

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
Ways and Means and the Senate Committee on Judiciary**

February 23, 2021

S.B. No. 1243, SD1: RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Committees:

The Office of the Public Defender writes in **support** of S.B. No. 1243, SD1, 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.

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 SD1
RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES
Ke Kōmike ‘Aha Kenekoa o ke Ki‘ina Hana a me nā Kumuwaiwai
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

Pepeluali 23, 2021

10:35 a.m.

Lumi 211

Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** SB1243 SD1, which would 1) require the State to phase out the use of private correctional facilities beginning July 1, 2025, and 2) require the Department of Public Safety (PSD) to obtain the approval of the Hawai‘i Correctional System Oversight Commission (HCSOC) prior to the construction or expansion of any correctional facilities. **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 (the “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 future use of for-profit correctional facilities.ⁱⁱ The HCR85 (2016) Task Force on Prison Reform, in its 2018 report, echoed this call.ⁱⁱⁱ **Facilitating the return of pa‘ahao held in out-of-state, private prison facilities will 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 SD1 would appropriately vest in HCSOC the authority to approve any future jail or prison construction, as originally contemplated by their formation. The establishment of HCSOC was originally proposed by the HCR85 Task Force to provide independent oversight to the state administration of corrections, and also to plan for and guide the implementation of a system transformation from a punitive to a rehabilitative model.^{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 requiring HCSOC's approval on any future expansion or new construction of a jail or prison, SB1243 SD1 would ensure that HCSOC can fulfill its mandate to guide the transformation of our state correctional system, including with regard to the design and construction of correctional facilities.**

Therefore, we urge the Committees to **PASS** SB1243 SD1. 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.oaha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

ⁱⁱ *Id.* at 29.

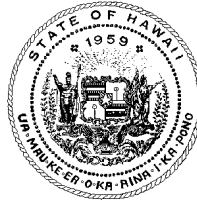
ⁱⁱⁱ CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE, 2019 REGULAR SESSION 33, 57 (2018) available at https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf.

^{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>.

DAVID Y. IGE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY

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No. _____

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

by
Max N. Otani, Director

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran,

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 23, 2021; 10:35 a.m.
State Capitol, Via Video Conference

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Committees:

Senate Bill (SB) 1243, Senate Draft (SD) 1 would require the State to phase out the use of private correctional facilities for the incarceration of Hawaii inmates while prohibiting the construction of new correctional facilities or the expansion of existing correctional facilities unless approved by the Hawaii Correctional System Oversight Commission (HICSOC).

The Department of Public Safety (PSD) offers comments in strong opposition. This measure would bar the State from committing or transferring any inmate to any private correctional institution beginning July 1, 2025, and require the Director of Public Safety to begin reducing the number of committed felons incarcerated in private correctional institutions, effective July 1, 2022. PSD understands the intent of SB 1243, SD 1 to return all committed felons incarcerated in private Mainland facilities to Hawaii. The Department shares in

the concerns raised of housing inmates in facilities far from home, and would have returned the inmates long ago, but for the lack of facilities in which to house them including with appropriate rehabilitative programs. We cannot agree with this proposal, as there is currently no space available in in-state facilities to accommodate 999 additional inmates.

In a related issue, at present, the Judiciary has approximately 17,291 offenders on probation supervision statewide, which includes approximately 9,435 convicted felons. If only 10% of the sentenced felony probationers (approximately 935) were resentenced to prison, the State's correctional system, which is already severely strained with insufficient capacity to house all of our current inmates in Hawaii facilities, would be completely overwhelmed. Note, also, the Judiciary is currently on hiatus due to the COVID-19 pandemic. Once the Courts are able to safely reopen, we expect the Courts to order a large influx of offenders to be incarcerated in our correctional facilities.

It is well known that Hawaii's correctional facilities, which include eight (8) jails and prisons, are old and outdated, severely overcrowded, manpower-intensive, and constantly in need of repairs. The Department would note, old, outdated, and overcrowded facilities may be considered less safe, less secure, and arguably, less humane; conditions that in the past, have prompted the federal Department of Justice to take action against the State in the 1984 Spear vs. Ariyoshi Consent Decree. Yet, PSD has been unsuccessful, for decades, in gaining the support necessary to upgrade or even, substantially refurbish any of its facilities.

