

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. 1243, SD2: RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

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

The Office of the Public Defender writes in **support** of S.B. No. 1243, SD2, 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.”<sup>1</sup> 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.<sup>2</sup> Although the United States Supreme Court held that his transfer

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<sup>1</sup> 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](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>2</sup> 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.<sup>3</sup>

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.”<sup>4</sup>

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.

Our only objection to SD2 is that it changes the effective date to July 1, 2050. 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.

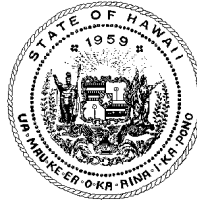
Thank you for the opportunity to provide testimony in this matter.

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<sup>3</sup> Id. at 252-53 (Marshall, J. dissenting).

<sup>4</sup> 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](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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

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

by  
Max N. Otani, Director

House Committee on Corrections, Military, & 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) 1243, Senate Draft (SD) 2 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 February 28, 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, programming 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 2 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 2 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: 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					
<b>TOTAL</b>	<b>2491</b>	<b>3527</b>	<b>3090</b>	<b>2683</b>	<b>407</b>	<b>811</b>	<b>146</b>	<b>167</b>	<b>34</b>	<b>41</b>	<b>7</b>	<b>714</b>	<b>89</b>	<b>73</b>	<b>15</b>	<b>7</b>	<b>1</b>	<b>626</b>	<b>68</b>	<b>244</b>	<b>47</b>		

	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. <sup>1</sup>	5	5	0					1		1		1								2
<b>TOTAL</b>	<b>1004</b>	<b>1004</b>	<b>0</b>	<b>956</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>43</b>	<b>0</b>	<b>2</b>	<b>0</b>

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					
<b>MAINLAND</b>			999	999	0	956												43					
<b>TOTAL</b>	<b>2491</b>	<b>3527</b>	<b>4153</b>	<b>3716</b>	<b>437</b>	<b>1780</b>	<b>172</b>	<b>171</b>	<b>36</b>	<b>46</b>	<b>7</b>	<b>716</b>	<b>89</b>	<b>74</b>	<b>15</b>	<b>10</b>	<b>1</b>	<b>672</b>	<b>70</b>	<b>247</b>	<b>47</b>		



## SB1243 SD2

RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES  
Ke Kōmike Hale o nā mea Pa‘ahao, ke Kuleana Pū‘ali Koa, a me Nā Koa Kahiko  
House Committee on Corrections, Military, & Veterans

Malaki 17, 2021

10:30 a.m.

Lumi 430

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1243 SD2, 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.<sup>i</sup> Connection with ‘ohana, community, ‘āina, and mo‘omeheu (culture) are critical to Native Hawaiian physical and emotional well-being; severing these ties disconnects pa‘ahao from their identity, resiliency, and motivation to rehabilitate, and overburdens the already challenging process of reuniting with their families, reentering employment, and reintegrating into their communities. The NHJTF recommended that pa‘ahao incarcerated on the Continent be brought home as soon as practicable, and that the state pass legislation to prohibit the future use of for-profit correctional facilities.<sup>ii</sup> The HCR85 (2016) Task Force on Prison Reform, in its 2018 report, echoed this call.<sup>iii</sup> **Accordingly, by phasing out the State’s use of private prison facilities such as those used to house pa‘ahao out-of-state, this measure will facilitate the return of pa‘ahao incarcerated on**



**the continent, and reduce the impact of this practice on Native Hawaiian pa‘ahao and their communities.**

**Moreover, this measure will encourage the development and implementation of long-awaited policy solutions that can reduce the myriad costs of our current criminal justice system, without compromising public safety.** SB1243 SD2 would appropriately vest in HCSOC the authority to approve any future jail or prison construction, as originally contemplated in the HCSOC’s formation. The establishment of HCSOC was originally proposed by the HCR85 Task Force to provide independent oversight to the state administration of corrections, and to plan for and guide the transformation of our correctional system from a punitive to a rehabilitative model, thereby reducing recidivism as well as our incarcerated population.<sup>iv</sup> Despite its mission and expertise,<sup>v</sup> 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.<sup>vi</sup> **By requiring HCSOC’s approval on any future expansion or new construction of a jail or prison, SB1243 SD2 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 Committee to **PASS** SB1243 SD2. Mahalo for the opportunity to testify on this important measure.

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<sup>i</sup> OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT 28-29 (2012), available at [http://www.oha.org/wp-content/uploads/2012NHJTF\\_REPORT\\_FINAL\\_0.pdf](http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).

