

**ACT 194**

H.B. NO. 2266

A Bill for an Act Relating to Corrections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that rape is a violent, destructive crime—no less so when the victim is incarcerated. Even as courts and human rights standards increasingly confirm that prisoners have the same fundamental rights to safety, dignity, and justice as individuals living at liberty in the community, vulnerable men, women, and children continue to be sexually victimized by other prisoners and corrections staff. Tolerance of sexual abuse of prisoners in the government’s custody is totally incompatible with American values.

The United States Congress affirmed the duty to protect incarcerated individuals from sexual abuse by unanimously enacting the Prison Rape Elimination Act of 2003. The Act called for the creation of a national commission to study the causes and consequences of sexual abuse in confinement and to

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develop standards for correctional facilities nationwide that would set in motion a process to eliminate prison rape.

The purpose of this Act is to establish policies and standards to provide appropriate treatment to victims of prison rape and to prevent the occurrence of prison rape.

**SECTION 2.** The department of public safety, to the best of the department's ability, shall address sexual assault in prison and make every effort to seek grant moneys from the federal government to implement those efforts. The department shall place priority upon establishing:

- (1) Appropriate counseling services for sexual assault, to be made available to victims of prison rape within twenty-four hours of the report of an assault; and
- (2) Policies and standards of transparency to achieve a zero-tolerance policy for sexual assault.

**SECTION 3.** The department of public safety, no later than twenty days prior to the convening of each regular session, shall annually report data to the legislature regarding:

- (1) Sexual assault by persons in custody against other persons in custody of the department of public safety;
- (2) Sexual assault by correctional staff against persons in custody of the department of public safety;
- (3) Non-criminal sexual misconduct by staff, including sexual harassment of persons in custody of the department of public safety;
- (4) Criminal cases initiated, and closed by dismissal, plea, or verdict, for sexual assaults by or upon a person in custody of the department of public safety; and
- (5) Civil claims filed and closed by dismissal, settlement, or verdict for sexual assaults by or upon a person in custody of the department of public safety.

**SECTION 4.** The department of public safety shall report to the legislature no later than twenty days prior to the convening of the regular session of 2011 on its efforts to implement the federal Prison Rape Elimination Act of 2003 in state correctional facilities under the department's jurisdiction, including those facilities under contract with the department.

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

(Became law on July 6, 2010, without the governor's signature, pursuant to Art. III, §16, State Constitution.)