The bill's proponents may have considered there would be savings to the State if the Mainland facilities were vacated. Presently, the per-day cost of \$90, multiplied by the current population count of 999 (taken from the attached January 31, 2021 Population Report), multiplied by 365 days per year would yield \$32,817,150 in savings. In comparison, the average cost to house an inmate in Hawaii is \$219, which would equate to a total cost of \$79,855,065 to house the

same 999 inmates each year. However, as stated earlier, there is simply no available space in our existing aged, inefficient, and overcrowded facilities.

The Department respectfully suggests that housing 1,000 to 1,200 inmates will require the development of a medium security facility (prison) the size of the Oahu Community Correctional Center (OCCC), which is the State's largest jail. PSD estimates the cost to build a 1,200-bed medium security facility in Hawaii to be between \$450 and \$700 million, depending on the design, proportion of prison beds vs. jail beds, programing space, etc. In addition, the annual cost to operate and manage such a facility is estimated to be \$37 – 45 million and require staffing of 450 – 550 (80% Uniformed and 20% Non-Uniformed).

SB 1243, SD 1 would further exacerbate an already desperate housing and programming situation in Hawaii's correctional system, by requiring facilities' construction or expansion projects to be approved by the HICSOC. This appears to contravene the intent and purpose of the commission as enacted in Act 179 (2019). HICSOC was created, in part, to advise and make recommendations to PSD, not to have the power to veto any facet of PSD's operations, including decisions regarding correctional facilities. Doing so could delay or halt CIP projects that have been carefully vetted over several years of planning and development. These losses could amount to several millions of dollars as in the case of the redevelopment of OCCC.

The Department further notes there appears to be confusion over the differences between jails and prisons. Returning 1,000 to 1,200 sentenced felons to Hawaii will require medium- to high-security facilities, (prisons), not jails, which house short-term pretrial or minimum-security sentenced misdemeanants. In Section 1 on Page 7, Line 17 through Page 8, Lines 6, discusses the reduction in the State's jail population through Court-ordered release of some pretrial offenders, sentenced misdemeanants, and sentenced felony probationers who were sentenced to certain temporary periods of incarceration for violating terms

of probation supervision. These reductions were largely from OCCC; to be clear, the Court did not order the release of any convicted and sentenced felony offenders ordered to serve terms in prison.

It is also important to note, PSD does not have a say in whether an offender will be incarcerated. That is the sole province of the Judiciary. In all cases, the Department is required to abide by the Court's order.

To summarize, 999 sentenced felons from Mainland facilities cannot be accommodated in existing PSD facilities. Their return will require the development of another medium-security prison the size of OCCC to house these inmates. At the same time, the present Oahu jail, the aged, overcrowded, inefficient, and inconducive to rehabilitation OCCC, must be redeveloped, the planning for which has been ongoing for years. The new facility will provide the space to humanely house pretrial and sentenced shorter-term offenders sent to PSD by the Courts, as well as, important space for reentry and work furlough, education, medical and mental health treatment programming needs, identified in this measure as deficiencies of the existing jails/prisons.

As written, SB 1243, SD 1 significantly hampers the ability of the Department of Public Safety to provide for the Constitutionally mandated care and rehabilitation of Hawaii's incarcerated population. The Department, therefore, respectfully opposes this measure and requests that it be deferred.

Thank you for the opportunity to present this testimony.

Attachment

**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

Hawaii
Holding Power Accountable

Statement Before The
SENATE COMMITTEE ON WAYS AND MEANS
and
SENATE COMMITTEE ON JUDICIARY
Tuesday, February 23, 2021
10:35 AM
Conference Room 211 & Videoconference

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

Chairs DELA CRUZ and RHOADS, Vice Chairs KEITH-AGARAN and KEOHOKALOLE, and
Members of the Senate Ways and Means and Judiciary Committees

Common Cause Hawaii supports of SB 1243, SD1, which (1) requires the State to phase out the use of private correctional facilities to incarcerate Hawaii inmates and (2) prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval 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 support SB 1243, SD1.

Thank you for the opportunity to support SB 1243, SD1 to end use of private correctional facilities and prohibit the construction or expansion of new correctional facilities without the approval of the Hawaii correctional system oversight commission. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

COMMUNITY ALLIANCE ON PRISONS

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

Phone/E-Mail: [\(808\) 927-1214](tel:8089271214) / kat.caphi@gmail.com



COMMITTEE ON WAYS AND MEANS

Senator Donovan Dela Cruz, Chair
Senator Gil Keith-Agaran, Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 23, 2021
10:35 AM

STRONG SUPPORT FOR SB 1243 SD1 PHASE OUT CORPORATE CAGE CONTRACTS

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Agaran and English, and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies 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 supports this measure that seeks to phase out the use of the corporate cages to which we banish our people, mostly Kanaka Maoli, in the Sonoran Desert of Arizona by July 1, 2022 . The bill also mandates that PSD obtain the approval of the Hawai`i Correctional System Oversight Commission before constructing any new correctional facility or expanding any existing correctional facility.

