

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

March 23 , 2021

TO: Honorable Representative Mark Nakashima
House Committee on Judiciary and Hawaiian Affairs.

FROM: Mark Patterson, Chair, Hawaii Correctional System Oversight
Commission.

SUBJECT: **SB 1243, SD 2, HD1 – RELATING TO THE PHASEOUT OF PRIVATE
CORRECTIONAL FACILITIES**

POSITION: The Hawaii Correctional System Oversight Commission (HCSOC) supports this measure.

This bill would add two new responsibilities to the HCSOC. First, we would be required to develop a comprehensive plan to phase out the use of private correctional institutions by the Department of Public Safety (PSD). Second, we would be required to consult with the PSD on the planning of any new or expanded correctional facility in the State, and provide input and recommendations on any master plan for the facility, for inclusion in any environmental impact statement on the project. Concurrently, this bill would also require that the PSD obtain our approval before constructing any new correctional facility or expanding any existing correctional facility.

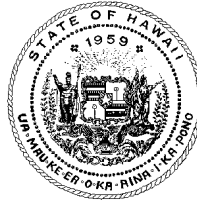
As you are aware, the HCSOC was created by Act 179 SLH 2019 as a means of providing “independent oversight of the State’s correctional system.” Among other things, Act 179 authorizes the Commission to “[E]stablish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;” and “[E]nsure 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”

The Commission Supports the intent of this bill because it fits squarely into one of our central purposes i.e. to effect policies and procedures for the management of correctional capacity. We concur with the notion of reducing and eventually eliminating our State’s reliance on private prison beds to resolve our chronic overcrowding problems. Hawaii first contracted with private prison companies to house our inmates on the mainland in 1995 as a temporary measure. It is time to develop the programs and processes needed to bring the inmates home.

The Commission also supports the provision in this bill that would require that PSD obtain our approval before constructing any new correctional facility or expanding any existing correctional facility. This function would also fit into our basic mission, which involves oversight of the correctional system in Hawaii for the purpose of helping it transition to a rehabilitative and therapeutic model.

However, we again note that we have been operating without funding. What is asked of the Commission is of great importance. It would be difficult for group of volunteers, not matter how well informed and experienced, to do such challenging work. We therefore ask that the Legislature consider providing us with the necessary resources so that we can effectively perform these and our other important functions.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
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Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON SENATE BILL 1243, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES.**

by
Max N. Otani, Director

House Committee on Judiciary and Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Tuesday, March 23, 2021; 2:00 p.m.
State Capitol, Via Video Conference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

Senate Bill (SB) 1243, Senate Draft (SD) 2, House Draft (HD) 2 would require the Hawaii Correctional System Oversight Commission (HICSOC) to create a comprehensive plan to phase out private correctional institutions by an unspecified date, require the Department of Public Safety (PSD) to obtain input and recommendations from the HICSOC on any master plan to construct a new correctional facility or expand an existing correctional facility, and include the input and recommendations in any environmental impact statement on the project.

The Department offers the following comments on SB 1243, SD 2, HD 1. While PSD is willing to seek input and recommendations from the HICSOC on any master plan to construct a new correctional facility and to include said input and recommendations in any environmental impact statement on the project, the Department has serious concerns in applying this practice to expansion projects for existing correctional facilities. By definition, the scope of expansion projects is much smaller than a project to construct a new facility and addresses a more

emergent or immediate problem(s). For example, a facility's inmate population may have gradually increased and been accommodated over many years but reaches the breaking point when worn-out facilities suddenly give way and can no longer physically accommodate the growing population. Having exhausted remedies of transferring inmates to other jails due to overcrowding in all facilities or relocation of programs, PSD would be forced to reformat and/or expand the facility's bedspace. In truth, the Department's CIP section would have likely initiated planning for an expansion project in anticipation of just such a housing emergency but have had to contend with a lengthy approvals process and a shortage of CIP funds. PSD believes it must retain the flexibility needed to respond to emergent needs and that the proposed additional layer of oversight would severely hamper our ability to do so. The Department, therefore, respectfully requests the Committee's consideration in amending the measure as follows:

Section 1:

- (a) No new correctional facility shall be constructed [~~and no existing correctional facility shall be expanded~~] unless:
- (1) The department first obtain input on and recommendations from the Hawaii correctional system oversight commission on any master plan for the facility; and
 - (2) The input and recommendation form the Hawaii correctional system oversight commission are included in any environmental impact statement on the project.

Section 2:

- (b) (3) Consult with the department of public safety on the planning or any new [~~or expanded~~] correctional facility in the State, and provide input and recommendations on any master plan for the facility, for inclusion in any environmental impact statement on the project, as provided in Section 353-____;

Additionally, the Department notes that due to the COVID-19 pandemic, the Judiciary is currently on hiatus. PSD anticipates a large influx of offenders to be committed to our facilities once the Courts reopen, as well as, additional arrestees who have violated terms of their parole granted by the Hawaii Paroling Authority. This is to highlight the severe housing constraints faced by all PSD facilities that can be more easily addressed with smaller expansion projects. The Department re-emphasizes the importance of maintaining its flexibility in this regard.

Finally, PSD is very willing to provide the HICSOC with any requested periodic updates regarding the expansion of any of our existing correctional facilities to include the reasons for the expansion, costs, staffing levels, number of inmates affected, available programs, etc.

Thank you for the opportunity to present this testimony.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on
Judiciary & Hawaiian Affairs**

March 23, 2021

S.B. No. 1243, SD2, HD1: RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender offers comments on S.B. No. 1243, SD2, HD1, which amends the requirement section in the original draft to phase out the use of private correctional facilities to create a comprehensive plan to phase out private correctional institutions and prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the input and recommendations of the Hawai‘i correctional system oversight commission.

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

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://19of32x2yl33s8o4xza0gf14-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).

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 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

Every year our office represents thousands of clients who have been incarcerated and see first-hand how uprooting incarcerated people from their home and transferring them nearly 2,500 miles across the Pacific Ocean to a mainland facility and isolating them from their family is crushing. In many cases, seeing family members being able to briefly touch or hold a loved one and spend time with their children are some of the things that keep our clients from losing hope and give them reasons to focus on rehabilitation and to improve themselves. Taking this simple necessity away from our incarcerated people further disenfranchises and isolates them and can gravely impact their children and families for generations.