<sup>ii</sup> *Id.* at 29.

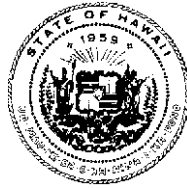
<sup>iii</sup> CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAI‘I LEGISLATURE, 2019 REGULAR SESSION 33, 57 (2018) available at [https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform\\_Final-Report\\_12.28.18.pdf](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>iv</sup> *Id.* at 34-39.

<sup>v</sup> 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/>.

<sup>vi</sup> 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, HAWAI‘I 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



MARK PATTERSON  
CHAIR

COMMISSIONERS  
JUDGE MICHAEL A. TOWN  
(ret.)  
JUDGE RONALD IBARRA  
(ret.)  
TED SAKAI  
MARTHA TORNEY

**STATE OF HAWAII  
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

March 17 , 2021

TO: Honorable Representative Takashi Ohno  
House Corrections, Military, & Veterans Committee.

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

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

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

PUPOSE: The purposes of this bill are to phase out the use of private prisons to  
house inmates; and to require that the Department of Public safety obtain the approval of the  
HCSOC before constructing any new correctional facility or expanding any existing correctional  
facility.

As you are aware, the Hawaii Corrections System Oversight Commission was created by  
Act 179 SLH 2019 as a means of providing “independent oversight of the State’s correctional  
system.” This legislation was a result, at least in part, of recommendations made by a Task  
Force convened by the Chief Justice of the Supreme Court pursuant to House Concurrent  
Resolution 85, adopted in 2016 in response to concerns expressed regarding the operation and  
direction of Hawaii’s correctional system.

The Commission is specifically empowered by Act 179 to:

- (1) Oversee the State’s correctional system and have jurisdiction over investigating  
complaints at correctional facilities and facilitating a correctional system transition  
to a rehabilitative and therapeutic model;
- (2) Establish maximum inmate population limits for each correctional facility and  
formulate policies and procedures to prevent the inmate population from exceeding  
the capacity of each correctional facility;
- (3) Work with the Department of Public Safety in monitoring and reviewing the  
comprehensive offender reentry system;

- (4) Ensure that the comprehensive offender reentry system under Chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole . . . .

The Commission concurs with the notion to reduce and eventually eliminate our State's reliance on private prison beds to resolve our chronic overcrowding problems. Hawaii first contracted with private prison companies to house our inmates on the mainland in 1995 as a temporary measure. It is time to develop the programs and processes needed to bring the inmates home. We believe that the four-year timeline established in this bill is reasonable, so long as the Department of Public Safety (PSD) and other criminal justice agencies actively engage with community partners to transition to a rehabilitative and therapeutic correctional system.

The Commission also supports the provision in this bill that would require that PSD obtain our approval before constructing any new correctional facility or expanding any existing correctional facility. This function would fit into our basic mission, which involves oversight of the correctional system in Hawaii for the purpose of helping it transition to a rehabilitative and therapeutic model. However, we again note that we have been operating without funding, and ask that the Legislature consider providing us with the necessary resources so that we can effectively perform our important functions.

# COMMUNITY ALLIANCE ON PRISONS

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

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



## COMMITTEE ON CORRECTIONS, MILITARY & VETERANS

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021

10:30 AM

### **STRONG SUPPORT FOR SB 1243 SD2 PHASE OUT CORPORATE CAGE CONTRACTS**

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 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 beginning in July 1, 2022 and by June 30, 2025 no person shall be banished to a corporate for-profit prison. 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. The state allowed this to happen.

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. CCA denied this young man's request. I don't know if this young man's denial 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 and our own data 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 reductions 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 programs and services to divert people from incarceration.***

***FUND real 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 gotten us overcrowded jails and prisons, the reputation as one of the meanest states in addressing unsheltered people, and a populace who are convinced that tourists matter more than their families.

The Commission will solicit broad community input and their collective wisdom and experience should help inform the next steps. Please stop the 'planning' now and allow the Oversight Commission to engage the community.

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 Commissioners before we waste more money enriching consultants. \$10.4 million could have addressed some of the pressing needs that paved the pathways to incarceration for too many people already struggling daily with a myriad of unmet needs.

Mahalo for this opportunity to testify.



**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 1243 SD2 - RELATING TO THE PHASEOUT OF PRIVATE  
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** SB1243 SD2, 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.