We support ending the exiling of our people to corporate cages on the continent far away from their loved ones, their homes, and everything with which they are familiar. Research on which I was a reviewer, found that people who served their sentences in Hawai`i and were re-arrested after release were arrested for drug crimes; people who served their sentences abroad and were released and re-arrested were arrested for violent crimes.

There is plenty of evidence about the problems in these corporate dungeons. Several of our people have died or been murdered in these dungeons because of the negligence and lack of oversight of PSD to monitor CCA, now CoreCivic.

I worked with a family whose loved one was murdered at Saguaro while he was in the SHIP program – locked down 23 hours a day. The murder was heinous and I was with the family when he body came home. He was stabbed over 100 times in his head and chest. The family and I all gasped at the horror when we saw him. It is a horror the family and I can never forget.

Another incident involved a young man with developmental disabilities who asked to be moved because he was afraid of his cellmate - a martial arts fighter. His request was refused despite CCA knowing that the cellmate was violent and had threatened an ACO there. CCA moved him to the cell of this young man anyway. I don't know if it was with Hawai'i's complicity, however, the young man was strangled by his cellmate and died. Another preventable death.

Hawai'i's 'monitoring' of this contract is shameful. CCA/CoreCivic is never sanctioned for violating terms of the contract. I checked with other states and many have assessed penalties for understaffing, poor management, etc. Not Hawai'i. Eyes wide shut.

- *Instead of the millions of dollars wasted on consultants, it is time to have a full and honest discussion about corrections with the larger community.*
- *Should we even be considering building when we know that almost half of all the people incarcerated by the state are pre-trial detainees and parole and probation violators?*
- *How do we address the social and mental health issues that are creating the pathway to incarceration for so many of our community members who are suffering every day with a myriad of challenges?*

Our failed 'lock `em up' philosophy has only bankrupted the state both economically and morally. **Stop buying into the "we have no place to put people" rhetoric.** Look at who is imprisoned and follow the research that show there are evidence-based strategies to help people whose pathways to incarceration are the result of failed public health and social policies. These are things we can fix by reallocating our resources and addressing the pressing needs of some of the most vulnerable people in our communities.

If the state were really interested in justice, they would work with the community to reimagine justice. Sadly, the \$10.4 million paid to consultants to relocate OCCC to the Animal Quarantine Station has been without any real community discussion – only mind-numbing power point presentations and glossy propaganda that always manages to avoid the deeper

issues of justice in Hawai'i. The state seems to think that by talking to the `Aiea Neighborhood Board, they can check off the "consulted with the community" box and that's enough.

Every person who is imprisoned is a member of our community - someone's son or daughter, mom or dad, auntie or uncle. We cannot ignore the fact that simply **hiding people away - out of public view - does not address the public health and social issues that have been ignored by the state for far too long.**

The people of Hawai'i need and deserve a government that is transparent and accountable to us. COVID-19 has spotlighted the harsh reality of how our top-down policies and decisionmaking have brought us to this place.

Hawai'i has been presented with a great opportunity to rethink what we are doing. We should all be ashamed that public safety costs have become the fourth leg of the state economy when we look at all the imprisoned people with unmet public health and social needs that could have prevented their incarceration.

There are plenty of studies, ideas, and blueprints that have been routinely ignored by the government. The most recent studies can be found at HCR 85 Task Force on Prison Reform (2019); HCR 134 Task Force on Pretrial Reform (2018); Native Hawaiian Justice Task Force (2012); The Disparate Treatment of Native Hawaiians in the Criminal Justice System (2010). All of these studies can be accessed at: <https://www.oha.org/criminaljustice>.

Hawai'i knows what to do, now we need to DO IT! All across the continent jurisdictions are decarcerating and experiencing a reduction in crime up to 25% in places like NY and California!

- Reduce the populations of our prisons now and bring our people home.
- Increase community programming to help divert people from incarceration.
- Fund training programs, create partnerships with unions, incentivize educational opportunities in the areas most impacted by incarceration.