We cannot wait any longer. The time is now to end our State’s reliance on the use of private correctional facilities to incarcerate our people.

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://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

SB1243 SD2 HD1
RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES
Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i
House Committee on Judiciary & Hawaiian Affairs

Malaki 23, 2021

2:00 p.m.

Lumi 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1243 SD2 HD1, which would 1) task the Hawai‘i Correctional System Oversight Commission (HCSOC) with creating a comprehensive plan to phase out private correctional institutions by an unspecified date and 2) require the Department of Public Safety (PSD) to obtain input and recommendations from the HCSOC on any master plan to construct a new correctional facility or expansion of an existing correctional facility, to also be included in any environmental impact statement for the facility project. **This measure takes critical steps toward addressing the unique harms that result from the disconnection of Native Hawaiian pa‘ahao from their native lands, culture, and sources of support. Further, this measure would appropriately provide HCSOC with a meaningful opportunity to help guide any future expansion or new construction of jails and prisons, as envisioned by the HCR85 Task Force on Prison Reform.**

Hawai‘i’s 20-year practice of sending pa‘ahao to privately owned, for-profit prisons in the continental United States (Continent) has enabled if not exacerbated Hawai‘i’s mass incarceration phenomenon, and its ever-growing burden on our society and on the Native Hawaiian community in particular. Of particular concern is the separation that out-of-state detention imposes on pa‘ahao from their ‘ohana and other sources of support critical to their rehabilitation; moreover, out-of-state detention forecloses opportunities for gradual community reintegration, again undermining the ultimate goals of rehabilitation and successful reentry for pa‘ahao.

This measure would help bring our Native Hawaiian pa‘ahao home, as recommended by the Native Hawaiian Justice Task Force (NHJTF) as well as the HCR85 Task Force on Prison Reform. In its 2012 report, NHJTF found that housing Native Hawaiian pa‘ahao in out-of-state facilities exacted a uniquely harsh punishment on these individuals.ⁱ Connection with ‘ohana, community, ‘āina, and mo‘omeheu (culture) are critical to Native Hawaiian physical and emotional well-being; severing these ties disconnects pa‘ahao from their identity, resiliency, and motivation to rehabilitate, and overburdens the already challenging process of reuniting with their families, reentering employment, and reintegrating into their communities. The NHJTF recommended that pa‘ahao incarcerated on the Continent be brought home as soon as practicable, and that the state pass legislation to prohibit the future use of for-profit correctional facilities.ⁱⁱ The HCR85 (2016) Task Force on Prison Reform, in its 2018 report, echoed this call.ⁱⁱⁱ

Accordingly, by phasing out the State’s use of private prison facilities such as those used to house pa‘ahao out-of-state, this measure will facilitate the return of pa‘ahao incarcerated on the continent, and reduce the impact of this practice on Native Hawaiian pa‘ahao and their communities.

Moreover, this measure will encourage the development and implementation of long-awaited policy solutions that can reduce the myriad costs of our current criminal justice system, without compromising public safety. SB1243 SD2 HD1 would appropriately vest in HCSOC the authority to approve any future jail or prison construction, as originally contemplated in the HCSOC’s formation. The establishment of HCSOC was originally proposed by the HCR85 Task Force to provide independent oversight to the state administration of corrections, and to plan for and guide the transformation of our correctional system from a punitive to a rehabilitative model, thereby reducing recidivism as well as our incarcerated population.^{iv} Despite its mission and expertise,^v the HCSOC’s input has not been recognized or heeded with regard to current planning for the redevelopment of the O‘ahu Community Correctional Center.^{vi} **By incorporating HCSOC’s input and recommendations in any future expansion or new construction of a jail or prison, SB1243 SD2 HD1 would ensure that HCSOC can better fulfill its mandate to guide the transformation of our state correctional system, including with regard to the design and construction of correctional facilities.**

Therefore, OHA urges the Committee to **PASS** SB1243 SD2 HD1. Mahalo for the opportunity to testify on this important measure.

ⁱ OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT 28-29 (2012), available at http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

ⁱⁱ *Id.* at 29.

ⁱⁱⁱ CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE, 2019 REGULAR SESSION 33, 57 (2018) available at https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf.

^{iv} *Id.* at 34-39.

^v See, e.g., Blaze Lovell, *Critical Funding Fight Looms as Public Safety Boards Remain Cash-Strapped*, HONOLULU CIVIL BEAT, Nov. 30, 2020 available at <https://www.civilbeat.org/2020/11/critical-funding-fight-looms-as-public-safety-boards-remain-cash-strapped/>.

^{vi} In its first annual report, the HCSOC requested a moratorium on the planning for a new OCCC until a full examination of policy reforms to reduce the incarcerated population and plan for a smaller facility could be engaged. PSD has not responded directly to this request, but continues its OCCC development process. See, HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION, 2020 ANNUAL REPORT, Sec. 2 (Dec. 2020) available at <https://ag.hawaii.gov/wp-content/uploads/2021/01/HCSOC-Final-Report.pdf>.

SB-1243-HD-1

Submitted on: 3/21/2021 7:23:17 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Bruce Leonard	Earth Medicine Institute	Support	No

Comments:

Imagine a world where private corporations lobby legislators to *increase* the number of citizens incarcerated for victimless crimes just to please their stockholders. Could anything be more destructive to families and the fabric of society?

Please vote YES on SB1243.

Thank you.



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COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
TUESDAY, 3/23, 2 PM, Room No. 325

SB1243, SD2, HD1 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES
Bepie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair NAKASHIMA), Vice-Chair MATAYOSHI and Committee Members:

The League of Women Voters of Hawaii supports SB1243 SD2 HD1, which requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions; and prohibits construction of new correctional facilities and expansion of existing correctional facilities without input and recommendations from the Hawaii correctional system oversight commission (HCSOC). We also comment on the requirements to the HCSOC.

Private prisons do not provide the transparency and accountability Hawaii needs to ensure the civil rights, health, safety and well-being of incarcerated people. People incarcerated far from their families lose relationships which can assist their transition to society. It is very important to start a process to phase out Hawaii's reliance on private, for-profit prisons.

