).

The Department of Public Safety (PSD) respectfully provides comments regarding this measure to clarify PSD's required use of private correctional facilities. As you may know, Hawaii's correctional facilities, which include eight (8) jails and prisons that are old and outdated, manpower-intensive, and constantly in need of repairs. As of January 31, 2021, six (6) of the eight (8) facilities were operating above their designed capacity and have been for some time (see attached January 2021 inmate population report). The newest correctional facility in Hawaii is the Halawa Correctional Facility, which opened in 1985 and is now over 35 years old. The remaining seven (7) facilities range in age from 40 to over 100 years old.

Despite the increases in both the prison and jail populations over the years, Hawaii has not built a new correctional facility in over 35 years. In 1995,

following the Spear vs. Ariyoshi consent decree brought by the U.S. Department of Justice, PSD began housing inmates out of State in various private prisons on the mainland. While it is unfortunate that approximately 1,000 Hawaii inmates must be housed on the mainland via private prison contracts, the use of private prisons is required in order to prevent costly litigation and additional consent decrees relating to overcrowding and inhumane conditions in our facilities. It should be noted, federal consent decrees can be very costly and could require the State to allocate hundreds of millions, if not, billions, of dollars to build and modernize Hawaii's aging and decrepit facilities.

To that end, any plan to phase out the use of private correctional facilities must be accompanied by a thorough review of the criminal justice system, to include the Judiciary. For example, at present the Judiciary has more than 24,000 offenders on probation supervision statewide, which includes over 13,000 convicted felons. If only 10% of the sentenced felony probationers (approximately 1,300) were re-sentenced to prison, it would overwhelm the State's correctional system, which is already severely strained and unable to house all of our inmates in Hawaii facilities.

Finally, prohibiting PSD from proceeding with construction of new correctional facilities or expanding existing facilities without the approval of the HICSOC is in direct contravention to the intent and purpose of the commission as enacted in Act 179 (2019). Doing so would also add to the costs associated with the delays of including another entity in the process. It is not feasible nor practical to require PSD to obtain the approval of the HICSOC before moving forward on any project, as the HICSOC was created, in part, to be in an advisory role and to make recommendations to PSD, not to be approver or denier of any facet of PSD's operations, including decisions regarding correctional facilities.

Thank you for the opportunity to submit comments regarding SB 1243.

**DEPARTMENT OF PUBLIC SAFETY
END OF MONTH POPULATION REPORT**

Date: January 31, 2021

FAC.	DESIGN BED CAP.	OPER. BED CAP.	HEAD COUNT ENDING																		
			TOT.	M	F	SENT. FEL.		SENT. FEL. PROB.		SENT. MISD.		PRETRIAL FEL.		PRETRIAL MISD.		OTHER JURIS.		PAR VIOL.		PRB VIOL.	
						M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
HCCC	206	226	277	228	49	26	4	33	7	6	1	113	23	11	2	3		15	4	21	8
SNF	90	132	90	90	0	90															
HMSF	496	992	798	798	0	222		8		1		14						547		6	
KCCC	110	128	134	116	18	33	3	19	7	9		40	5	8	1					7	2
KCF	200	200	138	138	0	138															
MCCC	209	301	308	259	49	25	5	34	6	4	1	128	23	6	1	2	0	28	2	32	11
OCCC	628	954	949	860	89	127		74	14	14		416	36	46	9					183	30
WCCC	258	260	209	0	209		145						1					62			1
WCF	294	334	218	218	0	144												74			
TOTAL	2491	3527	3121	2707	414	805	157	168	34	34	2	711	88	71	13	5	0	664	68	249	52

	CONTRACTED FACILITIES																			
	TOT.	M	F	SF		SFP		SM		PTF		PTM		OJ		PARV		PRBV		
				M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
RED ROCK CC, AZ	0	0	0																	
SAGUARO CC, AZ	999	999	0	956													43			
FEDERAL DET. CTR. ¹	10	4	6		1		1		1		1		2							4
TOTAL	1009	1003	6	956	1	0	1	0	1	0	1	0	2	0	0	43	0	4	0	

