

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
Corrections, Military, & Veterans**

March 17, 2021

S.B. No. 744, SD1: RELATING TO CORRECTIONAL FACILITIES

Chair Ohno, Vice Chair Ganaden, and Members of the Committee:

The Office of the Public Defender respectfully **supports** S.B. No. 744, SD1, which seeks to repeal the authorization for the Governor to negotiate with any person for the development or expansion of private correctional facilities and prohibit the establishment of private correctional facilities in the State.

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

In Hawai‘i, our prison population has increased 670% in the last 40 years.² And our incarceration rate has risen to the point that if we were a nation instead of a state, we would rank fifth in the world, behind United States, El Salvador, Turkmenistan and Cuba (excluding the other 49 states).³

While Hawai‘i’s alarming rate of imprisonment deprives individuals of freedom, loved ones from their families, and drains the limited resources of our State,

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 HCR 85 Report at 3.

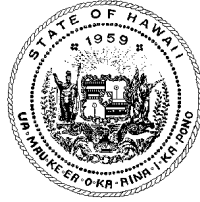
³ Prison Policy Initiative, “States of Incarceration: The Global Context.” *See* <https://www.prisonpolicy.org/global/2018.html>; *See also* World Prison Brief, Institute for Criminal Policy Research (ICPR), Data for Sweden, <http://www.prisonstudies.org/country/sweden>. (Hawai‘i incarceration rate of 390 prisoners per 100,000 population would put Hawai‘i in the top 20 incarcerators in the world).

communities, and taxpayers, the private prison industry has been reaping lucrative profits. This Act is a first step in stopping corporations from profiting off of the incarceration Hawai'i's citizens.

Our only objection to SD1 is that it changes the effective date to May 6, 2137. We cannot wait any longer. The time is now to prohibit private prisons in Hawai'i from profiting on the increased incarceration of our citizens.

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

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
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No. _____

TESTIMONY ON SENATE BILL 744, SENATE DRAFT 1
RELATING TO CORRECTIONAL FACILITIES.

by

Max N. Otani, Director

House Committee on Corrections, Military, and Veterans
Representative Takashi, Ohno, Chair
Representative Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021; 10:30 a.m.
State Capitol, Via Video Conference

Chair Ohno, Vice Chair Ganaden, and Members of the Committee:

Senate Bill (SB) 744, Senate Draft (SD) 1 seeks to repeal the authorization for the Governor to negotiate with any person for the development or expansion of private correctional facilities. This measure also seeks to prohibit the establishment of private correctional facilities in the State.

The Department of Public Safety (PSD) understands the intent of SB 744, SD1 and provides comments for consideration. At present, Hawaii's correctional facilities, which includes eight (8) jails and prisons that are old and outdated, manpower-intensive, and constantly in need of repairs. As of February 28, 2021, six (6) of the eight (8) facilities were operating above their designed capacity and have been for some time (See attached February 2021 inmate population report). The newest correctional facility in Hawaii is the Halawa Correctional Facility, which opened in 1985 and is now over 35 years old. The remaining seven (7) facilities range in age from 40 to over 100 years old.

Despite the increases in both the prison and jail populations over the years, Hawaii has not built a new correctional facility in over 35 years. In 1995 following the Spear vs. Ariyoshi consent decree brought by the U.S. Department

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

To that end, repealing the authorization for the Governor to negotiate with any person for the development or expansion of private correctional facilities would be short-sighted and hamper the State's ability to react more quickly to overcrowding in our jails and prisons. For example, at present the Judiciary has more than 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 overwhelmed. This measure would take away PSD's flexibility to respond to and rectify emergency situations.

As an example, the courts have been closed for several months now due to the COVID-19 pandemic, and with the courts' reopening, PSD will see an influx of offenders at all security levels from all of the four (4) counties. The influx may very likely require PSD to seek additional bed space to house the offenders sentenced to prison and sentenced felony probationers resentenced to prison.

With respect to the prohibition on the establishment of private correctional facilities in the State, PSD takes no position, as such a policy decision would be made by both the Governor and the Legislature.

Thank you for the opportunity to present this testimony.