COMMENT: We also support consideration of alternatives to new prisons or jails, which the HCSOC is qualified to provide. We are concerned that the language of SB1243 SD2 HD1 does not instruct the HCSOC to consider facilitating a correctional system transition to a rehabilitative and therapeutic model in its phaseout plan. While this consideration is one of the HCSOC's duties, we feel that emphasizing this consideration should be a prominent part of planning to reduce reliance on private prisons, as well as on building new state prisons.

Thank you for the opportunity to submit testimony.

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark Nakashima, Chair

Representative Scot Matayoshi, Vice Chair

Tuesday, March 23, 2021

2:00 p.m.

COMMENTS & DISAPPOINTMENT ON SB 1243 SD2, HD1

Aloha Chair Nakashima, Vice Chair Matayoshi 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 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.

The description of SB 1243 SD2, H1 reads: "Requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions. Prohibits the construction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and recommendations of the Hawaii correctional system oversight commission." Effective 7/1/3050. (HD1)

This original bill was about phasing out the use of corporate cage contracts that banish our people to the Sonoran Desert of Arizona. The HD1 version amended the bill by "*Removing the prohibition on the use of private correctional institutions and instead tasking the Hawaii Correctional System Oversight Commission with creating a comprehensive plan to phase out private correctional institutions by an unspecified date.*"

This is why the community loses faith in the legislative process. This bill is now all about building more cages in which to incarcerate our family and friends WITHOUT ANY DATA ANALYSIS OR COMMUNITY DISCUSSION.

Instead of taking decisive action to address the rampant problems in our broken correctional system, the legislature instead hands them off to another agency. In this case, to the Hawaii Systems Correctional Oversight Commission that has been diligently meeting over the past year despite being unfunded and unsupported by the legislature and the governor.

The original version of this bill had lots of community support, which has been ignored.

For 25 years, Community Alliance on Prisons has repeatedly reported the deep problems in Hawai`i's so-called correctional system to the legislature. This is not news to the legislature; they have ignored the data, evidence-based practices, and research presented by the community.

Now the focus is on building even more cages as the state has allowed Hawai`i jails and prisons to deteriorate over the past decades so they can continue to warehouse people in these shameful facilities.

Community Alliance on Prisons supports the Hawai`i Systems Correctional Oversight Commission where the community has been participating in their monthly meetings. The Commission seeks the community's input and it is respected.

The community understands what is going on. All of a sudden, the legislature is horrified at the situation in Hawai`i jails and prisons, even though this has been going on for decades. Isn't it ironic that this 'horror' that our families and friends have been subjected to is now front and center so the state can create short-term construction jobs in exchange for long-term harm to individuals and families.

In the past, we have witnessed legislatures pushing administrations to do the right and moral thing, however, that has not been happening in this instance.

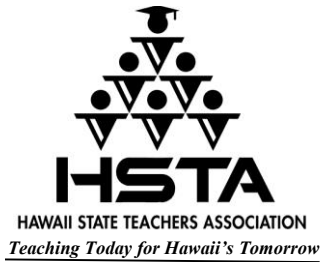
The community was so happy to have an official entity to examine the problems in Hawai`i's correctional system and at the same time the establishment of the Criminal Justice Research Institute to present data and research on best practices.

To date, the Correctional Oversight Commission has met monthly, produced a report on emergency capacities of jails and prisons, brought bills to the legislature, and produced a 136-page annual report to the legislature.

Conversely, the Criminal Justice Research Institute, which is fully funded, has no interaction with the community, gave two presentations, ignored Hawai`i's own criminologists and researchers, and produced a 2-page annual report with no information.

What happened to Hawai`i nei? Why does the legislature play these disingenuous games with the people they purportedly represent? This really defies democracy and it is heartbreaking to witness.

Mahalo for this opportunity to share our ongoing concerns.



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Corey Rosenlee
President
Osa Tui Jr.
Vice President
Logan Okita
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND
HAWAIIAN AFFAIRS

RE: SB 1243, SD2, HD1 - RELATING TO PHASING OUT PRIVATE
CORRECTIONAL FACILITIES

TUESDAY, MARCH 23, 2021

WILBERT HOLCK, EXECUTIVE DIRECTOR
HAWAII STATE TEACHERS ASSOCIATION

Chair Nakashima and Members of the Committee:

The Hawaii State Teachers Association **strongly supports SB 1275, SD2 HD1**, relating to phasing out private correctional facilities. This bill requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions. Prohibits the construction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and recommendations of the Hawaii correctional system oversight commission. Effective 7/1/3050. (HD1)

We agree with the Native Hawaiian Justice Task Force Report in 2012 that 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." Uprooting incarcerated people from their home and transferring them nearly 2,500 miles across the Pacific Ocean to a mainland facility and isolating them from their family is crushing. As HGEA has stated, 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. The people of Hawaii should not be taken away from their families, their culture, their islands, as this stalls their rehabilitation and causes them to lose hope. They need to be able to see their families, talk with them, spend time with their children. We see how detrimental this is to their keiki in our schools. Taking away this simple humane necessity of being near their 'ohana, and sending them thousands of miles away, further disenfranchises and isolates them and can gravely impact their children and families for generations.

The Hawaii State Teachers Association also stands with UPW who are also opposed to initiatives that subsidize or otherwise encourage the sale or lease of public infrastructure to private investors that could result in private control or operation of public assets. Research

has shown the adverse effects on inmates who are incarcerated in out-of-state, private prisons and the shortfall of oversight and accountability at these facilities.

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As ACLU stated, and we agree, “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.”

Our state should work more on addressing rehabilitation and restorative justice programs, providing more affordable housing, workforce development, investing more funding to our public schools, addressing medical and mental health needs, helping to transition the homeless into housing, etc. to help those who are struggling to have hope and support to become more productive and not fall into crime in the first place, instead of criminalizing homelessness and incarcerating non-violent offenders, the Hawaii State Teachers Association asks your committee to **support** this bill.

Statement Before The
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Tuesday, March 23, 2021

2:00 PM

Via Video Conference, Conference Room 325

in consideration of
SB 1243, SD1, HD1
RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES.