FAC.	DESIGN BED CAP.	OPER. BED CAP.	ASSIGNED COUNT ENDING																		
			TOT.	M	F	SENT. FEL.		SENT. FEL. PROB.		SENT. MISD.		PRETRIAL FEL.		PRETRIAL MISD.		OTHER JURIS.		PAR VIOL.		PRB VIOL.	
						M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
HCCC	206	226	290	241	49	30	4	37	7	7	1	113	23	11	2	6		15	4	22	8
SNF	90	132	90	90	0	90															
HMSF	496	992	809	809	0	228		8		1		14						552		6	
KCCC	110	128	143	123	20	38	5	19	7	11		40	5	8	1					7	2
KCF	200	200	138	138	0	138															
MCCC	209	301	308	259	49	25	5	34	6	4	1	128	23	6	1	2	0	28	2	32	11
OCCC	628	954	968	879	89	135		75	14	15		417	36	47	9	2		2		186	30
WCCC	258	260	237	0	237		169		1	1		1						64			1
WCF	294	334	218	218	0	144												74			
MAINLAND			999	999	0	956												43			
TOTAL	2491	3527	4200	3756	444	1784	183	173	35	38	3	712	88	72	13	10	0	714	70	253	52

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

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THE HONORABLE CLARENCE K. NISHIHARA, CHAIR
THE HONORABLE J. KALANI ENGLISH, VICE CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

February 9, 2021

**RE: S.B. 1243 – RELATING TO THE PHASEOUT OF PRIVATE
CORRECTIONAL FACILITIES**

Chair Nishihara, Vice Chair English, and members of the Senate Committee on Human Services, the Office of the Prosecuting Attorney of the County of Kauai submits the following testimony in support of S.B. 1243.

This bill phases out the use of private correctional facilities and prohibits the construction or expansion of correctional facilities without the approval of the Hawaii correctional system oversight commission.

Private correctional facilities are by definition for profit. Their goal of generating the greatest possible profit is in direct conflict with providing safe and humane conditions. This applies both to the inmates and the staff. Private prisons are often understaffed, overcrowded and unsafe. The Department of Justice found that, in general, private prisons provide fewer correctional services at greater security and safety risk to inmates and staff, without producing substantial savings. In phasing out private prisons, Hawaii would follow the federal government and at least twenty-two states who have stopped using for-profit prisons for the above reasons.

For these reasons, the Office of the Prosecuting Attorney supports the passage of S.B. 1243. Thank you for this opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

LATE

The Thirty-First Legislature, State of Hawaii
The Senate
Committee on Public Safety, Intergovernmental, and Military Affairs

Testimony by
Hawaii Government Employees Association

February 9, 2021

S.B. 1243 – RELATING TO THE PHASEOUT OF
PRIVATE CORRECTIONAL FACILITIES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 1243 which requires the State to phase out the use of private correctional facilities to incarcerate Hawaii inmates and prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii Correctional System Oversight Commission.

Research has shown the severe adverse effects on inmates who reside in out-of-state contracted private, for-profit prisons and that lack of oversight and accountability hampers an inmate's rehabilitation. Further, we find that S.B. 1243 is in direct alignment with President Joseph Biden's recent order to curb the use of private prisons by directing the U.S. Attorney General not to renew contracts with privately operated criminal detention facilities. While it may be necessary for our state to enter into a partnership to facilitate the design or finance the construction of a new facility, we strongly oppose private operation or ownership. Lastly, the Hawaii Correctional System Oversight Commission was established to ensure transparency, support safe conditions for employees, inmates, and detainees, and provide positive reform towards a rehabilitative and therapeutic correctional system, therefore it makes sense to include the Commission in decision-making for a new or expanded facility.

Thank you for the opportunity to testify in strong support of S.B. 1243.

Respectfully submitted,

Randy Perreira
Executive Director



SB 1243, RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

FEBRUARY 9, 2021 · SENATE PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
COMMITTEE · CHAIR SEN. CLARENCE K.
NISHIHARA

POSITION: Support.

RATIONALE: Imua Alliance supports SB 1243, relating to the phaseout of private correctional facilities, which requires the state to phase out the use of private correctional facilities to incarcerate Hawai'i inmates and prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawai'i Correctional System Oversight Commission.

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 Imua Alliance firmly 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.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

COMMUNITY ALLIANCE ON PRISONS

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PUBLIC SAFETY, INTERGOVERNMENTAL, MILITARY AFFAIRS COMMITTEE

Senator Clarence Nishihara, Chair

Senator Kalani English, Vice Chair

Tuesday, February 9, 2021

1:20 PM

STRONG SUPPORT FOR SB 744 BANS DEVELOPMENT OF CORPORATE CAGES IN HAWAI'I NEI

Aloha Chair Nishihara, Vice Chair English, 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 more than 4,100 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that 1,000 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.

Community Alliance on Prisons stands in strong support of this measure to add language prohibiting private/corporate cages to §353-16.35, HRS 'Development or expansion of in-state correctional facilities.'

This is important to put in statute now as these profiteers of misery are trying to worm their way deeper into communities and state economies as the threat of losing federal contracts looms. Please don't be swayed by their sweet talk. Too many of our people have died, been murdered and assaulted in incidents that are a shameful example of poor management by the corporation and a lack of pitiful lack of oversight by the state that has been known and allowed to continue for decades.

Please support this measure to shut the door to corporate cages now. Don't let this be a battle our kids have to fight. It's time to end profiteering from the misery of human beings.

Mahalo for this opportunity to offer testimony.



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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
TUESDAY, 2/9/21, 1:20 PM, Videoconference

SB1243 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES
Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Nishihara, Vice-Chair English, and Committee Members:

The League of Women Voters of Hawaii supports this bill, which requires the State to phase out the use of private correctional facilities to incarcerate Hawaii inmates, and prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii correctional system oversight commission.

Private prisons do not provide the transparency and accountability our State needs to ensure the civil rights, health, safety and well-being (including family interaction) of incarcerated people. People incarcerated far from their families lose relationships which can assist their transition to society.

We also support consideration of alternatives to new prisons or jails, which the Hawaii Correctional System Oversight Commission is qualified to provide. The duties of this Commission include:

- 1)Overseeing the State's correctional system, investigating complaints at correctional facilities, and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- 2) Establishing maximum inmate population limits for each correctional facility and formulating policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
- 3) Working with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees.

Thank you for the opportunity to submit testimony.

LATE



Hawai'i

Committees: Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing Date/Time: Tuesday, February 9, 2021, 1:20 p.m.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 1243, Relating to the Phaseout of Private Correctional Facilities

Dear Chair Nishihara, Vice Chair English, and members of the Committee,

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of S.B. 1243**, which requires the State to phase out the use of for-profit prisons to house Hawai'i inmates by 2025, and prohibits the construction of new correctional facilities or the expansion of existing facilities without the approval of the Hawai'i Correctional System Oversight Commission. Given the safety risks posed by these facilities, the devastating family separation caused by shipping Hawai'i residents thousands of miles from home, and the increased cost Hawai'i incurs by using for-profit prisons, it is time to end our State's reliance on for-profit prisons.

For-profit prisons are a multibillion-dollar industry. By definition, a for-profit prison will be driven by maximizing profit, not by what is best for rehabilitation and public safety. In a 2016 review of for-profit prisons, the U.S. Office of the Inspector General found that overall, for-profit prisons are *less safe and less secure* than government-run prisons.¹ For-profit prisons are typically paid per person housed there. As a result, they benefit from harsher sentencing and the curtailment of probation and parole. While the State has a joint duty to protect public safety and the civil rights of those in its custody, private prison executives have fiduciary duties to shareholders and incentives to maximize profits — incentives that often conflict with public safety and ensuring civil rights of those in custody.