Currently, the Correctional Oversight Commission is the only entity that interacts and actually seeks the wisdom of the community. Everything else is top down, and we all see how that is working... It's Not!

Community Alliance on Prisons urges the committee to pass this important measure to bring our people home and seek the more than 100 years of experience of the Hawai'i Systems Correctional Oversight Commission before we waste more money enriching consultants. \$10.4 million could have addressed some of the pressing needs of communities.

Mahalo for this opportunity to testify.



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS		MAILING ADDRESS
John Bickel, President	Melodie Aduja	John Miller	P.O. Box 23404 Honolulu Hawaii 96823
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February 19, 2021

TO: Chairs Dela Cruz & Rhoads and members of WAM & JDC Committee

RE: SB 1243 SD1 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES.

Support for hearing on Feb. 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 SD1 as we support SB 744. They would help 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, SD 1, RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

FEBRUARY 23, 2021 · SENATE WAYS AND MEANS
AND JUDICIARY COMMITTEES · CHAIRS SEN.
DONOVAN DELA CRUZ AND SEN. KARL RHOADS

POSITION: Support.

RATIONALE: Imua Alliance supports SB 1243, SD 1, relating to the phaseout of private correctional facilities, 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 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



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COMMITTEE ON JUDICIARY

COMMITTEE ON WAYS AND MEANS

TUESDAY, 2/23/21, 10:35 AM, VIDEOCONFERENCE

SB2343 SD1 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES
Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chairs Rhoads and Dela Cruz, Vice-Chairs Keohokalole and Keith-Agaran, 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 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 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.

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 to monitor and review 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.



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEES ON WAYS AND MEANS AND JUDICIARY

Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 23, 2021, 10:35 AM
Conference Room 211 and Videoconference

Re: Testimony in Support of 1243 SD1 - RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Committees on Ways and Means and Judiciary:

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 SD1, which requires the State to phase out the use of private correctional facilities to incarcerate Hawaii inmates. This 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.

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.



Hawai'i

Committees: Committee on Ways and Means
Committee on Judiciary
Hearing Date/Time: Tuesday, February 23, 2021, 10:35 a.m.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 1243, S.D.1,
Relating to the Phaseout of Private Correctional Facilities

Dear Chair Dela Cruz, Chair Rhoads, and members of the committees,

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of S.B. 1243, S.D.1**, 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. 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

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>.

On the contrary, it may cost the State *more* to incarcerate inmates in private prisons than in state-run facilities.³ This is despite private prisons’ tendency to cherry pick their prisoners, often choosing the least expensive inmates to incarcerate.⁴ 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 this practice *did* save money, however, Hawai‘i’s existing relationship with a for-profit prison has a devastating human impact. Hawaii’s contract with Eloy, Arizona to house Hawai‘i inmates 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 also antithetical to the reentry process and harmful to long-term prospects for sustainable reintegration of formerly incarcerated individuals into society. S.B. 1243, S.D. 1 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:

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 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>.

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 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 PSD 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. 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.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirty-First Legislature, State of Hawaii
The Senate
Committee on Ways and Means
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

February 23, 2021

S.B. 1243, S.D.1 – 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, S.D.1 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, S.D.1 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, S.D.1.

Respectfully submitted,

Randy Perreira
Executive Director

Testimony on SB1243
February 23, 2021
Senate Committee on Ways and Means
Senate Committee on Judiciary



Aloha Honored Members of our State Ways and Means and Judiciary Committees:

We fully support SB1243, Relating to the Phaseout of Private Correctional Facilities. Many of our Kalihi subcommunities are over-represented in our prison systems, due to significant economic, social, and cultural barriers to equity and empowerment. Prisoners are among our beloved friends and family members and deserve a correctional system that minimizes the perverse and harmful incentives of the for-profit prison industry and that maximizes opportunities for humane and caring rehabilitation that employs the best practices of community, social and human service. Phasing out dependence on the for-profit prison is an important step in creating a correctional system the better aligns with Hawaii's unique cultural and community values.

Thank you.

Dr. David Derauf
Executive Director
Kokua Kalihi Valley
2239 North School Street
Honolulu, Hawaii 96819
808 791 9400
dderauf@kkv.net

Michael Epp
Special Projects Coordinator
Kokua Kalihi Valley
mepp@kkv.net

SB-1243-SD-1

Submitted on: 2/19/2021 3:59:16 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

Private Companys can Operate cheaper and do a better job then Government owned Prisions.

All you have to do is look at Government Prisions on Ohau and the Big Island and you can see how Corrupt the Government system is. Nothing but investigation into Drugs and abuse of prisoners. There are on going investigations right now.

We need to get away from Government owned and move to Private owned to save money and have things done Right.

STOP RIPING OF THE HAWAII PEOPLE!

SB-1243-SD-1

Submitted on: 2/19/2021 4:50:11 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

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

Comments:

Support

Bring our folks home to Hawai`i. AND we don't need private prisons here.

SB-1243-SD-1

Submitted on: 2/19/2021 7:39:31 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ben Lowenthal	Individual	Support	No

Comments:

Private prisons are detrimental to the family and community. President Barack Obama listed an undercover reporter's expose on private prisons called "American Prison" as one of his favorite book in 2018. It is a disturbing look at the way corporations have profited from unnecessary suffering, torture, and dehumanizing conditions. Please pass this bill.

SB-1243-SD-1

Submitted on: 2/20/2021 4:52:13 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

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

Comments:

My name is Carla Allison and I support SB1243. It is time for Hawaii's leaders to stop the use of for profit prisons and stop spending millions of dollars planning the expansion of our correctional facilities without oversight by Hawaii's Oversight Commission. Hawaii's leaders need to focus on the research showing there are evidence-based strategies to help people whose pathways to incarceration are the result of failed public health and social policies. There are things we can fix by reallocating resources and addressing the pressing needs of some of the most vulnerable people in our communities. For example, focus on creating programs & beds to address mental & drug disabilities because people with disabilities do not belong in jails. Focus on providing housing because no one should be jailed because they have no place to sleep or live. Legislate bail reform so we stop jailing people awaiting trial simply because they can't afford bail. Legislating and adopting these types of changes would reduce Oahu's jail population significantly and save the state money. We know that incarceration increases criminal thinking, so why would we continue to invest in incarceration. Hawaii can learn from other states that looking to for profit prison developers to solve our problems is the wrong focus. Invest in Hawaii's people instead by supporting SB1243. Thank you.

SB-1243-SD-1

Submitted on: 2/20/2021 5:54:35 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Best	Individual	Support	No

Comments:

- 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.

SB-1243-SD-1

Submitted on: 2/20/2021 8:49:21 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, Committee on Ways and Means, Chair Rhoads, Vice Chair Keohokalole, and Committee on Judiciary,

Please support SB1243 SD1.

- 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.
- We advocate 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 support SB 1243, SD1.

Thank you for your time and attention to this issue. I appreciate the opportunity to provide testimony in support of SB1243 SD1.

Mahalo,

Caroline Kunitake

SB-1243-SD-1

Submitted on: 2/21/2021 6:58:58 AM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Anderson	Individual	Support	No

Comments:

Research has shown that increased incarceration has little impact on crime rates. Instead, mass incarceration leads to felony disenfranchisement, which disproportionately impacts minority populations and people of color. 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. This distorts the democratic process by artificially inflating the population count and political influence of the districts where prisons are located.

I feel that Hawaii should end 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, I support SB 1243, SD1.

Thank you for the opportunity to submit testimony on this bill.

SB-1243-SD-1

Submitted on: 2/21/2021 3:43:20 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

Aloha Senators,

I support SB 1243.

Mahalo,

Michael Golojuch, Jr.

SB-1243-SD-1

Submitted on: 2/21/2021 4:22:00 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jamaica Osorio	Individual	Support	No

Comments:

To the Corrections, Military, and Veterans committee of the Hawaii State Legislature.

I write this testimony in full support of SB1243

In Hawai'i we are in dire need of reform to our current policing and prison system—where three in four arrests are for non-violent, non-property offenses. Meaning that the primary number of people in our prisons are there because of “crimes of poverty.” The reduction of these “crimes” is not possible through an increase in policing and incarceration but rather with an increase of proper social and health programs to invest in the wellbeing and safety of our entire community. Furthermore, far too many of our people remain incarcerated simply because they (and their families) cannot afford bail. This system is specifically targeting our most vulnerable communities, including our Native Hawaiian community, and there are many more just solutions that we could invest in. Ultimately our goals should be to shrink our prison footprint, rather than expand it.