**UNITED PUBLIC WORKERS  
AFSCME Local 646, AFL-CIO**





Hawai'i

Committees: Committee on Corrections, Military, & Veterans  
Hearing Date/Time: Wednesday, March 17, 2021, 10:30 a.m.  
Place: Via videoconference  
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 1243, S.D.2, Relating to the Phaseout of Private Correctional Facilities

Dear Chair Ohno, Vice Chair Ganaden, and committee members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of S.B. 1243, S.D.2**, 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.<sup>1</sup> 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."<sup>2</sup> On the contrary, it may cost the State *more* to incarcerate inmates in private prisons than in state-

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<sup>1</sup> 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>.

<sup>2</sup> *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Report No. 10-10, December 2010, <https://files.hawaii.gov/auditor/Reports/2010/10-10.pdf>.



run facilities.<sup>3</sup> This is despite private prisons’ tendency to cherry pick their prisoners, often choosing the least expensive inmates to incarcerate.<sup>4</sup> 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,<sup>5</sup> 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.<sup>6</sup> Shipping people to Arizona to serve their sentence is counterproductive to the reentry process and harmful to long-term prospects for sustainable reintegration of formerly incarcerated individuals into society. S.B. 1243, S.D. 2 offers a positive step forward to reunite these families and repair the harm done by the criminal legal system.

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

- (1) Overseeing the State’s correctional system, investigating complaints at correctional facilities, and facilitating a correctional system transition to a rehabilitative and therapeutic model;

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<sup>3</sup> 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](https://money.cnn.com/2010/08/17/news/economy/private_prisons_economic_impact.fortune/index.htm).

<sup>4</sup> 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>.

<sup>5</sup> 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>.

<sup>6</sup> 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/>.

- (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.

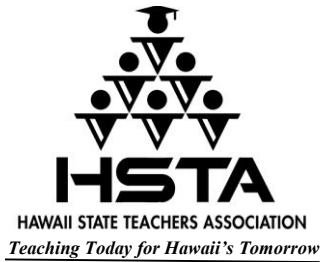
It aligns with the purview and expertise of the Commission to make this decision. For these reasons, we request that the Committee support this measure. Thank you for the opportunity to testify.

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.*



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TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
CORRECTIONS, MILITARY & VETERANS

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

WEDNESDAY, MARCH 17, 2021

WILBERT HOLCK, EXECUTIVE DIRECTOR  
HAWAII STATE TEACHERS ASSOCIATION

Chair Ohno and Members of the Committee:

The Hawaii State Teachers Association **strongly supports SB 1275, SD2**, relating to phasing out private correctional facilities. This bill requires the State to phase out the use of private correctional facilities to incarcerate Hawaii inmates. Prohibits the construction of new correctional facilities or the expansion of existing correctional facilities without the approval of the Hawaii correctional system oversight commission. Effective 7/1/2050. (SD2)

**We agree with the Native Hawaiian Justice Task Force Report in 2012 that recommended that returning prisoners to Hawai‘i should be a top priority, and that they should be returned “as soon as practicable, consistent with public safety.” Uprooting incarcerated people from their home and transferring them nearly 2,500 miles across the Pacific Ocean to a mainland facility and isolating them from their family is crushing.** As HGEA has stated, research has shown the severe adverse effects on inmates who reside in out-of-state contracted private, for-profit prisons and that lack of oversight and accountability hampers an inmate’s rehabilitation. The people of Hawaii should not be taken away from their families, their culture, their islands, as this stalls their rehabilitation and causes them to lose hope. They need to be able to see their families, talk with them, spend time with their children. We see how detrimental this is to their keiki in our schools. Taking away this simple humane necessity of being near their ‘ohana, and sending them thousands of miles away, further disenfranchises and isolates them and can gravely impact their children and families for generations.

**The Hawaii State Teachers Association also stands with UPW who are also opposed to initiatives that subsidize or otherwise encourage the sale or lease of public infrastructure to private investors that could result in private control or operation of public assets.** Research has shown the adverse effects on inmates who are incarcerated in out-of-state, private prisons and the shortfall of oversight and accountability at these facilities.

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

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



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

March 16, 2021

**TO: HOUSE COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS**  
**RE: Testimony in support of SB1243 SD2**

Dear Representatives,

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

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

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

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

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

Mahalo for the opportunity to testify,

Will Caron

Board President & Secretary, 2020–2021

[action@ypdahawaii.org](mailto:action@ypdahawaii.org)



**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  
House of Representatives  
Committee on Corrections, Military & Veterans

Testimony by  
Hawaii Government Employees Association

March 17, 2021

S.B. 1243, S.D.2 – 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.2 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.2 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.2.

