

# SB 969

**Measure Title:**

RELATING TO RESTRICTED ACCESS TO CORRECTIONAL FACILITIES

**Report Title:**

Restricted Access to Correctional Facilities; Property Search

**Description:**

Permits the search of persons and vehicles entering state correctional facility grounds.

LINDA LINGLE  
GOVERNOR



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**TESTIMONY ON SENATE BILL 969  
RELATING TO RESTRICTED ACCESS TO CORRECTIONAL FACILITIES**  
by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety and Military Affairs  
Senator Will Espero, Chair  
Senator Robert Bunda, Vice Chair

Thursday, February 12, 2009, 1:15 PM  
State Capitol, Conference Room 229

Senator Espero, Senator Bunda, and Members of the Committee:

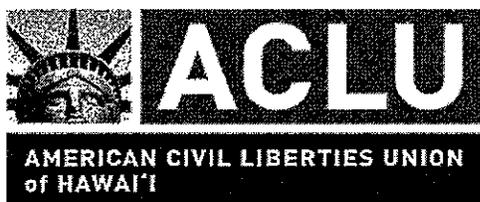
The Department of Public Safety (PSD) strongly supports Senate Bill 969. The measure seeks to provide access for correctional staff to search persons and vehicles that might be carrying weapons or contraband when they enter onto State correctional facility grounds.

Currently, correctional staff in PSD are not law enforcement personnel. Therefore, they do not have the authority to search any person or vehicle that may bring weapons or contraband on correctional facility grounds as law enforcement personnel do. There has been a history of contraband being introduced into correctional facilities in PSD, all of which were transported either by vehicle or by person. This bill will assist staff in combating the introduction of contraband and/or weapons, and more importantly assist staff in making the facilities safer and more secure for both staff and inmates.

The measure would also assist in the prosecution of anyone attempting to smuggle contraband into the facilities by clarifying that the person or vehicle consented to the search by entering on the grounds by statutory means.

Based on all the foregoing reasons, PSD strongly supports SB 969.

Thank you for this opportunity to provide testimony on this matter.



Via E-mail: PSMTestimony@capitol.hawaii.gov  
Committee: Committee on Public Safety and Military Affairs  
Hearing Date/Time: Thursday, February 12, 2008, 1:15 p.m.  
Place: Room 229  
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 969, Relating to Restricted Access to Correctional Facilities

Dear Chair Espero and Members of the Committee on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 969, which seeks to allow visitation to a correctional facility to be conditioned upon “a search for weapons or contraband[.]”

The ACLU of Hawaii does not dispute that corrections officers may conduct *limited* searches of prospective visitors to correctional institutions. Our concern with S.B. 969 is simply with the overbreadth and vagueness of the proposed language, because the bill does not define the scope of the searches or the circumstances under which different kinds of searches may be allowed. While corrections officers may be able to condition prison visits on passing through a metal detector, for example, they may not require visitors to “consent” to strip searches without reasonable suspicion that the prospective visitor possesses weapons and/or contraband. *See, e.g., Deserly v. Dep’t of Corrections*, 995 P.2d 972 (Mont. 2000) (collecting cases on prison visitation searches).

Furthermore, to avoid against arbitrary enforcement of visitor search rules (that is, to ensure that searches take place without regard to race, sex, or other protected classification), the Legislature should ensure that searches of prison visitors are consistent and that more invasive searches are based on objective criteria.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii 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 Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,  
Daniel M. Gluck  
Senior Staff Attorney

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