It should also be clear that in addition to phasing out the use of private prisons that Hawai'i must cease the planning and construction of any/ all new correctional facilities. We are in a dire economic situation in Hawai'i and these resources could be spent elsewhere and would have a far more positive impact on the safety of our communities—including those who are currently and have previously been incarcerated.

The ongoing covid-19 crisis is offering us an opportunity as a community to realize just how violent and backwards our system of policing and prisons truly is. We must pay attention to the way this current pandemic has highlighted the health and safety concerns present in our prisons (there are current 400 active Covid-cases in OCC that our mayor refuse to recognize), while also not simply blaming those realities on the current health crisis. Our system of policing and prisons will continue to require ongoing reform, well after the threat of covid-19 has passed.

Specifically,

Hawai'i needs increased funding for residential treatment programs & outpatient mental health and substance abuse treatment services. Funding treatment programs not only prevents people from doing time to begin with, but also helps those coming home transition more successfully back into the community—and would, over time, limit our need to expand our prison system (and instead allow us to shrink the major footprint of our prisons in the best interest of our citizens).

Our people also need adequate access to healthcare. Regular and preventive care for people of all ages and backgrounds has been proven to have a positive effect on all aspects of community stability and sustainability. These resources must be specifically expanded to support our at risk, and previously incarcerated citizens.

And finally, since the majority of “crimes” in Hawai'i are crimes of poverty our community needs to expand job training programs and living wage jobs for all workers, including undocumented workers. Access to meaningful work and job training, education and healthcare, should be a core value and top funding priority for any city or county that values community stability, health, and wellbeing. Furthermore, these kinds of programs have been documented to support in the reduction of recidivism.

All people in Hawai'i have the right to healthcare, housing, and a living wage. These rights should certainly extend to our at risk and formally incarcerated peoples. In 1998, Hawai'i was one of the first states to pass Ban the Box legislation, but we must do more to change attitudes of discrimination in the hiring of people with records.

Mahalo,

Dr. Jamaica Heolimeleikalani Osorio
Assistant Professor
Indigenous & Native Hawaiian Politics
Department of Political Science

University of Hawai'i at Mānoa
2424 Maile Way, Saunders
Honolulu, HI 96822

SB-1243-SD-1

Submitted on: 2/21/2021 4:33:48 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

The prison system should be a public service and not a for profit industry. Aside from the obvious conflicts of interest and many cases of human rights violations, its bad business and costs taxpayers even more to house the inmates.

Mark ups on phone calls, and basic necessities forcing families into debt. Low wage unskilled labor which is an additional form of punishment and not a path to restoration and reintroduction to society.

With the makeup of our prison population so high in Pacific Islanders and POC, this has a much harder impact on those communities.

End private prison use in Hawaii. Support SB1243

SB-1243-SD-1

Submitted on: 2/21/2021 8:48:55 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cody Moniz	Individual	Support	No

Comments:

I support discontinuing the use of private prisons, however this seems like half a plan. Two systems are required to stop the continued policy of mass incarceration. One institution to reintegrate those who have some ability to contribute to society, and one institution to maintain a level of care for those who can't. Food, water, shelter, is more than just core human needs but providing those needs to individuals living within our borders also protects society from the negative impacts of humans struggling to maintain those needs (eg. property crimes and the covid health dangers of large homeless camps at public parks). Housing first seems to be what the studies I've seen recommend, and I don't know what the right answer is to end mass incarceration and chronic homelessness, but I'm sure Hawaii isn't the only state facing this issue, and other countries / states / organizations (eg. ACLU) should have tested some solutions for us to consider at this point. The local government needs to start acting like a steward of the land and the people and not just security for private landowners. Bernie says that 1 out of 10 people in the US is facing eviction, and if that doesn't scream "hey maybe it's a bad idea to base an entire nations government and economy purely on land rights and some archaic accounting system that doesn't accurately track anything tangible, rather than human needs", I don't know what does. If all we've needed this whole time has been essential workers, why should we let society collapse because our economic system can't account for a life where we aren't aimlessly wasting resources in exchange for a wage so our base needs are being met? As an island we should be looking at other self sufficient island nations for inspiration.

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 23, 2021
10:35 AM
Conference Room 211 & Videoconference

RE: Support SB1243 1080 SB1243 SD1 RELATING TO THE PHASEOUT OF
PRIVATE CORRECTIONAL FACILITIES

Dear Chairs Rhoads, Dela Cruz and Committee Members:

My name is Carrie Ann Shirota, and I am writing in support of SB1243 SD1 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 advocate for transforming our criminal legal systems to reflect Restorative Justice practices that holds individuals accountable for harm, while allowing opportunities for healing and restoration for all persons involved. I previously served as the Director for Maui Economic Opportunity's Reintegration Program where we had the opportunity to provide holistic reentry support services to individuals and families impacted by our criminal legal system. Finally, as a Soros Justice Fellow, I have carefully studied the particular dangers associated with prison privatization and Hawai'i's inhumane practice of transferring our people to private for profit prisons in other states.

We Need a Paradigm Shift to Chart a New Course for Corrections in Hawai'i

My message is simple: We need a broader vision for Reimaging Public Safety in Hawai'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.

Reimaging 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. We need to create a system of Restorative Justice, which aligns the traditional concept of pu'uhonua, with a focus on accountability and restoration of relationships.

How do we do this? By shifting the state's budget priorities away from 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.

Private Profiteers Bank on the Prison Boom

For over twenty years, Hawaii's leadership has argued that we “need” to contract with private prisons to address overcrowding in our jails and prisons. Rather than investing in evidence based policies that would safely reduce our incarcerated population, and return our people home, Hawaii continues to fund the pocketbooks of Corrections Corporation of America, now rebranded Core Civic. The proponents of privatization argue that it's cheaper to incarcerate people out-of-state. However, those “cost savings” are heavily disputed and there is little evidence of any real cost savings. See Management Audit of the Department of Public Safety's Contracting for Prisons Beds and Services, A report to the Governor and the Legislature of the State of Hawaii, Report No 10-10, December 2010, The Auditor.

In August 2016, the Department of Justice issued a memo directing the federal Bureau of Prisons to begin ending its use of for-profit prisons. The memo followed a contemporaneous report that described the problems at privately managed federal prisons, including violence between prisoners and staff, poor security and misuse of solitary confinement. The report concluded that private prisons were less safer and no less costly than those operated by the Bureau of Prisons.

Closer to home, many news articles and stories have highlighted the specific problems associated with private prisons - understaffing, drugs, rapes, deaths, denial of religious service, separation from families, racism and the rise of bona fide prison gangs that did not exist in Hawai'i jails and prisons UNTIL we transferred our people to out-of-state private prisons. <https://www.afsc.org/sites/default/files/documents/shirotaArizona%20Hearing%20Prison%20Privatization.pdf>

Beyond the fiscal arguments are the moral grounds that prison privatization is inherently unethical. “We believe that private prisons confront us with serious moral issues, demanding a gospel response. To deprive other people of their freedom, to restrict them from contact with other human beings, to use force against them up to and including deadly force, are the most serious of acts. To delegate such acts to institutions whose success depends on the amount of profit they generate is to invite abuse and to abdicate our responsibility to care for our sisters and brothers.” Catholic Bishops

of the South, "Wardens from Wall Street: Prison Privatization," at <http://www.catholiclabor.org/church-doc/CBS-2.htm>.

In recent years, we have witnessed in horror the growth of immigrant detention centers (ICE) operated by private prison profiteer corporations like Core Civic and GEO Group. Why are we investing public dollars into private prison contracts that benefit its shareholders rather than the people of Hawai'i?

The Oversight Commission, Created by this Legislative Body, Yet Currently Unfunded, Supports a Moratorium on Building New Jails and Prisons

Our Hawaii Correctional System Oversight Commission is committed to fulfilling its mandate to transition the correctional system from one of punishment to a model focused on rehabilitation. The Oversight Commission submitted an Annual Report to the Legislature recommending that we pause all planning and design related to the proposed new OCCC and other jail and prison projects.

Other Jurisdictions Have Safely Reduced their Incarcerated Population While Reducing Crime Rates

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%.

More recently, Rhode Island, Connecticut, Michigan, Michigan and South Carolina achieved prison population reductions of 14-23%. This produced a cumulative toll of 23, 646 fewer people in prison with no adverse effects on public safety. See, <https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>

Rhode Island Outcomes

Since Rhode Island's incarcerated population is most similar to Hawai'i in size, their data demonstrates the reductions we can achieve through targeted strategies.