Respectfully submitted,

Randy Perreira  
Executive Director

**SB-1243-SD-2**

Submitted on: 3/15/2021 11:00:22 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl B.	Individual	Support	No

Comments:

Support

Private corporations running prisons phase out needed.



TESTIMONY ON HB 1080:

Private companies are in business to make profit and to produce money for shareholders; whereas government exists for the betterment of society. So who is the better steward of an incarceration facility? In fact, who is better suited to look at the bigger picture of why people are incarcerated in the first place?

As a public servant, does not this question pray on your conscience? Do we really want to continue to jam people into prisons when it is clear that minorities and the economically depressed are disproportionately represented in prison populations? And in Hawaii, this tragically means a disproportionate number of Native Hawaiian people.

Of course, prisons are needed for some when a heinous crime has been committed or an individual is of great danger to the public. But the greater number of prisoners are there because of societal or economic factors that, if addressed and corrected, would result in these people never ending up in prison in the first place.

Are you motivated to create a better, more just society? Or are you willing to accede prison oversight to a company that makes more money by filling more beds? Rehabilitation is a threat to profit.

In a democratic society that values the social good, there are certain things that should never be consigned to the private, profit-motivated sector. The incarceration of human beings is one of them.

**SB-1243-SD-2**

Submitted on: 3/15/2021 11:31:39 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carolyn Eaton	Individual	Support	No

Comments:

Aloha, my name is Carolyn Eaton and I am an Oahu voter. I support this measure, SB 1243, SD 2.

Our Hawai'i will be a safer, more humane place if in the future we can end (phase out) the contracts the State has with corporate incarcerators.

Mahalo for holding the hearing and considering my testimony.

**SB-1243-SD-2**

Submitted on: 3/15/2021 2:15:08 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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. The use of private correctional facilities to incarcerate Hawai'i's citizens has had a devastating impact on our Hawai'i Community. It has been well documented that there has been a dramatic increase in incarcerated peoples in the United States (specifically of peoples of color) in the private prison era. We in Hawai'i are no exception to this phenomenon.

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.

In addition, the exporting of our Kanaka Maoli and local sons and fathers to prisons beyond Hawai'i has caused an intergenerational strain on the health and wellbeing of our families and communities and has made it nearly impossible for these families to maintain the proper relationships to support our incarcerated loved ones in their rehabilitation. This results in an increase in recidivism, further crowding our jails and prisons and resulting in further trauma to all our people.

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 MÄ• noa  
2424 Maile Way, Saunders  
Honolulu, HI 96822

**SB-1243-SD-2**

Submitted on: 3/15/2021 3:12:53 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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-2**

Submitted on: 3/15/2021 4:03:42 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ivy Hsu	Individual	Support	No

Comments:

Aloha e Committee Chair and Members,

As a resident of Kaka`ako and a public educator in Kalihi, I am writing in support of this bill to phase out the use of private correctional facilities to incarcerate Hawaii inmates, and prohibits the construction/expansion of such facilities on new land without oversight. This would be just one more step towards positive criminal justice reform and a more restorative approach that will positively impact our poorer communities.

**SB-1243-SD-2**

Submitted on: 3/15/2021 6:02:45 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benjamin Sadoski	Individual	Support	No

Comments:

I strongly support SB1243 SD2 to end the State's use of private prisons. Regardless of what any private prison company is or is not doing, running prisons for profit creates perverse incentives to increase prison populations, spend as little money as possible on programs, necessities, health, etc. for those in prison, to suppress information that could reflect negatively on the contractor, and to try to use prison labor for private profit. Ultimately, the problems with the private prison industry are fundamental. Please vote yes.



**SB-1243-SD-2**

Submitted on: 3/15/2021 7:12:04 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo. I come from Papakālea, O'ahu currently residing in Māhili. I'm writing in support of SB1243.

I support that the state phase out the use of private correctional facilities to incarcerate Hawai'i inmates, and prohibits the construction and expansion of new and existing correctional facilities without the approval of the Hawai'i correctional system oversight commission.

Support SB1243.

me ke aloha 'Āina,

Nanea Lo

**SB-1243-SD-2**

Submitted on: 3/15/2021 8:19:05 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Strong support.

**SB-1243-SD-2**

Submitted on: 3/15/2021 8:35:41 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
donn viviani	Individual	Support	No

Comments:

I support SB1243. The purpose of incarceration is both punishment and rehabilitation. Incarceration is punitive. Making family visit essentially impossible hinders rehabilitation. It's important for rehabilitation to allow family visits for inmates with roots in the community.

Donn Viviani, Mahalo

**SB-1243-SD-2**

Submitted on: 3/15/2021 8:59:16 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Sue Haglund	Individual	Support	No

Comments:

I stand in strong support of this measure. The state needs to invest in our communities in ways to increase community programs and services to divert people from incarceration and fund real training programs, create partnerships with unions, incentivize educational opportunities in the areas most impacted by incarceration.

TO: COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS  
FROM: Wendy Gibson-Viviani RN/BSN  
RE: In Support of SB1243 SD2  
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.

My husband points out that: The purpose of incarceration is both punishment and rehabilitation. Incarceration is punitive. Making family visits essentially impossible hinders rehabilitation. It's important for rehabilitation to allow family visits for inmates with roots in the community. I agree.

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

- REDUCE the populations of our prisons now, so we will have space to bring our people home.
- INCREASE community programs and services to divert people from incarceration (such as the LEAD Program).
- FUND real training programs, create partnerships with unions, incentivize educational opportunities in the areas most impacted by incarceration.

Please support passage of SB1243 SD2. Thank you for the opportunity to provide testimony.

Wendy Gibson-Viviani RN/BSN  
Cannabis Nurse Educator  
Kailua

**SB-1243-SD-2**

Submitted on: 3/16/2021 2:19:55 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alexander Quach	Individual	Support	No

Comments:

Representative Takashi Ohno

Representative Sonny Ganaden

COMMITTEE ON Corrections, Military, & Veterans

Tuesday, March 16, 2021

Support for SB1243 SD2, Relating to the Phaseout of Private Correctional Facilities

I am a social work student and employee at an adolescent sexual abuse treatment facility. I strongly support SB1243 SD2, relating to the Phaseout of Private Correctional Facilities, which will attempt to maintain inmates' local support networks and aid their acclimation to society after incarceration.

Family networks instill a sense of belonging, rigidity, structure, and guidance. In addition, the family can provide incentives for prisoners to change their ways and learn other forms of behavior. Inmates who have relocated thousands of miles away to private correctional facilities often lack this essential part of their lives. Therefore, when they are finished serving their sentence, they are placed back into a society that they no longer have a part in with no support to fall back into. This will further their likelihood of utilizing the only skills that they know best, the ones that originally got them in trouble.

By allowing inmates to remain on the same island as their positive support networks, they may be more proactive to adjust their thought processes and change. Therefore, I urge the committee to pass SB1243 SD2. Thank you for this opportunity to testify.

March 16, 2021

Chair Takashi Ohno  
House Committee on Corrections, Military, & Veterans  
Hawaii State Capitol  
415 South Beretania St.  
Honolulu, HI 96813

RE: The Sentencing Project Supports S.B. 1243

Dear Chairperson Ohno:

The Sentencing Project is a national research and advocacy organization based in Washington, DC that works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy, addressing unjust racial disparities and practices, and advocating for restoration of rights for people with criminal records. As the Director of Advocacy, my portfolio is state based and I have published reports and worked with advocates in several states including Arkansas, Texas, Nebraska and Missouri on sentencing code reforms that have achieved prison population reductions and collateral consequences.

### **NATIONAL OVERVIEW**

Senate Bill 1243 is a critical step in the right direction for this committee to be considering. The legislation phases out the use of private correctional facilities and prohibits the construction or expansion of correctional facilities without the approval of the Hawaii correctional system oversight commission.

The reliance on for-profit prison companies to meet prison capacity demands results from policy priorities adopted during the 1970s and 1980s. The War on Drugs and harsher sentencing policies including mandatory minimum sentences, led to a dramatic expansion of the nation's prison population. The resulting burden on the public sector led private companies to meet demand in the 1970s to operate halfway houses.

The United States has the world's largest private prison population. Of the 1.4 million people in state and federal prisons in 2019, 8 percent, or 115,954, were incarcerated in private prisons.<sup>1</sup> That same year, Hawaii reported that 1,248 persons were in for-profit prisons, a growth of 23.6% since 2000.<sup>2</sup> S.B. 1243 Hawaii lawmakers have an opportunity to phase out for profit prison contracts. During 2019, at least 19 other states<sup>3</sup> did not contract with private prison companies.

### **QUALITY AND SAFETY CONCERNS**

In recent years, elected officials at various levels of government have considered similar proposals. These policy initiatives are animated by outcomes of prison privatization and the lack of transparency when the function of corrections and public safety is outsourced to the private sector. Proponents of prison privatization project cost savings as a benefit of contracting correctional services. And many supporters of privatization believe that for profit companies are more efficient and effective.