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

Date: 2/29/2021

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	M	F
HCCC	206	226	296	247	49	31	3	37	5	7	2	115	21	11	5	4	1	22	6	20	6		
SNF	90	132	106	106	0	106																	
HMSF	496	992	766	766	0	232		7		1		15						505		6			
KCCC	110	128	141	122	19	35	3	18	8	9	2	43	3	8	2	0	0	1	0	8	1		
KCF	200	200	131	131	0	131																	
MCCC	209	301	303	264	39	15		32	8	5		135	20	11	1	1		23	1	42	9		
OCCC	628	954	913	818	95	107		73	13	19	2	406	43	43	7	2				168	30		
WCCC	258	260	205	0	205		140				1		2						61		1		
WCF	294	334	229	229	0	154												75					
TOTAL	2491	3527	3090	2683	407	811	146	167	34	41	7	714	89	73	15	7	1	626	68	244	47		

	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	5	5	0					1		1		1								2
TOTAL	1004	1004	0	956	0	0	0	1	0	1	0	1	0	0	0	0	43	0	2	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	M	F
HCCC	206	226	309	259	50	34	3	41	6	8	2	115	21	11	5	7	1	22	6	21	6		
SNF	90	132	106	106	0	106																	
HMSF	496	992	769	769	0	232		7		1		15						508		6			
KCCC	110	128	150	129	21	39	5	18	8	12	2	43	3	8	2	0	0	1	0	8	1		
KCF	200	200	131	131	0	131																	
MCCC	209	301	303	264	39	15		32	8	5		135	20	11	1	1		23	1	42	9		
OCCC	628	954	925	830	95	113		73	13	20	2	408	43	44	7	2				170	30		
WCCC	258	260	232	0	232		164		1	1		2							63		1		
WCF	294	334	229	229	0	154												75					
MAINLAND			999	999	0	956												43					
TOTAL	2491	3527	4153	3716	437	1780	172	171	36	46	7	716	89	74	15	10	1	672	70	247	47		

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON CORRECTIONS, MILITARY & VETERANS

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021

10:30 AM

STRONG SUPPORT FOR SB 744 SD1 BANNING DEVELOPMENT OF CORPORATE CAGES IN HAWAII NEI

Aloha Chair Ohno, Vice Chair Ganaden, and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the more than 4,100 Hawai`i individuals living behind bars or under the “care and custody” of the Department of Public Safety on any given day. We are always mindful that 1,000 of Hawai`i’s imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

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

The problems with prison corporations were laid out in a paper that Lorenn Walker and I submitted to the Department of Public Safety in 2012. The paper, our response to PSD upon their REQUEST FOR INFORMATION - RFI No.: 14- COR-35 clearly outlined the problems with states doing business with these entities whose only interest is their bottom line. Prison corporations are known for shoddy construction, labor problems, spending outrageous sums on lobbying to defeat bills that would require accountability and transparency, and obvious ethical problems.

And now the largest of these corporate privateers have turned into REITs (Real Estate Investment Trusts) so they can avoid paying taxes. Here is that section of our response to PSD’s RFI in 2013:

Conversion to a REIT – Real Estate Investment Trust: On 1 January 2013, CCA decided to effectively convert from a standard corporation to a Real Estate Investment Trust (REIT). CCA was given the nod by the Federal government on February 8, 2013 and as a result, its share price exploded upwards. But what may be lost on shareholders is that CCA operated as a REIT

once before in the late 1990s. Its first foray into the REIT world ended in near bankruptcy. Today, CCA is facing revenue contraction, dwindling demand, and a bleak outlook. From here the road is a short one to earnings issues and dividend cuts.

By converting to a REIT, corporations can avoid paying federal taxes on their earnings as long as at least 90% of those earnings are paid out to shareholders in the form of dividends. This corporate maneuvering to avoid paying federal taxes is yet another one of CCA's questionable business practices. As a New York Times article explained: "One of the bedrock principles – and the reason for the tax exemption – was that the trusts do not do any business other than owning real estate. But bit by bit, especially in recent years, that has changed as the IRS, in a number of low-profile decisions, has broadened the definition of real estate, and allowed companies to split off parts of their business that are unrelated to real estate." ...

Somewhere along the way, CCA and a host of other companies with fixed assets started taking advantage of the designation by claiming that they effectively manage real estate, and thus fit the criteria for REIT status. But while CCA owns prison real estate, common sense dictates that the Company doesn't rent them out – it gets paid to run them.

*For example, the Company's **10-K filing in 2011** (and prior) describe its business as: "We are **compensated for operating and managing facilities** at an inmate per diem rate based upon actual or minimal guaranteed occupancy levels."*

*However, that wording was changed in their **10-K filing in 2012** to: "We are **compensated for providing prison bed capacity and correctional services** at an inmate per diem rate based upon actual or minimum guaranteed occupancy levels."*

It seems that this deliberate change in wording was a tortured attempt by Management to reinforce the idea that CCA rents out bed capacity instead of operating and managing facilities, making CCA appear more as a 'landlord' and less as an 'operations and management' service.

Just this June, the IRS launched a review to define what type of companies can qualify for REIT status. What the IRS review will mean for CCA and a host of REIT imitators is anyone's guess, but in a time of budgetary deficits and vitriol against corporate tax loopholes, growing abuse of the REIT structure was bound to get the attention of IRS and Congress.

