

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2341

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2341, entitled "A Bill for an Act Relating to Public Safety."

The purpose of this bill is to require that all contracts between the State and a "nongovernmental entity" for the housing of Hawaii inmates out of state include a provision ordering contractors to allow access to information under chapter 92F, Hawaii Revised Statutes.

This bill is objectionable because it is unnecessary, unfair, and vague. It is unnecessary because information requested can be obtained and disclosed by and through the Department of Public Safety. Currently, information regarding out-of-state correctional facilities, such as audit reports, contracts, and corrective action plans, are online and accessible to the public via the Department of Public Safety's website. Moreover, printed copies are also available upon request.

This measure is unfair because no other contractor with the State is required to comply with chapter 92F, Hawaii Revised Statutes. Moreover, requiring private prison contractors to comply with information requests will create a chilling effect on competitive bidding and procurement, which could lead to increased costs for housing Hawaii's inmates. In the event no firms bid due to these requirements, some or all of the 2,300 inmates now located out-of-state might need to be returned to

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already overcrowded facilities in the State.

Finally, this measure is vague and ambiguous as to the information required to be disclosed, the basis for nondisclosure, the procedures that the contractor and requestor of information are to follow, and the entity responsible for handling disputes. Chapter 92F is drafted and defined in such a way that it applies to government records maintained by government agencies, and the Office of Information Practices' scope of authority does not include enforcement of contractual obligations. As a result, it is unclear how this bill can be implemented or enforced.

For the foregoing reasons, I am returning Senate Bill No. 2341 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii