

JAN 24 2018

---

# A BILL FOR AN ACT

---

RELATING TO CORRECTIONS.

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

1       SECTION 1. The legislature finds that correctional  
2 facilities, unlike other institutions, do not have a natural  
3 constituency to provide a broad range of oversight, invoking  
4 standards that are central to their concerns. For example,  
5 hospitals have to treat patients, and patients, in turn, have  
6 the ability to express concerns about their quality of care and  
7 insist on changes. Likewise, schools have the students and  
8 parent-teacher associations. Unfortunately, for the oversight  
9 of correctional facilities, there is no natural constituency.

10       The legislature finds that oversight of correctional  
11 facilities in the State is crucial to ensuring that incarcerated  
12 persons are treated humanely and with dignity. Routine and  
13 regular reviews of correctional facilities also allow  
14 potentially harmful and embarrassing problems to be identified  
15 early before major consequences are realized. Moreover,  
16 regular, but randomized monitoring of correctional facilities  
17 serves as an informal control over corrections staff behavior



1 and helps maintain high quality correctional services. In  
2 addition, proper oversight can help correctional facilities  
3 achieve greater transparency and enhanced effectiveness while  
4 accessing greater resources and new ideas. The legislature  
5 further finds that the only way to ensure proper oversight is  
6 through independent review of correctional facilities by an  
7 entity that is not associated with the corrections system.

8 Accordingly, the purpose of this Act is to establish the  
9 independent correctional oversight board, a public entity,  
10 independent of any correctional agency, to regularly inspect and  
11 publicly report on conditions in prisons, jails, and other  
12 correctional and detention facilities for adults and juveniles  
13 in Hawaii.

14 SECTION 2. Chapter 353, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "§353- Independent correctional oversight board. (a)  
18 There is established the independent correctional oversight  
19 board which shall operate independently of any agency or  
20 department operating or utilizing a correctional or detention  
21 facility in the State.



1        (b) The independent correctional oversight board shall  
2 consist of eleven members as follows, to be appointed by the  
3 governor as provided in section 26-34:

4        (1) One member to be nominated by the president of the  
5 senate;

6        (2) One member to be nominated by the speaker of the house  
7 of representatives;

8        (3) One member to be nominated by the chief justice;

9        (4) One member from a non-profit social service  
10 organization;

11       (5) One member who is an advocate for the incarcerated;

12       (6) One member who is a certified mental health  
13 professional;

14       (7) One member who is a certified substance abuse  
15 treatment professional;

16       (8) One member who is an education professional;

17       (9) One member from the faith community;

18       (10) One member who has formerly worked as corrections  
19 staff; and

20       (11) One member who shall be appointed and designated by  
21 the governor as the chairperson.



1       All members shall be appointed for a term of two years. No  
2 member shall serve concurrently as a member of the independent  
3 correctional oversight board and as an employee of the State.

4 Only appointed members shall serve on the independent  
5 correctional oversight board, and designees, delegates, or  
6 representatives shall not be permitted. The attorney general,  
7 director of public safety, deputy director of corrections,  
8 deputy director of administration, deputy director for law  
9 enforcement, prosecuting attorney for the city and county of  
10 Honolulu, or any one designee for each, may attend and  
11 participate in all meetings of the independent correctional  
12 oversight board as non voting members.

13       (c) The independent correctional oversight board shall  
14 have the authority to:

15       (1) Inspect or examine all aspects of a correctional  
16 facility's operations and conditions including but not  
17 limited to staff recruitment, training, supervision,  
18 discipline, inmate deaths, inmate medical and mental  
19 health care, use of force, inmate violence, conditions  
20 of confinement, inmate disciplinary processes, inmate  
21 grievance processes, substance abuse treatment,



1 educational, vocational, and other programming, and  
2 reentry planning;

3 (2) Use an array of means to gather and substantiate  
4 facts, including observations, interviews, surveys,  
5 document and record reviews, video and tape  
6 recordings, reports, statistics, and performance-based  
7 outcome measures;

8 (3) Work collaboratively and constructively with  
9 administrators, legislators, and others to improve a  
10 correctional facility's operations and conditions,  
11 where possible;

12 (4) Conduct scheduled and unannounced inspections of any  
13 part or all of a correctional facility at any time;  
14 provided that the correctional facility shall adopt  
15 procedures to ensure that unannounced inspections are  
16 conducted in a reasonable manner;

17 (5) Obtain and inspect any and all records, including  
18 inmate and personnel records, bearing on the  
19 correctional facility's operations or conditions;



1       (6) Conduct confidential interviews with any person,  
2           including line staff and inmates, concerning the  
3           correctional facility's operations and conditions;

4       (7) Hold public hearings;

5       (8) Subpoena witnesses and documents; and

6       (9) Require that witnesses testify under oath.

7       (d) Inspections conducted pursuant to subsection (c) shall  
8 examine whether committed persons are:

9       (1) Held in safety;

10       (2) Treated with respect for their human dignity;

11       (3) Able to engage in purposeful activity; and

12       (4) Prepared for resettlement back into the community.

13       (e) Following any inspection of a correctional facility  
14 under subsection (c), the independent correctional oversight  
15 board shall submit a report of its findings and any  
16 recommendations to the department and make the report available  
17 to the public.

18       (f) The department shall address all findings and  
19 recommendations made by the independent correctional oversight  
20 board pursuant to subsection (e), including whether the  
21 department accepts or rejects a recommendation of the



1 independent correctional oversight board, and how accepted  
2 recommendations will be implemented within sixty days or in a  
3 reasonable amount of time as determined by the independent  
4 correctional oversight board. The department shall make  
5 available to the public on a semi-annual basis a progress report  
6 detailing measures the department has taken to address any  
7 findings and recommendations of the independent correctional  
8 oversight board.

9 (g) To facilitate the independent correctional oversight  
10 board's authority under subsection (c), the department shall  
11 establish policies that:

12 (1) Enable correctional facility administrators, line  
13 staff, inmates, and others to transmit information  
14 confidentially to the independent correctional  
15 oversight board about the facility's operations and  
16 conditions;

17 (2) Ensure that adequate safeguards are in place to  
18 protect individuals who transmit information to the  
19 independent correctional oversight board from  
20 retaliation and threats of retaliation;



- 1        (3) Afford correctional facility administrators the  
2        opportunity to review reports submitted pursuant to  
3        subsection (e) and provide feedback about those  
4        reports to the independent correctional oversight  
5        board before the reports are made available to the  
6        public; provided that the release of any report to the  
7        public by the independent correctional oversight board  
8        is not subject to approval from any other entity or  
9        person;
- 10       (4) Ensure that reports submitted by the independent  
11       correctional oversight board apply legal requirements,  
12       requirements under this section, and other criteria to  
13       objectively and accurately review and assess a  
14       correctional facility's policies, procedures,  
15       programs, and practices;
- 16       (5) Review all reports submitted by the independent  
17       correctional oversight board, identify systemic  
18       problems and the reasons for the problems, and develop  
19       solutions; and
- 20       (6) Confirm that the independent correctional oversight  
21       board reports are made available to the public,





subject to reasonable privacy and security  
requirements as determined by the independent  
correctional oversight board."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:

Will Zero



# S.B. NO. 3054

**Report Title:**

Corrections; Independent Correctional Oversight Board

**Description:**

Establishes the independent correctional oversight board, a public entity, independent of any correctional agency, to regularly inspect and publicly report on conditions in prisons, jails, and other correctional and detention facilities for adults and juveniles in Hawaii.

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