It is important to put language prohibiting private/corporate cages to §353-16.35, HRS now as these profiteers of misery are trying to worm their way deeper into communities and state economies as the threat of losing federal contracts looms. These corporations have already bought out smaller companies that could expand their services such as electronic monitoring (invisible incarceration), reentry 'facilities' (bogus – reentry happens in the community, not from jail or prison), and other 'services' they could provide to feed the hungry machine known as the prison industrial complex.

Please don't be swayed by their sweet talk. Too many of our people have died, been murdered, and assaulted in incidents that are a shameful example of poor management by the corporation and a pitiful lack of oversight by the state that has been known and allowed to continue for decades.

For the people in the community, it is really difficult to understand how we continue to banish our people to facilities where we know there are problems, yet our government ignores the harms they are causing and the future problems that will arise from the deals they made with unethical corporations at the expense of human life.

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

We close with the last part of the paper Lorenn Walker and I wrote in 2013 and urge passage of this bill.

Partnering with any corporate prison entity to renovate and/or construct any facilities in Hawai'i is a bad idea and we respectfully urge the state to not to open Hawai'i's door to the private prison industry.

Hawai'i can do more to rehabilitate people. We know that prisons further increase criminal thinking. Hence, prison-building is not a good investment for Hawai'i. Invest in our people. Increase everyone's social capital.

We can do this.

Mahalo for this opportunity to offer testimony.



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

COMMITTEE ON CORRECTIONS, MILITARY, AND VETERANS

Representative Takashi Ohno, Chair
Representative Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021, 10:30 AM
Conference Room 430 and via Videoconference

Re: Testimony in Support of SB744 SD1 - RELATING TO CORRECTIONAL FACILITIES

Chair Ohno, Vice Chair Ganaden, and Members of the Committee on Corrections, Military, and Veterans:

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** SB744 SD1 which repeals the authorization for the governor to negotiate with any person for the development or expansion of private correctional facilities and prohibits the establishment of private correctional facilities in the State.

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.

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 Corrections, Military, & Veterans
Hearing Date/Time: Wednesday, March 17, 2021, 10:30a.m.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 744, S.D. 1, Relating to Correctional Facilities

Dear Chair Ohno, Vice Chair Ganaden, and members of the Committee,

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of S.B. 744, S.D. 1**, which prohibits the use of for-profit correctional facilities in the State.

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

For-profit prisons do not necessarily save Hawai'i money, either. On the contrary, it may cost the State *more* to incarcerate people in private prisons than in state-run facilities.² This is despite private prisons' tendency to cherry pick the people housed there, often choosing those who are the least expensive to incarcerate.³ We must end the Department of Public Safety's use of for-profit prisons and ban future contracts to use for-profit correctional facilities, while simultaneously enacting comprehensive reforms in the areas of bail, sentencing, and probation/parole, could offer long-term cost savings for the state.

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

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

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

ACLU of Hawai'i testimony in support of S.B. 744, S.D. 1
March 17, 2021
Page 2 of 2

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.

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SB-744-SD-1

Submitted on: 3/15/2021 11:37:36 AM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

Aloha, my name is Carolyn Eaton and I am an Oahu voter. I support SB 744, SD 1. Thank you for hearing this important measure and considering my testimony. Corporate prisons have no place in Hawai'i, with their for-profit motives. The well-being and humanity of those we incarcerate must come before benefits to shareholders, for whom we have no responsibility.

Mahalo for your hard work!

SB-744-SD-1

Submitted on: 3/15/2021 3:09:46 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

My name is Carla Allison and I strongly support **SB744**. We must both prohibit doing business with corporations that profit from incarceration and stop the governor from continuing to negotiate the development and expansion of HI correctional facilities. Hawaii's leaders need to focus instead on creating programs & beds to address mental & drug disabilities because people with disabilities do not belong in jails. Hawaii needs to provide housing because no one should be jailed because they have no place to sleep or live. Bail reform is needed 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. Invest in Hawaii's people instead. Please support SB744. Thank you.

SB-744-SD-1

Submitted on: 3/15/2021 6:00:39 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

Support

SB-744-SD-1

Submitted on: 3/15/2021 8:31:30 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

Strong Support!

SB-744-SD-1

Submitted on: 3/15/2021 8:51:53 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
donn viviani	Individual	Support	No

Comments:

I support SB744. The purpose of incarceration is both for inmate punishment and rehabilitation. The purpose of private prisons is to get paid for "housing" inmates. Punishment is the loss of liberty. Private facilities can do that and in fact the more they do it. i.e., the inmates they house, the more they earn. It is not however, in their direct interest to rehabilitate, in fact less recivism runs counter to their interest. I'm not accusing them of failing to rehabilitate because they want more inmates. However it can't be a primary concern of theirs as it runs counter to their business model, and interests of their owners or shareholders.