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<sup>1</sup> Gotsch K. and Basti V (2018). Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons. Washington, DC: The Sentencing Project. Available online here: <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>

<sup>2</sup> Carson E. Ann, et. al (2020). Prisoners in 201. Washington, DC: The Bureau of Justice Statistics of the U.S. Department of Justice. Available online here: <https://www.bjs.gov/content/pub/pdf/p19.pdf>

<sup>3</sup> Ghandnoosh N. (2021). Private Prisons in the United States. Washington DC: The Sentencing Project. Available online here: <https://www.sentencingproject.org/publications/private-prisons-united-states/>

Yet, when it comes to corrections, the space between marketing and outcomes is centered on public safety and insuring that persons who are incarcerated for criminal code violations receive access to quality rehabilitation programming and services in order to achieve lower rates of recidivism or returns to prison following their reentry.

Those public safety goals are often hard to achieve in private prison facilities where the main objective is to maximize profits while receiving public monies limit spending as part of private prison agreements. Private prison managers often minimize costs by reducing labor expenditures, providing lower salaries, staff benefits, and professional advancement than publicly-run facilities.<sup>4</sup> Furthermore, private prison employees receive an average 58 hours less training than their publicly employed counterparts.<sup>5</sup> Consequently, there are higher employee turnover rates in private prisons than in publicly operated facilities.<sup>6</sup> If containing costs is a goal, advancing practical solutions to achieve prison population reductions can result in correctional savings.<sup>7</sup>

These conditions may contribute to security and safety issues within private prisons. Federal researchers have documented higher rates of escape and contraband violations in private prisons.<sup>8</sup> Studies indicate that assaults in private prisons can occur at double the rate of public facilities and “privately operated prisons appear to have systemic problems in maintaining secure facilities.”<sup>9,10</sup> In addition, a national survey of private prisons for the U.S. Department of Justice found that private prison staff are assaulted by prisoners at a rate 49% higher than the rate of assault experienced by staff in public facilities.<sup>11</sup> Moreover, private prison companies have been cited for endangering inmates by providing inadequate healthcare services.<sup>12</sup>

To address these elected officials in several jurisdictions have taken steps to phase out their jurisdictional practice of contracting with private prison companies or terminate contracts altogether. The practice gained attention during the last year of the Obama administration when officials announced plans to phase out the use of private for-profit prisons. During the first few months, of the Biden administration, officials have announced a new commitment to phase out for private prisons at the federal level.

## STATE TRENDS IN PRISON PRIVATIZATION

State policymakers in a few states have taken steps to eliminate or restrict the ability to contract with for profit prison companies. Texas lawmakers chose not to renew two private prison contracts in 2013 due to reductions in the state’s prison population.<sup>13</sup> North Carolina canceled two contracts with the Corrections Corporation of America (CCA) due to concerns about the company’s failure to meet contract requirements and banned the practice of bringing in prisoners from out of state. California instituted a similar ban and

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<sup>4</sup> Mason, Cody. (2011). Too Good to be True: Private Prisons in America. Washington, D.C.: The Sentencing Project. Available online here: [http://sentencingproject.org/doc/publications/inc\\_Too\\_Good\\_to\\_be\\_True.pdf](http://sentencingproject.org/doc/publications/inc_Too_Good_to_be_True.pdf)

<sup>5</sup> Blakely, C.R. & Bumphus, V.W. (2004). Private and public sector prisons—a comparison of select characteristics. Federal Probation, 68(1), 27-31. Available online here: [www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2004-06/prisons.html](http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2004-06/prisons.html)

<sup>6</sup> Camp, S.D. & Gaes, G.G. (2001). Growth and quality of U.S. private prisons: Evidence from a national survey. Washington, D.C.: Federal Bureau of Prisons, Office of Research and Evaluation. Available online here: [http://www.bop.gov/news/research\\_projects/published\\_reports/pub\\_vs\\_priv/oreprres\\_note.pdf](http://www.bop.gov/news/research_projects/published_reports/pub_vs_priv/oreprres_note.pdf)

<sup>7</sup> Ghandoosh, N (2016). U.S. Prison Population Trends 1999-2014: Broad Variation Among States in Recent Years. Washington, D.C.: The Sentencing Project. Available online here: <http://www.sentencingproject.org/publications/u-s-prison-population-trends-1999-2014-broad-variation-among-states-in-recent-years/>

<sup>8</sup> Supra note 11.