Chair NAKASHIMA, Vice Chair MATAYOSHI, and Members of the House Judiciary & Hawaiian Affairs Committee

Common Cause Hawaii provides comments on SB 1243, SD1, HD1, with suggested amendments, which (1) requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions and (2) prohibits the construction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and recommendations of the Hawaii correctional system oversight commission.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy - one that works for everyone.

Research has shown that increased incarceration has little impact on crime rates. See <https://www.vera.org/publications/for-the-record-prison-paradox-incarceration-not-safer>. Instead, mass incarceration leads to felony disenfranchisement, which disproportionately impacts minority populations and people of color. See <https://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer/>. Further, the use of private, mainland correctional facilities, as employed by Hawaii, results in prison gerrymandering. Prison gerrymandering is where incarcerated people are counted in the populations where they are imprisoned versus where they are actually from. See <https://www.prisonersofthecensus.org/impact.html>. This distorts the democratic process by artificially inflating the population count and political influence of the districts where prisons are located.

Common Cause Hawaii advocates for the ending of these unfair policies that do not result in any public gain, unfairly target and disenfranchise BIPOC communities, and distort political representation at local and state levels.

For these reasons, we suggest that SB 1243, SD1, HD1, be amended to its original bill form, which (1) required the State to phase out the use of private correctional facilities for incarceration of Hawaii inmates; and (2) prohibited the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii Correctional System Oversight Commission.

Thank you for the opportunity to provide comments on SB 1243, SD1, HD1, with suggested amendments. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,
Sandy Ma
Executive Director, Common Cause Hawaii



Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

March 22, 2021

TO: HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
RE: Testimony in support of SB1243 SD2 HD1

Dear Representatives,

Young Progressives Demanding Action (YPDA) **strongly supports** SB1243 SD2 HD1, which would phase out Hawai'i's use of private contracts in the prison system.

Mass incarceration is both a racial justice issue and a community health issue. Mass incarceration is driven, at least in part, by profit incentives built into the carceral system. Private companies have no place in the criminal justice system, which must remain focused on the pursuit of justice, not profit. When profit is incentivized, justice becomes compromised.

Hawai'i must end all contracts with private entities connected to the criminal-legal and justice systems. Instead, we must pursue the many smart justice policies available that will move us toward a more effective and less costly (in every sense of the word) restorative justice system.

We must expand the use of parole and probation to get more people under community supervision. We must reduce the scope of police purview along with departmental budgets, and put that money where it would be put to better use: Ending the ill-conceived "War on Drugs" and putting the campaign to curb drug use under the Departments of Health (DOH) and of Human Services (DHS) where it belongs. And we must end the over-policing of communities of color and work to address racial injustice by passing antiracist policies like SB1243.

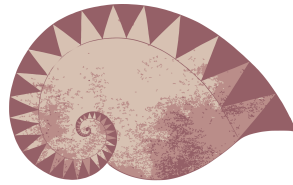
Ending mass incarceration will cost less in every sense of the word. We can use the money that we save to improve our schools and to create opportunities for the people of Hawai'i to thrive. This will do far more to reduce Hawai'i's crime rate than incarceration—with its high rates of recidivism—is capable of doing.

Mahalo for the opportunity to testify,

Will Caron

Board President & Secretary, 2020–2021

action@ypdahawaii.org



Pono Hawai'i Initiative

Patrick Shea - Treasurer • Lena Mochimaru - Secretary
Nelson Ho • Summer Starr

Tuesday, March 23, 2021

SB1243 SD2HD1 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

Testifying in Strong Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **strongly supports** SB1243 SD2HD1.

This measure requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions. It also prohibits the construction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and recommendations of the Hawaii correctional system oversight commission.

While we prefer a total ban on private correctional institutions, this bill is a step in the right direction and we urge the Committee to vote in favor.

Mahalo for the opportunity to testify,

Gary Hooser
Executive Director
Pono Hawai'i Initiative



Hawai'i

Committees: Committee on Judiciary & Hawaiian Affairs
Hearing Date/Time: Tuesday, March 23, 2021, 2:00 p.m.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 1243, S.D.2, H.D.1, Relating to the Phaseout of Private Correctional Facilities

Dear Chair Nakashima, Vice Chair Matayoshi, and committee members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of S.B. 1243, S.D.2, H.D.1**, which requires the Hawai'i Correctional Oversight Commission to create a plan to phase out the use of for-profit prisons, and prohibits the construction of new correctional facilities or the expansion of existing facilities without the input and recommendations of the Hawai'i Correctional System Oversight Commission. This measure is necessary 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 relying 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. A 2010 report by the Hawai'i State Auditor found that Hawai'i Department of Public Safety had, through flawed methodology, "repeatedly misled policymakers and the public by reporting inaccurate incarceration costs. To justify the practice of sending inmates to mainland facilities and guarantee funding, the department reports that it spends approximately twice as much to maintain an inmate in-state."² On the contrary, it may cost the State *more* to incarcerate inmates in private prisons than in state-

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 *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Report No. 10-10, December 2010, <https://files.hawaii.gov/auditor/Reports/2010/10-10.pdf>.

run facilities.³ This is despite private prisons’ tendency to cherry pick their prisoners, often choosing the least expensive people to incarcerate.⁴ Phasing out the Department of Public Safety’s use of for-profit prisons, 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 this practice *did* save money, however, Hawai‘i’s existing relationship with a for-profit prison has a devastating human impact. The State’s contract with Eloy, Arizona to house people sentenced to incarceration in Hawai‘i in 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,⁵ 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.⁶ Shipping people to Arizona to serve their sentence is counterproductive to the reentry process and harmful to long-term prospects for sustainable reintegration of formerly incarcerated individuals into society. S.B. 1243, S.D. 2, H.D. 1 offers a positive step forward to reunite these families and repair the harm done by the criminal legal system.

Though the ACLU prefers the language in early versions of the bill, the H.D. 1’s requirement that the Hawai‘i Correctional System Oversight create the State’s plan to phase out its use of private prisons, as well as the prohibition on any expansion or construction of a correctional facility without the input and recommendations of the Commission, is still a sensible one; the Commission, created by Act 179, is tasked with:

³ 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.