Mahalo Donn Viviani, Kailua

SB-744-SD-1

Submitted on: 3/15/2021 8:55:46 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Sue Haglund	Individual	Support	No

Comments:

i stand in strong support of this measure. The state should not be doing business with unethical businesses and profit-making corporations have a long and sordid history - abuse, mismanagement, and riots (evidenced by the deaths of our people in their cages). Opening the door to corporations that profit from incarceration is not justice.

IN SUPPORT OF SB744

TO: COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS
FROM: Wendy Gibson-Viviani RN/BSN
RE: In Support of SB744 SD1
Hearing: Wednesday, 3/17/21 at 10:30 am. Video Videoconference

Aloha Rep. Takashi Ohno, Chair Rep. Sonny Ganaden, 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 support SB744 because I agree that we should repeal the authorization for the Governor to negotiate with any person for the development or expansion of private correctional facilities; and prohibit the establishment of private correctional facilities in the State. Our State should not be doing business with unethical businesses and profit-making corporations

Private Prisons are now being banned in other States because they have a long and sordid history of abuse, mismanagement, and riots (as evidenced by the deaths of our people in their cages. They are eternally cutting corners and budgets. Privatization reduces transparency and public accountability in the State's criminal justice system. Privatization requires that the beds be occupied, giving no incentive for law enforcement to provide solutions other than incarceration.

I believe that now is the time to redirect our focus away from mass incarceration and towards harm reduction. Privatization is the opposite of that. Please support SB744.

Mahalo for allowing me to testify.

Wendy Gibson-Viviani RN/BSN
Cannabis Nurse Educator
Kailua

SB-744-SD-1

Submitted on: 3/16/2021 8:14:04 AM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

Chair Ohno and Vice Chair Garaden; and members of the committee:

I strongly support SB744 to stop the Governor from negotiatiing for private correctional facilities and prohibiting such facilities on the mainland. The care of incarcerated persons is the responsibiity of the State. By contracting for private prisons or jails, the State is shirking its responsibiity. Private incarceration faciities have a very poor reputation for treatment of incarcerated individuals. Please put a stop to the Governor's attempt to by-pass our responsibilities in Hawaii.

Please pass SB744.

SB-744-SD-1

Submitted on: 3/16/2021 6:24:17 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

I strongly **SUPPORT** SB744 SD1. The state should not be doing business with unethical and profit-making corporations who have a long and disreputable history of abuse, mismanagement, and secrecy. Opening the door to corporations that profit from incarceration is not justice.

Committee on Corrections, Military and Veterans
Rep. Takashi Ohno, Chair
Rep. Sonny Ganaden, Vice Chair
Wed., March 17, 2021
10:30am

Re: SUPPORT SB744 SD1 RELATING TO THE PHASEOUT OF PRIVATE
CORRECTIONAL FACILITIES

Dear Chair Ohno, Vice Chair Ganaden, and Committee Members:

I am writing in support of SB744 SD 1 that repeals the authorization for the governor to negotiate with any person for the development or expansion of private correctional facilities and prohibits the establishment of private correctional facilities in the State.

Please carefully scrutinize the Department of Public Safety's testimony in opposition to this bill. For over twenty years, the Department of Public Safety and Hawai'i Paroling Authority has had ample opportunity to adopt and implement evidence based practices to reduce the incarcerated population and stop transferring our people to out-of-state transfers. PSD influences releases at various points in the criminal legal system: setting minimum sentences, parole supervision, early discharge, work furlough, educational furlough, extended furlough, electronic monitoring furlough, compassionate release, providing health care, substance use and mental health treatment and educational and rehabilitation training programs. They have also had the opportunity to implement recommendations from the Council of State Government's Justice Reinvestment Initiative, HCR 85 Task Force, Native Hawaiian Criminal Justice Task Force, and partner with non-profits to enhance opportunities for rehabilitation.

Similarly, the Hawaii Paroling Authority has had the opportunity to implement best practices in parole, decrease minimum sentences, reduce technical parole violations and increase early discharge releases.

Rather than focusing on programs and services within its control and responsibility, we repeatedly hear the Department of Public Safety pointing fingers at the Judiciary and Legislature for sending people their way.

To be fair, PSD is partially correct - this legislative body and our Judiciary should take responsibility for enacting policies and making judicial decisions (bail and sentencing) that have increased our incarcerated population over the years. However, PSD needs to do the same and assess why recidivism rates are so high and why they have not created and adopted evidence based strategies to reduce the incarcerated population in Hawai'i, and end private prison contracts.

Building more jails and prisons is not the solution to overcrowding, and allowing private prison profiteers to step foot in Hawai'i is poor public policy.

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

We should learn from 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%.

Thank you for the opportunity to submit testimony in support of S 744 SD1.

Sincerely,
Carrie Ann Shirota, Esq.

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