<sup>9</sup> Blakely, C.R. & Bumphus, V.W. (2004). Private and public sector prisons—a comparison of select characteristics. Federal Probation, 68(1), 27-33. Available online here: [www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2004-06/prisons.html](http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2004-06/prisons.html)

<sup>10</sup> Camp, S.D. & Gaes, G.G. (2001). Growth and quality of U.S. private prisons: Evidence from a national survey. Washington, D.C.: Federal Bureau of Prisons, Office of Research and Evaluation. Available online here: [http://www.bop.gov/news/research\\_projects/published\\_reports/pub\\_vs\\_priv/oreprres\\_note.pdf](http://www.bop.gov/news/research_projects/published_reports/pub_vs_priv/oreprres_note.pdf)

<sup>11</sup> Austin, James Ph.D. & Coventry, Garry Ph.D. (2001). Emerging Issues on Privatized Prisons. Washington, D.C.: Bureau of Justice Assistance. Available online here: <https://www.ncjrs.gov/pdffiles1/bja/181249.pdf>

<sup>12</sup> Mattered, P., Khan, M., & Nathan, S. (2003). Corrections Corporation of America: A critical look at its first twenty years. Charlotte, North Carolina: Grassroots Leadership. Available online here: <http://www.grassrootsleadership.org/publications/CCAAnniversaryReport.pdf>

<sup>13</sup> Toland, Case (2016). The largest chapter of the Texas prison guard union supports closing private prisons. Fusion. Available online here: <http://fusion.net/the-largest-chapter-of-the-texas-prison-guard-union-sup-1793861401>



Arkansas ended two contracts with Wackenhut (GEO Group) in 2001.<sup>14</sup> Mississippi cancelled all of GEO Group's private prison contracts.<sup>15</sup> Additionally, California, New Hampshire<sup>16</sup>, Vermont<sup>17</sup> Minnesota<sup>18</sup> and Washington have considered legislation similar to S.B. 1243, which indicates that those states are aware of the problematic nature of contracting with private, for-profit prison companies.

Jurisdictions that have been able to scale back their contracts with for profit prison companies have done so because of prison population declines or other factors. In recent years states like Colorado, Mississippi, Kentucky, and Texas have closed privately owned or managed prisons.

It is practical to achieve substantial rates of decline. Forty-two states experienced decreases in their prison population. The federal prison population downsized by 20% relative to its peak level in 2011.<sup>19</sup> Hawaii is among nine states have made significant progress in curbing mass incarceration by decarcerating 30% or more since reaching their peak imprisonment levels. Other states include: Alaska, New Jersey, New York, Connecticut, Alabama, Rhode Island, Vermont, and California.<sup>20</sup>

States that have closed public and private prisons are exploring new opportunities in economic development with a goal of maintaining public safety. Since 2016, at least 22 states have closed or announced closures for 94 state prisons and juvenile facilities, resulting in the elimination of over 48,000 state prison beds and an estimated cost savings of over \$345 million. The opportunity to downsize prison bed space has been brought about by declines in state prison populations as well as increasing challenges of managing older facilities. Reduced capacity has created the opportunity to repurpose closed prisons for a range of uses outside of the correctional system, including a movie studio, a distillery, and urban redevelopment.<sup>21</sup>

## CONCLUSION

The Sentencing Project encourages members of the House Committee on Corrections, Military, & Veterans to vote in favor of S.B. 1243. The legislation moves the state in the right direction by codifying into statute the practice of not contracting with for-profit prison companies. Based on our observation of privatization's failures in other states, we believe Hawaii would be better off pursuing prison population reductions through conscious efforts while promoting cost-effective approaches to public safety.

Sincerely,



Nicole D. Porter

cc: House Committee on Corrections, Military, & Veterans

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<sup>14</sup> Mason, C. (2012). *Too Good To Be True: Private Prisons in America*. Washington, DC: The Sentencing Project. Available online here: [http://sentencingproject.org/doc/publications/inc\\_Too\\_Good\\_to\\_be\\_True.pdf](http://sentencingproject.org/doc/publications/inc_Too_Good_to_be_True.pdf)

<sup>15</sup> Staff, "Management of EMCF Changing," *The Associated Press*. April 20, 2012. Available online here: [http://www.wtok.com/news/headlines/Management\\_of\\_EMCF\\_Changing\\_148267055.html?ref=055](http://www.wtok.com/news/headlines/Management_of_EMCF_Changing_148267055.html?ref=055)