⁴ 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>.

⁵ State of Hawai‘i, 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>.

⁶ 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/>.

- (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 population limits for each correctional facility and formulating policies and procedures to prevent the population from exceeding the capacity of each correctional facility;
- (3) Working with PSD in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawai'i paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawai'i 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 people on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

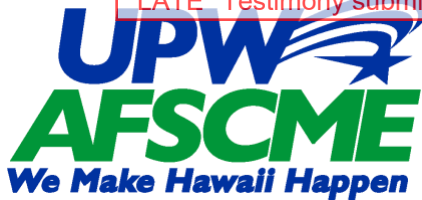
The State should heed the recommendations of the Commission, as it aligns with the purview and expertise of the Commission to make this decision. For these reasons, we request that the Committee support this measure. Thank you for the opportunity to testify.

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.



**HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021**

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark Nakashima, Chair
Representative Scot Matayoshi, Vice Chair

Tuesday, March 23, 2021, 2:00 PM
Conference Room 325 and via Videoconference

Re: Testimony in Support of 1243 SD2 HD1 - RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee on Judiciary and Hawaiian Affairs:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **supports** SB1243 SD2 HD1, which requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional facilities to incarcerate Hawaii inmates. This bill also prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii correctional system oversight commission.

UPW is opposed to initiatives that subsidize or otherwise encourage the sale or lease of public infrastructure to private investors that could result in private control or operation of public assets. Research has shown the adverse effects on inmates who are incarcerated in out-of-state, private prisons and the shortfall of oversight and accountability at these facilities. UPW does appreciate that this bill includes the provision for the oversight commission to have decision making authority on the expansion or construction of any new facilities.

As we consider investments that look at trying to improve our state’s correctional infrastructure, we ask that it does not come at the expense of the workers who are presently keeping those facilities operational. Thank you for the opportunity to provide testimony.



SB 1243, SD 1, HD 1, RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

MARCH 23, 2021 · HOUSE JUDICIARY AND
HAWAIIAN AFFAIRS COMMITTEE · CHAIRS REP.
MARK M. NAKASHIMA

POSITION: Support.

RATIONALE: Imua Alliance supports SB 1243, SD 1, HD 1, relating to the phaseout of private correctional facilities, which requires the Hawai'i Correctional Oversight Commission to create a comprehensive plan to phase out the use of private correctional institutions and prohibits the construction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and recommendations 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

SB-1243-HD-1

Submitted on: 3/20/2021 11:20:36 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
J Tyler	Individual	Support	No

Comments:

Please support.

SB-1243-HD-1

Submitted on: 3/20/2021 11:30:17 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

Absolutely, let them go!

SB-1243-HD-1

Submitted on: 3/20/2021 11:55:24 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Puppione	Individual	Support	No

Comments:

No one should make a profit off of putting people in jail/prison. There should be zero incentive to keep jails full.

SB-1243-HD-1

Submitted on: 3/20/2021 12:01:29 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jane E Arnold	Individual	Support	No

Comments:

Please support SB1243. Private prisons are for profit. They provide inferior care and services to prisoners in order to maximize their profits. We should phase them out as quickly as possible.

The US has a higher percentage of the population in prison than any other country in the world. This costs taxpayers a great deal of money. We should be focused on lowering the prison population and not imprisoning so many people for non-violent crimes.

SB-1243-HD-1

Submitted on: 3/20/2021 12:03:37 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
david derauf	Individual	Support	No

Comments:

Aloha Chairs Nakashima and Matayoshi:

I strongly support this measure. It is well past time to move away from private prisons for incarcerated members of our Hawaii!. It is well known that the companies that build and run private prisons have a strong financial interest in the growth of mass incarceration. That only stands to reason. Why should we support a system with such inherently unethical conflicts of interest. WE would not support this sort of COI in other areas of our society. It is time to end it now.

Thank you for reading my testimony!

Respectfully

David D Derauf MD

SB-1243-HD-1

Submitted on: 3/20/2021 12:06:49 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments:

Aloha legislators,

Private prisons have little incentive to put prisoner welfare first. And we need to do much more to prevent crime and incarceration--for example, supporting living wages, child care, education, and health.

mahalo,

Cory Harden

SB-1243-HD-1

Submitted on: 3/20/2021 12:10:13 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Harriet Burkholder	Individual	Support	No

Comments:

Please support this bill.

SB-1243-HD-1

Submitted on: 3/20/2021 12:39:45 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara L. George	Individual	Support	No

Comments:

SUPPORT!!!

SB-1243-HD-1

Submitted on: 3/20/2021 12:47:55 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Weyer	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi, and Committee Members,

I write in **strong support** of SB1243.

As a former prosecutor, I believe that our criminal justice policy must be based on data and be results driven. Based upon the 2010 report referenced in the proposed legislation, the State has knowledge that inmates returning from out-of-state are "more likely to encounter difficulties when reentering society due to the lack of adequate reentry programs at the out-of-state prisons and the long period of time they spent away from their support networks and Hawaii culture." Now that our community is aware that out-of-state incarceration results in insufficient support, and as a result increases recidivism, I humbly ask that you support SB1243. If we truly want to make our community safer, for our children and kāupuna alike, then we need to ensure that those exiting incarceration are set up with the tools necessary to succeed and not reoffend - which includes maintaining whatever social network that they may have and having access to support services.

I also want to note that certain gang activity has come into Hawaii as a direct result of out-of-state incarceration, stemming from the State exposing Hawaii inmates to such gang activity by incarcerating them in other communities. This is something the Department of Public Safety referenced on the record in federal court, so it should not come as a surprise.

If we truly want to protect residents, decrease crime, and equip those exiting incarceration with the tools necessary to not reoffend, we must sever the connection between incarceration and profit-making. It seems clear that there is a conflict of interest for a private prison to both be paid for incarceration while also being responsible for documentation that can be used in determining whether or not and when an inmate will be released from custody.

