

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PRISONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there has been an
2 increase in the State's incarcerated population. In 1995,
3 Hawaii's inmate population totaled 3,583 persons and by 2014,
4 the incarcerated population increased to 5,532 persons. The
5 reasons for the incarcerated population increase, according to
6 renowned criminologist, Jeremy Travis, are long sentences,
7 sentencing for drug law violations, and mandatory minimum
8 sentencing that arose out of the "tough on crime" era. Research
9 from The Pew Charitable Trusts found that between 1994 and 2012,
10 Hawaii's crime rate dropped 50 per cent, yet the incarceration
11 rate increased 36 per cent.

12 There is a growing concern regarding the maintenance of
13 safe correctional facilities and the successful reintegration of
14 previously incarcerated individuals into the community. Despite
15 the massive expenditure of taxes and the department of public
16 safety's mandate to operate humane and safe correctional
17 facilities, there is little oversight of these facilities.



1 The legislature further finds that decades of research and
2 experience demonstrate that all public institutions, from
3 schools to hospitals, benefit from independent, external
4 oversight. Independent oversight is a proven mechanism for
5 identifying and addressing issues before they lead to expensive
6 litigation, media scandals, or other human and fiscal costs.
7 Independent oversight results in significant cost savings
8 through improved operational efficiencies. Furthermore, the
9 public deserves accountability and transparency that is readily
10 achieved through independent oversight.

11 The legislature additionally finds that there are a number
12 of states that have established independent oversight committees
13 to ensure public and private facilities that confine individuals
14 for alleged or adjudicated crimes meet their legal obligation to
15 ensure constitutional conditions of confinement. The June 2006
16 Commission on Safety and Abuse in America's Prisons report calls
17 for oversight and accountability of correctional facilities
18 through external oversight. Similarly, in August 2008, the
19 American Bar Association approved a policy recommendation
20 requesting federal and state governments to establish public
21 entities independent of any correctional agency to regularly



1 monitor and report publicly on the conditions in all
2 correctional facilities.

3 The purpose of this Act is to ensure that the State's
4 correctional facilities comply with federal and state laws and
5 to achieve transparency and accountability in the operation of
6 safe and humane correctional facilities by establishing an
7 independent prison oversight committee to monitor and report on
8 the conditions of correctional facilities and inmate treatment;
9 and expanding visitation access to correctional facilities to
10 include prison oversight committee members.

11 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
12 amended by adding a new section to part I to be appropriated
13 designated and to read as follows:

14 "§353- Prison oversight committee. (a) There is
15 established a prison oversight committee, independent of the
16 department, to monitor the conditions of confinement at all
17 state correctional facilities.

18 (b) The prison oversight committee shall consist of seven
19 members as follows:



1 (1) One chair and one vice-chair of each of the senate and
2 house of representatives committees with primary
3 jurisdiction over public safety;

4 (2) A member with significant criminal justice or
5 correctional experience, to be appointed by the
6 president of the University of Hawaii system; and

7 (3) Two members, one of whom shall be a former inmate of a
8 correctional facility, shall be appointed by the
9 governor.

10 (c) The prison oversight committee shall:

11 (1) Conduct unannounced visits to state correctional
12 facilities, so long as at least three committee
13 members are present for the visit, one of whom shall
14 be the chair of either the senate or house of
15 representatives committee with primary jurisdiction
16 over public safety;

17 (2) Investigate the conditions of all state correctional
18 facilities, including confinement areas, and issue
19 reports of findings and recommendations;

20 (3) Have unfettered and confidential access to state
21 correctional facilities, inmates, staff, documents,



1 and materials to holistically evaluate the treatment
2 of inmates through observations, interviews, surveys,
3 and the gathering of information from statistics and
4 performance-based outcome measures; and

5 (4) Investigate, if necessary, any past wrongdoing related
6 to a state correctional facility to alleviate future
7 problems and exercise subpoena powers, as needed, in
8 its investigations.

9 (d) Following any visit to a state correctional facility
10 by the committee, the committee shall provide a visitor report
11 with findings and recommendations to the governor, senate
12 president, speaker of the house of representatives, and the
13 department. The committee shall have discretion regarding the
14 release of a visitor report to any additional people or the
15 public.

16 (e) The members of the committee shall serve without
17 compensation but shall be reimbursed for expenses necessary in
18 the performance of their duties."

19 SECTION 3. Section 353-29, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§353-29 What officials may visit[-]; temporary visitation
2 denial; interviews. (a) The governor, lieutenant governor,
3 attorney general, director of finance, director of health,
4 comptroller, judges of all state courts, the ombudsman, the
5 mayors of the counties, members of the legislature, members of
6 the prison oversight committee, and members of county councils
7 shall be allowed at suitable hours on any day to visit any state
8 correctional facility.

9 (b) If correctional facility personnel are of the opinion
10 that a visit would be dangerous for either the facility or the
11 visiting official and if the director has previously declared
12 that an emergency situation exists in the facility, entry and
13 visitation may be temporarily denied. If temporary denial of
14 entry and visitation exceeds seventy-two hours, the visiting
15 official may petition the court for a ruling requiring the
16 department to show just cause for the denial of visitation.

17 (c) Visiting officials may privately interview an inmate
18 confined in any state correctional facility and for that purpose
19 may enter the area in which the inmate is confined. If entry
20 into the area of confinement would be dangerous to the
21 discipline of the facility, the inmate shall be moved into



1 another designated area for the private interview between the
2 visiting official and the inmate.

3 (d) Visiting officials shall not be exempt from
4 prosecution for any criminal offense related to an official's
5 visit to a state correctional facility.

6 (e) If a visiting official violates this section, any
7 superintendent, warden, or official in charge of a state
8 correctional facility may seek a court ruling to deprive the
9 visiting official of all rights, privileges, and functions of
10 official."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14 INTRODUCED BY:

Will Lyne

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S.B. NO. 665

Report Title:

Public Safety; Prison Oversight Committee; Correctional Facility Visitation

Description:

Creates an independent prison oversight committee to monitor and report on the conditions of state correctional facilities, ensuring that the State's correctional facilities comply with federal and state laws and to achieve transparency and accountability in the operation of safe and humane correction facilities. Expands visitation access to correctional facilities to include prison oversight committee members. Authorizes temporary denials of visitation to visiting officials under certain conditions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