<sup>16</sup> An Act prohibiting prison privatization.. 2013 New Hampshire Legislature. Introduced January 2013. Available online here: [http://gencourt.state.nh.us/bill\\_status/bill\\_status.aspx?sr=653&sy=2013&sortoption=&txtsessionyear=2013&q=1](http://gencourt.state.nh.us/bill_status/bill_status.aspx?sr=653&sy=2013&sortoption=&txtsessionyear=2013&q=1)

<sup>17</sup> An Act Relating to Transferring Inmates to Out of State Correctional Facilities. 2013 Vermont Legislature. Introduced January 2013. Available online here: <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-028.pdf>

<sup>18</sup> An Act Relative to Publicly Owned and Operated Jails and Prisons. 2013 Minnesota Legislature. Introduced February 20, 2013. Available online here: <https://www.revisor.mn.gov/bin/bldbill.php?bill=H0743.0.html&session=ls88>

<sup>19</sup> This figure is based on the number of people serving sentences longer than one year. The Bureau of Prisons reports that the total population under its jurisdiction decreased by 29% between peak year 2013 and October 1, 2020. This followed a nearly 800% increase in the federal prison population since 1980.

<sup>20</sup> Alaska and Alabama are poised to reverse some of this progress. Prompted by its governor, in 2019 Alaska's state legislature repealed several aspects of a major criminal justice overhaul, Senate Bill 91. Alabama's prison population increased by 6% between September 2018 and January 2020, and recent changes in the state's parole policies and practices are poised to further undo the state's decarceration.

<sup>21</sup> Porter, N. (2016). *Repurposing: New Beginnings for Closed Prisons*. Washington, DC: The Sentencing Project. Available online: <https://www.sentencingproject.org/wp-content/uploads/2016/12/Repurposing-New-Beginnings-for-Closed-Prisons.pdf>

**SB-1243-SD-2**

Submitted on: 3/16/2021 9:32:54 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Polk	Individual	Support	No

Comments:

Chair Ohno and Vice Chair Ganaden,

I write in strong support of SB1243 that would require the State to phase out the use of private prisons and prohibit new construction of correctional facilities without the approval of the Hawaii Correctional System Oversight Commission. Private facilities have removed Hawaii prisoners from effective monitoring by the State. It is a further punishment to remove people from their families. In addition, it is shameful for profit making entities to make their money off of those who are weak. The desire for greater profit inevitably leads to skimping on corners to the disadvantage of those in their care. We must close them down.

We now have a correctional oversight commission that provides the eyes of the public on the operations of DPS. Making them responsible for reviewing and approving any changes in correctional facilities is necessary to ensure that new facilities carry out the kinds of changes that are going on throughout the mainland in the treatment of incarcerated individuals. Without that oversight, facilities that are failing us now and are a throwback to the beginning of the last century will be built, to the disadvantage of our State.

Please pass SB1243.

**SB-1243-SD-2**

Submitted on: 3/16/2021 6:29:51 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Courtney Mrowczynski	Individual	Support	No

Comments:

I strongly **SUPPORT** SB1243 SD2. We do not need the privatization of prisons! It does more harm than good. We need to decarcerate and bring our people from Saguaro back to Hawai`i. We need to increase community programs and services to divert people away from incarceration and towards the services they truly need.

**SB-1243-SD-2**

Submitted on: 3/16/2021 9:41:10 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Imari Olipani	Individual	Support	No

Comments:

Hawaii's recidivism rate goes to show just how inefficient private prisons are. What is needed as an alternative to prisons is for the state to start investing in our communities to provide mental health services and rehabilitation programs. This investment has been proven to reduce the recidivism and crime rates for cities and states that pushed for a phaseout of private prisons within their own. Moreover, funding for private prisons actually costs more than simply reallocating those funds to invests in our communities instead.

Corrections, Military and Veterans  
Rep. Takashi Ohno, Chair  
Rep. Sonny Ganaden, Vice Chair  
**Wed, March 17, 2021- 10:30AM**

RE: Support SB1243 SD2 RELATING TO THE PHASEOUT OF PRIVATE CORRECTIONAL FACILITIES

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

My name is Carrie Ann Shirota, and I am writing in support of SB1243 SD2 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 Hawaii'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 Reimagining 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.

Reimagining public safety requires us to create, invest and sustain institutions, policies and programs that meet the needs of our community to divert and significantly reduce the number of youth and adults in our criminal legal system. We need to create a system of Restorative Justice, which aligns the traditional concept of pu'u honua, 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 SD2.

Sincerely,

*Carrie Ann Shirota*

Carrie Ann Shirota, Esq.  
[cashiota808@gmail.com](mailto:cashiota808@gmail.com)  
Honolulu, Hawaii