For-profit prisons do not necessarily save Hawai'i money, either. On the contrary, it may cost the State *more* to incarcerate inmates in private prisons than in state-run facilities.² This is despite private prisons' tendency to cherry pick their prisoners, often choosing the least expensive

¹ This report concerns for-profit facilities contracted to house federal inmates. U.S. Department of Justice Office of the Inspector General, *Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons*, Aug 2016, available at <https://oig.justice.gov/reports/2016/e1606.pdf>.

² D. M. Levine, *What's Costlier than a Government Run Prison? A Private One*, Fortune, Aug 18 2010, https://money.cnn.com/2010/08/17/news/economy/private_prisons_economic_impact.fortune/index.htm.

inmates to incarcerate.³ Phasing out the Department of Public Safety's use of for-profit prisons to house inmates, while simultaneously enacting comprehensive reforms in the areas of bail, sentencing, and probation/parole, could offer long-term cost savings for the state.

Even if contracting with private corporations to house inmates *did* save money, however, Hawaii's existing relationship with a for-profit prison has a devastating human impact. Hawaii's contract with Saguaro Correctional Center, an Arizona facility owned and operated by the large private prison corporation, CoreCivic, has resulted in the separation of thousands of Hawai'i families. Saguaro currently houses 999 people sent from Hawai'i,⁴ many of whom have children back home. A 2010 report by the Office of Hawaiian Affairs found that Native Hawaiians are more likely to be transferred to Saguaro, which is especially cruel given Saguaro's history of discriminating against Native Hawaiian religious and cultural practices.⁵ Shipping people to Arizona to serve their sentence is also antithetical to the reentry process and harmful to long-term prospects for sustainable reintegration of formerly incarcerated individuals into society. This bill offers a positive step forward to reunite these families and repair the harm done by the criminal legal system.

The bill's requirement that any expansion or construction of a correctional facility be approved by the Hawai'i Correctional System Oversight Commission is a sensible one; the Commission, created by Act 179, is tasked with:

- (1) Overseeing the State's correctional system, investigating complaints at correctional facilities, and facilitating a correctional system transition to a rehabilitative and therapeutic model;
- (2) Establishing maximum inmate population limits for each correctional facility and formulating policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;
- (3) Working with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's

³ Richard A. Oppel Jr., *Private Prisons Found to Offer Little in Savings*, May 18, 2011, <http://www.nytimes.com/2011/05/19/us/19prisons.html>.

⁴ State of Hawaii, Department of Public Safety, *Weekly Population Report*, February 1, 2021, <https://dps.hawaii.gov/wp-content/uploads/2021/02/Pop-Reports-Weekly-2021-02-01.pdf>.

⁵ See, Rui Kaneya, *Settlement Protections Religious Rights for Hawaiian Prisoners*, Honolulu Civil Beat (February 6, 2017), available at <https://www.civilbeat.org/2017/02/settlement-protects-religious-rights-for-hawaiian-prisoners/>.

Chair Nishihara and Members of the Committee
February 9, 2021
Page 3 of 3

oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and

- (4) Ensuring that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

It aligns with the purview and expertise of the Commission to make this decision. For these reasons, we request that the Committee support this measure. Thank you for the opportunity to testify.

Sincerely,



Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i 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 Hawai'i has been serving Hawai'i for over 50 years.

American Civil Liberties Union of Hawai'i
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SB-1243

Submitted on: 2/5/2021 9:16:31 PM

Testimony for PSM on 2/9/2021 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

support

SB-1243

Submitted on: 2/8/2021 11:10:51 AM

Testimony for PSM on 2/9/2021 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Strong Support of SB1243.

SB-1243

Submitted on: 2/8/2021 12:46:01 PM

Testimony for PSM on 2/9/2021 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

My name is Carla Allison and I strongly support SB1243. We need to get out of the business of using private correctional facilities to house Hawaii inmates and prohibit new/expanded correctional facilities. Research & studies repeatedly conclude community-based solutions have significantly better outcomes than incarceration. There are existing reports ordered by our legislature detailing solutions that have not been acted upon...solutions to ease our overcrowded jails/prisons. People with mental & drug disabilities and the unhoused don't belong in jails nor should citizens be jailed without a trial because they can't afford bail. We need programs that keep families intact, assist loved ones to overcome addiction, provide treatment for mental disabilities and house the unhoused. Please support SB1243. Thank you.