Ultimately, we will both help people and reduce costs if we bring inmates home, remove the financial incentive in incarceration, and dramatically invest in our pretrial supervised release programs. The State can look to the U.S. Federal Courts to see the success that can be had by eliminating a reliance on cash bail and providing for conditions, that could include mental health and substance abuse support, that can help keep

defendants from reoffending or being bench warranted during the pre-trial process. This will dramatically help free up space held by pretrial detainees, thus reducing costs, while making our community actually safer, by providing the support needed to pivot defendants away from reoffending.

SB1243 is not a cure-all, but it is an important part of the process in making our criminal justice system more reliant on and reflective of available data and facts.

Mahalo,
Matt Weyer

SB-1243-HD-1

Submitted on: 3/20/2021 12:50:37 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret. Guiler	Individual	Support	No

Comments:

Having read about the egregious activities of private corrections corporations for running such institutions in the country, I want to urge the passage of SB1243 to phase out their use in Hawaii as quickly as possible. As a taxpayer I do not want to support such an industry. And indeed feel our entire system of corrections should be revamped.

SB-1243-HD-1

Submitted on: 3/20/2021 1:08:35 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

Please support!

SB-1243-HD-1

Submitted on: 3/20/2021 2:27:56 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Support	No

Comments:

Support

It is essential to bring our islands into a place where we are able to take care of all of our folks, even those who commit crimes. Private for profit prisons are not the way to do that. There is so much research on this. Yet, it seems that as often happens, the State defers to what is done on the continent. It doesn't work for us. Change the lens.

SB-1243-HD-1

Submitted on: 3/20/2021 3:11:21 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
glenn oshiro	Individual	Support	No

Comments:

This will save the state social capital and money.

SB-1243-HD-1

Submitted on: 3/20/2021 3:17:08 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tony Radmilovich	Individual	Support	No

Comments:

An organized society should never have ewstablished private correctional facilities in thye first place.

SB-1243-HD-1

Submitted on: 3/20/2021 4:10:35 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Heath	Individual	Support	No

Comments:

I am testifying in support of SB 1243. I believe that we need to really look at what we do to people who are already alienated from our community and then we send them farther away to get rehabilitated? The majority of people in prisoned in Hawaii are Hawaiians whose family is so important to their spiritual and behavioral change. We should be looking at the systemic racism that creates this and help change the system so less people end up in jails rather than sending them farther away and hoping they come back whole and reenter society in a healthy manner.

In addition, these prisons are really there to make money by housing and punishing people. They are not going to spend money to rehabilitate and help these people to get off of drugs and change their behaviors. So when they reenter society they are frequently in a more negative state of mind than they were prior to incarceration. It doesn't make sense for us to spend money to make people worse than they were before they go into prison.

SB-1243-HD-1

Submitted on: 3/20/2021 6:51:07 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Renee Riley	Individual	Support	No

Comments:

As a Hawaii teacher, voter, and long-time resident, I support SB1243 to phase out use (I'd like immediate closing) of private correctional institutions.

There are many horror stories of what happens to Hawaii residents who are incarcerated in Mainland jails and the resulting challenges of their families. As a Maui paddler, I know of a kid who set fire to a hale at Hawaiian Canoe Club in Kahului. He was arrested, found guilty, sent to a Mainland prison -- where he was murdered by his cellmate. The kid had probably been under the influence of alcohol and/or drugs when he set the fire. He was houseless. Committing a property crime, although unfortunate, should not result in death. How much better it would be if our Hawaii legal system would recognize and get help for our troubled residents instead of just tossing them out -- or in this case — sending them thousands of miles from home and taking no actions toward their rehabilitation.

Another reason we should work to decrease incarceration is noted in *The Sun* Interview by Feliz Moreno, "Unstacking The Deck," which notes: "By conservative estimates, there are currently enough wrongfully convicted people in prison in the United States to fill a football stadium."

Please use your vote to Support SB1243. Our troubled residents, our addicted residents, our mentally challenged residents, our wrongfully convicted residents, even the guilty who have made a mistake should not be sent to Mainland prisons. Please do not use my tax money for Mainland prisons for Hawaii residents.

Support SB1243. You can help make needed reform in our legal system.

Aloha,

Renée Riley, Maui voter

SB-1243-HD-1

Submitted on: 3/20/2021 7:02:41 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Shimata	Individual	Support	No

Comments:

I worry that private prisons allow treatment of our inmates to be hidden. If we convict more people than we can house, perhaps we should sentence fewer of them to prison. Our inmates, our responsibility. Private prisons allow us to shirk our responsibility to rehabilitate our law violators.

SB-1243-HD-1

Submitted on: 3/20/2021 10:01:34 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
tia pearson	Individual	Support	No

Comments:

Hawaii correctional oversight commission needs to create a comprehensive plan to phase out the use of private correctional institutions. They don't work since they are profit-based. More prisoners means more profit.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

John Bickel, President
Alan Burdick, Vice President
Dave Nagajji, Treasurer
Doug Pyle, Secretary

DIRECTORS

Melodie Aduja
Juliet Begley
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Jan Lubin
John Miller
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Stephen O'Harrow
Lyn Pyle

MAILING ADDRESS

Bill South
Zahava Zaidoff

P.O. Box 23404
Honolulu
Hawaii 96823

March 20, 2021

TO: Chair Nakashima and members of JHA Committee

RE: SB 1243 SD2 HD1 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES.

Support for hearing on March 23

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 1243 SD2 HD1 as we want to end the use of private prisons. Private prisons have an economic incentive to extend a prisoner's stay. The private prisons on the mainland deny visitations from local families, therefore inhibiting the prisoner's transition to post-prison societal integration. We should not be paying for private profits that are sacrificing public purpose.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President



SB-1243-HD-1

Submitted on: 3/21/2021 8:35:24 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Danelle Guion	Individual	Support	No

Comments:

I support the phase out of private correctional institutions because it has been demonstrated, in view of everyone, that private institutions benefit and function for profit and not for the benefit of human beings in a society.

Lets cut out the profiteers and start functioning as an institution of the people, by the people and for the people!

SB-1243-HD-1

Submitted on: 3/21/2021 8:46:43 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noreen Dougherty	Individual	Support	No

Comments:

Senators:

I Strongly **Support:** SB1243 Requiring the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions. Oversight and consistency are extremely important and therefore needed. Please assist this bill in passing..