Peak Year 2008	Population	Decrease	% Change
	4, 045.	3,103 (-942)	23%

The Sentencing Project concluded that all five states achieved significant reductions through the following strategies:

1. Measures to Get Justice Reforms Underway and Maintain Momentum
2. Decreased Prison Admissions via Fewer New Prison Commitments
3. Decreased Prison Admissions via Reduced Incarceration for Failure on Community Supervision
4. Increased Prison Releases via Increasing the Feasibility and/or Efficiency Of Release
5. Increased Prison Releases via Requiring Less Time Served Before Eligibility for Release

If we truly want to build a safe and just legal system and thriving communities, then we must stop investing in private and public jails and prisons, and instead invest in evidence-based public policies that have proven to safely reduce the incarcerated population, and divert people from the current punishment model of "corrections" that is costly and ineffective - as evidenced by recidivism rates of over 50%.

Please support SB 1243 SD1.

Sincerely,

Carrie Ann Shirota

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SB-1243-SD-1

Submitted on: 2/22/2021 8:21:31 AM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Meacham	Individual	Support	No

Comments:

Testimony SUPPORTING SB 1243, SD1, Eliminating Private Prisons

Thank you for the opportunity to offer testimony.

Mass incarceration is not the solution to crime. Instead, it starts prisoners on a revolving door of re-offending and re-imprisonment.

Private prisons, located on the mainland with skeletal low-paid staff and lack of programs, compound the problem by merely warehousing prisoners without meaningful rehabilitation or contact with their families.

The prisoners then return to society and commit more crimes, costing us far more than any savings in lower expenses for the prisons.

Even conservative states like Texas have found that it is more cost-effective to develop halfway houses, counseling and other programs as alternatives to prison. We should change gears and stop sending money to the mainland.

Thank you for the opportunity to offer testimony.

SB-1243-SD-1

Submitted on: 2/22/2021 9:36:56 AM

Testimony for WAM on 2/23/2021 10:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Edward B Hanel Jr	Individual	Support	No

Comments:

Concur with Common Cause Hawii Comments. There are too many stories of the poor facilities and failure to maintain humane conditions in privately operated prisons. We don't need to provide a country club atmosphere, but let us "take care of our own." This was a mis-guided effort from the outset. Support passage o SB 1243.

LATE

February 22, 2021

TO: Chair Karl Rhoads and Vice Chair Jarrett Keohokalole
Chair Donovan M. Dela Cruz and Vice Chair Gilbert s.C. Keith-Agaran
And members of the Committees on the Judiciary and Ways and Means

FROM: Barbara Polk

RE: Strong Support for SB1243

I strongly urge you to pass SB1243. I do have two concerns that may need clarification.

1. Part (c) seems not to include in the definition of “a private correctional institution” a facility owned and operated by another State. Perhaps this is covered by a public-private partnership, but perhaps not.
2. Section 4 Section 353-16.3 appears to allow the governor to negotiate contracts with out-of-state entities until June 30, 2025. Would the wording prevent a governor from negotiating a new contract to run for 5 or more years just before June 30, 2025, thus subverting the deadline for ending use of mainland facilities or local public-private facilities? I believe it should be clarified that no new negotiations for public-private partnerships for prison facilities or for out-of-state facilities must end now.

I strongly support the intent of this bill to extend the authority of the Hawaii Correctional System Oversight Commission by requiring its approval for any new or modified facilities. No governor can know everything about everything, and no DPS director can either. It takes a broader look at the correctional system to incorporate public perceptions, scanning of what is happening nationally and internationally, to have a sound correctional system in Hawaii.

Thank you for hearing this bill. Please Pass SB1243

LATE

SB-1243-SD-1

Submitted on: 2/22/2021 3:22:29 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

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

Comments:

I support phasing out privately owned/ operated correctional facilities and stopping any construction of new ones. Mahalo.

SB-1243-SD-1

Submitted on: 2/22/2021 4:50:23 PM

Testimony for WAM on 2/23/2021 10:35:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Foy	Individual	Support	No

Comments:

I strongly support this bill to phase out Hawaii's contracts with private prisons. It's becoming common knowledge that the private prison model is incongruous with the original goal of "serving time": which is to restore, heal, and or rehabilitate folks who have committed wrongdoings in society.

Private prisons operate from a much different, capitalistic mindset - they're concerned primarily with making a profit, and keeping inmates incarcerated ensures that profits will continue.

It's time we end this outdated, ineffective, and taxpayer-costly private prison model and start considering alternatives that are more restorative, healing-centered, and culturally rooted.

LATE

SB-1243-SD-1

Submitted on: 2/22/2021 4:57:50 PM

Testimony for WAM on 2/23/2021 10:35:00 AM

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

Comments:

Strong support.