LATE

SB-1243

Submitted on: 2/8/2021 6:31:06 PM

Testimony for PSM on 2/9/2021 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Individual	Support	No

Comments:

I **support** SB1243. We need to stop exiling our people to corporate/private cages and begin a real process of discussing the future of corrections in Hawai`i. Right now *more than half* of the incarcerated population in Hawai`i are pre-trial detainees, which means they are innocent until proven guilty. We must phase out the use of private prisons and work harder on decarceration and alternatives to incarceration.

LATE

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair

Senator J. Kalani English, Vice Chair

Tuesday, February 9, 2021

1:20 p.m.

Via Videoconference

RE: Support SB1243 1080 RELATING TO THE PHASEOUT OF PRIVATE
CORRECTIONAL FACILITIES

Dear Chair Nishihara, Vice Chair English and Committee Members:

My name is Carrie Ann Shirota, and I am writing in support of SB1243 that requires the State to phase out the use of private correctional facilities to incarcerated Hawaii's incarcerated people. The bill would also prohibit the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii Correctional System Oversight Commission.

As background, I am an attorney and have experience enforcing state and federal fair employment, housing and public accommodation laws. Additionally, I have previously served as the Director for Maui Economic Opportunity's Reintegration Program, and have studied the impacts of Hawaii's reliance on private for profit prisons.

My message is simple: We need a broader vision for Reimagining Public Safety in Hawaii'i. Building and expanding jails and prisons, and contracting with private prisons are not solutions to overcrowding. Nor do they address the drivers of incarceration.

Reimagining public safety requires us to create, invest and sustain institutions, policies and programs that meet the needs of our community to divert and significantly reduce the number of youth and adults in our criminal legal system.

How do we do this? By shifting the state's budget priorities away from mass criminalization and incarceration towards health and human services, housing, education, rehabilitation and restorative justice. '

In order to end overcrowding in our jails and prisons and stop our banishment policies to out-of-state private prisons, we must implement Justice Reinvestment strategies at different entry and exit points within the criminal legal system.

Our Hawaii Correctional System Oversight Commission agrees with this shift in philosophy, and recommends that we pause all planning and design related to the proposed new OCCO and other jail and prison projects.

We may also look to other jurisdictions that have successfully and significantly reduced their incarcerated population. Here are some concrete examples:

New Jersey Outcomes

Between 1999-2012, NJ state prison population reduced by 26%, while the nationwide state prison population increased by 10%

The population went from 31,493 persons to 23,225 persons (decrease of 8,268)

NJ's violent crime rate fell by 30%, while the national rate decreased by 26%

NJ's property crime rates also decreased by 31% compared to the national decline of 24%

New York Outcomes

Between 1999-2012, New York reduced its prison population by 26%, while the nationwide

state population increased by 10%.

Incarcerated population went from 72,896 persons to 54,268 persons (decrease of 18,268)

NY's violent crime rate fell by 31%, compared to the national rate which decreased by 26%.

NY's property crime rate fell by 29% compared to the national decline of 24%.

California Outcomes

Between 2006 and 2012, California downsized its prison population by 23%, compared to the nationwide state prison population decrease of 1%.

173,942 to 134,211 (decrease of 39,731)

CA's violent crime rate drop of 21% exceeded the national decline of 19%.

California's property crime rate dropped by 13%, but that rate was slightly lower than the national reduction of 15%.

In addition, other states have significantly decreased or ended their reliance on private prisons by investing in "Justice Reinvestment" or criminal justice reform strategies. They considered the costs and benefits of contracting with private prisons and ultimately concluded that the costs were too great.

Please support SB 1243.

Sincerely,
Carrie Ann Shirota, Esq.
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