Mahalo,

Noreen Dougherty

Kapaa, Kauai

SB-1243-HD-1

Submitted on: 3/21/2021 9:18:11 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
joshua yang	Individual	Support	No

Comments:

Incarceration of those who have been deemed sufficiently transgressive of our laws to necessitate their incarceration must never be influenced by a profit motive. The reasons should be obvious: A profit model for incarceration does not encourage rehabilitation. It also does not care about the root causes of the crimes and whether or not the punishment is justified. Incarcerating people for profit should not be allowed anywhere in this country.

SB-1243-HD-1

Submitted on: 3/21/2021 10:42:48 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Weygan-Hildebrand	Individual	Support	No

Comments:

Honorable Chair Nishihara and members of the Committee:

Greetings! Contracting out should continue to be seen as a transitional solution while a State gets its act together. The twenty years that the State has chosen to spend on out-of-state privatized corrections solution has only led to the strengthening of that profit-oriented system rather than strengthening innovative solutions for our community. Privatized corrections is not an "opium" so the State can stop its dependence on it.

While working for a year as a graduate assistant at UH, on a project related to the evaluation of public safety, I had the opportunity to map out the gaps between evidence-based practices and actual practices to increase successful reentry of ex-offenders into the community. Our criminal justice system needs to put its limited resources to truly "correct", starting with culturally- appropriate and evidence-based solutions.

Thank you.

SB-1243-HD-1

Submitted on: 3/21/2021 11:30:05 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
marie janiszewski	Individual	Support	No

Comments:

I support SB1243 to require the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions.

SB-1243-HD-1

Submitted on: 3/21/2021 1:29:39 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

I support sb1243

SB-1243-HD-1

Submitted on: 3/21/2021 2:11:12 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Katlyn Naea	Individual	Support	No

Comments:

I support the phasing out.

SB-1243-HD-1

Submitted on: 3/21/2021 3:01:36 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jean Young	Individual	Support	No

Comments:

We know that statistically the rate of incarceration increases with privatization. Thus it is unethical to tie profit to the consequences of justice. We must disconnect the profit motive from the delivery of justice, sentencing and possible reform by those who have committed crimes. In particular, offenses that are misdemeanor in nature or non violent often get extensive or unreasonable sentences when motivated by a profit system instead of change for good. Please do not allow the desire for monetary gain to taint the delivery of justice for all members of our society.

Keep it clean.

Jean Young

Hawaii resident

please phase ou

SB-1243-HD-1

Submitted on: 3/21/2021 6:26:22 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Fontana	Individual	Support	No

Comments:

I am writing to express my support for this bill. It is crucial to completely eliminate the contamination that privately run correctional facilities create in our criminal justice system. A prisoner's rehabilitation should not be held hostage by the profit margin that a corporation demands from any business, which means that there is no room to have such an abomination within our criminal justice system. Justice will never be attained through monetary profits. Governments need to held responsible for those that it imprisons.

SB-1243-HD-1

Submitted on: 3/21/2021 7:37:00 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine Clement	Individual	Support	No

Comments:

Aloha,

I support SB1243. Private prisons make money for corporations on the backs of our citizens and have no place in Hawai`i.

Mahalo,

Catherine Clement, LMHC, SPHR-SCP

SB-1243-HD-1

Submitted on: 3/21/2021 10:43:57 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Maitino	Individual	Support	No

Comments:

Aloha,

I am writing in support of SB1243. As has become clear, there is something particularly alarming about the idea of a company working to put more people in prison for the express purpose of profiting off them. Private prison employees [earn an average of over \\$5,000 less than their government-employed counterparts and receive 58 fewer hours of training](#). This leads to higher employee turnover and decreased security in the prisons. A 2016 report from the Justice Department found that private prisons had a 28 percent higher rate of inmate-on-inmate assaults and more than twice as many inmate-on-staff assaults, as well as twice as many illicit weapons than comparable federal facilities. Another report found that private prisons are not monitored well and many do not provide quality medical care for inmates. Phasing out the use of private correctional institutions is a critical step in improving our criminal justice system.

Thank you,

Maria Maitino

Kauai, Hawaii

SB-1243-HD-1

Submitted on: 3/22/2021 9:21:18 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

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

Comments:

I oppose this bill as it has been changed from its original form and intent. Why is responsibility being placed on the Hawaii Oversight Commission when it has been purposely held back from carrying out its legislatively mandated duties through the withholding of the funds it needs to operate?

Raelyn Reyno Yeomans

SB-1243-HD-1

Submitted on: 3/22/2021 9:30:51 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Gibson-Viviani	Individual	Oppose	No

Comments:

TO: COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

FROM: Wendy Gibson-Viviani RN/BSN

RE: SB1243

SD2 (Opposed)

Hearing: Tuesday, 3/23/21 at 2:00 pm. Via Video Videoconference

Aloha Rep. Mark M. Nakashima, Chair, Rep. Scot Z. Matayoshi, Vice Chair and Members of the Committee,

My name is Wendy Gibson-Viviani and I have been a resident of Oahu for 30 years. As a Conscientious Objector in the failed War on Drugs, I've discovered that we need some serious criminal justice system reforms in Hawaii. I initially supported SB1243 but **now OPPOSE it**. The language has been corrupted to the point it no longer serves its initial purpose.

All across the continent jurisdictions are de-carcerating prisoners and experiencing reductions in crime-- up to 25% in places like New York and California. I believe that we need to:

- REDUCE the populations of our prisons now, so we will have space to bring our people home.
- INCREASE community programs and services to divert people from incarceration (such as the LEAD Program).

· FUND real training programs, create partnerships with unions, incentivize educational opportunities in the areas most impacted by incarceration.

This bill, in its current state **will not accomplish this**. It now:

- Removes the prohibition on the use of corporate prisons and
- Pushes all the responsibility onto the unfunded and unsupported Correctional Oversight Commission regarding deals with corporate profiteers of misery and cage contractors as well as the increased jail space proposed at the Animal Quarantine Station

PSD has ignored and should seek the Commission's input and recommendations on any new correctional facility.

Please OPPOSE passage of SB1243 SD2.

Thank you for the opportunity to provide testimony.

Wendy Gibson-Viviani RN/BSN

Cannabis Nurse Educator

Kailua

SB-1243-HD-1

Submitted on: 3/22/2021 10:12:58 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rebecca Eve Solomon	Individual	Support	No

Comments:

Please SUPPORT SB1243 that requires the Hawaii correctional oversight commission to create a comprehensive plan to phase out the use of private correctional institutions; and prohibits constuction of new correctional facilities and the expansion of existing correctional facilities without first obtaining input and reccommendation of the Hawaii correctional oversight commission.

Separating Hawaii prisoners from their families and allowing for-profit prisons to thrive is inhumane.

I am a voter.

Rebecca Eve Solomon, 6514 Kalama Rd., Kapaa, HI 96746

SB-1243-HD-1

Submitted on: 3/22/2021 1:21:36 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Vickie Parker Kam	Individual	Support	No

Comments:

Aloha Chair Nakashima and Committee,

Thank you for the opportunity to testify in support of SB1243 SD2 HD1. Hawaii is in urgent need of reform to the current system of using private correctional institutions for offenders. Please support creating a plan to phase out the use of these facilities.

Much Mahalo,

Vickie Kam
District 42, 96707

SB-1243-HD-1

Submitted on: 3/22/2021 1:40:13 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Eaton	Individual	Oppose	No

Comments:

Aloha, my name is Carolyn Eaton, and I am an Oahu voter. I oppose the current language of SB 1243. I had supported the Bill when it required phasing out the State's use of private prisons beginning 7/2021. The language which places the burden of creating a comprehensive plan for new construction on the Hawai'i Correctional Oversight Commission has been inserted. I favored the Commission's measure for a moratorium on all new construction or upgrades to existing facilities on any island in the State. My support for the moratorium was based on the failure of State planners to entertain input from an island-wide public, real discussion on reforming the system before building new and too big.

Mahalo for your consideration of my views.

SB-1243-HD-1

Submitted on: 3/22/2021 2:18:17 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Alice	Individual	Support	No

Comments:

I strongly support this measure because there should never be a profit incentive to take away someone's freedom.

SB-1243-HD-1

Submitted on: 3/22/2021 2:43:05 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Samantha Neyland	Individual	Support	No

Comments:

I am in full support of SB 1243 relating to the phaseout of Private Correctional Facilities. We should be working to establish community programs that reduce incarceration as well as programs that assist with re-integration for formerly incarcerated citizens. Private prisons only encourage mass incarceration and increased racial disparity.

Samantha Neyland
Miss Hawaii USA 2020
Founder, Hawaii for Juneteenth

SB-1243-HD-1

Submitted on: 3/22/2021 3:14:07 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maya Marquez	Individual	Comments	No

Comments:

Hawai'i needs to end the outsourcing of its prisoners to private, mainland prisons. The detrimental effects of being separated from family and cultural support, lead to recidivism rates near 90%. The best public dollar should be invested in education.

Since the U.S. drug wars started a few decades ago, the majority of those arrested and imprisoned are low-level non-violent illegal drug users and people of color.

The economic elite have chosen to imprison those who are economically challenged: American Indians, Blacks and Native Hawaiians. Criminal justice reform is a popular phrase right now, but anyone who understands the history of mass incarceration and the racism that has now created a multibillion-dollar industry — both public and private prison systems — built around the overcriminalization of poor people and minorities. Over the last 40 years, the American prison population has increased 500%(<https://www.bjs.gov/index.cfm?ty=tp&tid=131>). But the immorality of profiting from incarceration is not new. This goes all the way back to Southern states leasing out prisoners shortly after the Civil War; it was slavery by another name. Yes, it will take decades to detangle this web we've spun. But just because doing the right thing is hard doesn't mean it shouldn't be done.

Ending federal contracts for private prisons isn't just about the fate of the estimated 14,000 incarcerated people affected. Hawaii needs to end the outsourcing of Hawai'i's prisoners to private, mainland prisons.

Reform the criminal justice system in Hawai'i to embrace the cultural values of Native Hawaiians. Changing the justice system so it is in line with culturally significant norms and values will help preserve a historic culture and strengthen the Hawaiian community and its identity. All individuals exiting incarceration face huge obstacles, however, the largest percentage of people sent to serve their sentences abroad are Native Hawaiian. This alienation from `ohana and their ancestral lands only add to the difficulty of reentering their communities. It is time to end this now and repair the damage done.

SB-1243-HD-1

Submitted on: 3/23/2021 12:28:07 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shirota	Individual	Comments	No

Comments:

Dear Chair Nakashima, Vice Chair Matayoshi and Committee Members:

I OPPOSE the bill as currently drafted - as it significantly waters down the original intent and purpose of the bill to Phase Out Private Prisons within a reasonable time frame.

Plain and simple, private prisons contribute and profit from over-incarceration.

If the original language of the bill including the Preamble is reinstated, then I would support this measure as a first step to stop corporations profiting off incarceration that is less humane and less safe. Studies have shown higher rates of violence within private prisons.

Thank you for the opportunity to submit testimony.

SB-1243-HD-1

Submitted on: 3/23/2021 8:08:08 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Imari Olipani	Individual	Support	No

Comments:

Hawaii's recidivism rate is evidence that provides testament to the ineffectiveness of private prisons in keeping communities safe and reducing crime. What is needed is an alternative to prisons in which the state invests in our communities to provide mental health services and rehabilitation programs. This investment has been proven to reduce the recidivism and crime rates for cities and states that pushed for a phaseout of private prisons within their own. Moreover, funding for private prisons actually costs more than to provide for basic services that addresses the needs of the community.

SB-1243-HD-1

Submitted on: 3/23/2021 9:29:38 AM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments:

Oppose

SB-1243-HD-1

Submitted on: 3/23/2021 12:51:46 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Individual	Support	No

Comments:

Strong Support

SB-1243-HD-1

Submitted on: 3/23/2021 1:22:25 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Aronson	Individual	Support	No

Comments:

Please reduce the harm we are perpetuating to residents of Hawaii by sending incarcerated people to Arizona. We must phase-out all prisons, but this bill is a good start.

I support this bill.