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# 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 a constructive  
2 example to correctional facility inmates of a civil and orderly  
3 process for resolving disputes is to create an effective system  
4 for the unbiased arbitration and resolution of their grievances  
5 against fellow inmates, employees, and members of the staff, and  
6 the policies, practices, or conditions of the prison or jail.

7           Fundamental fairness in prisons and jails extends to  
8 providing inmates with the opportunity to air and resolve  
9 grievances. Incarceration brings with it a sense of  
10 helplessness and loss of control over many aspects of an  
11 inmate's life. Inmates who are not provided with the means to  
12 voice and resolve complaints or concerns will likely get the  
13 staff's attention in a much less desirable manner. Unresolved  
14 grievances may lead to inmate disturbances and other disruptive  
15 behavior.

16           To be effective, the grievance process should be in writing  
17 and inmates should be fully informed of the process.



1 The internal affairs office conducts administrative,  
2 criminal, and civil investigations for the department of public  
3 safety. The office has full police powers when conducting and  
4 responding to investigations within the department. The 2003  
5 department of public safety annual report states that the  
6 internal affairs office workload is at maximum capacity.

7 At the Hawaii youth correctional facility, the  
8 administrator handles the disposition of grievances.

9 The purpose of this Act is to improve the quality of the  
10 grievance process in Hawaii's prisons and jails for incarcerated  
11 adult and juvenile offenders by establishing a community  
12 advisory panel to advise the department of public safety and the  
13 department of human services in handling grievances and appeals.

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-\_\_\_\_\_ Community advisory panel; grievances;**  
18 **establishment; procedures.** (a) A community advisory panel is  
19 established to advise the department of public safety and  
20 department of human services in the investigation and resolution  
21 of grievances filed by persons incarcerated at adult  
22 correctional facilities and youth correctional facilities. The



1 panel shall be within the department of the attorney general for  
2 administrative purposes.

3 (b) The community advisory panel shall consist of the  
4 following three members, who shall be independent of the  
5 department of public safety and department of human services, to  
6 be appointed by the governor as provided in section 26-34:

7 (1) One member from the general public;

8 (2) One member to be appointed from a list of nominees  
9 submitted by the president of the senate; and

10 (3) One member to be appointed from a list of nominees  
11 submitted by the speaker of the house of  
12 representatives.

13 (c) The panel shall convene at least quarterly to review  
14 grievances filed by Hawaii inmates involving health issues,  
15 civil rights violations, and repeated grievances against a  
16 particular staff member.

17 (d) The members of the panel shall serve without  
18 compensation, but shall be reimbursed for expenses, including  
19 travel expenses, necessary for the performance of their duties.

20 (e) Minutes of the panel's meetings shall be available for  
21 public review within the limits of the law and with names



1 redacted to protect the privacy of people named in the  
2 grievance.

3 (f) Training of the panel shall be conducted by the  
4 department of public safety and department of human services,  
5 including alternative dispute resolution.

6 (g) The department of public safety and department of  
7 human services may consider the advice of the panel in  
8 determining the appropriate resolution and potential sanctions  
9 for grievances and appeals involving health issues, civil rights  
10 violations, and repeated grievances against a particular staff  
11 member. The panel shall:

12 (1) Convene after the department of public safety or  
13 department of human services, as applicable, and the  
14 appropriate correctional facility have performed a  
15 thorough investigation of the grievance;

16 (2) Have access to all documents and investigative  
17 reports, not privileged or protected, relating to the  
18 case being reviewed;

19 (3) Have the right to issue subpoenas and call witnesses  
20 or resource people from the respective departments or  
21 related agencies for purposes of clarification;



1       (4) Have the right to meet with the aggrieved inmate or  
2       ward;

3       (5) Have the authority to recommend police intervention  
4       for any allegation that could be viewed as a criminal  
5       offense;

6       (6) Have the authority to recommend to the attorney  
7       general or the United States Attorney appropriate and  
8       lawful action to resolve any grievance or appeal; and

9       (7) Submit to the legislature twenty days before the  
10       commencement of each regular session a report  
11       consisting of the number of grievances and appeals  
12       considered and the resolution of those grievances and  
13       appeals.

14       (h) The panel shall evaluate and recommend the basic  
15       elements of an adequate grievance system for consideration by  
16       the department of public safety and department of human services  
17       for promulgation into their grievance policies, including:

18       (1) Notice, in plain and understandable language geared to  
19       offenders that may have cognitive limitations or low  
20       literacy levels, to every incarcerated person of the  
21       availability of the grievance process and an  
22       explanation of the purpose and scope of the process;



- 1        (2) A clear and simple procedure for an incarcerated  
2        person to present a grievance to the staff;
- 3        (3) Provisions for prompt investigation of grievances;
- 4        (4) The opportunity for every incarcerated person to  
5        present a grievance to an impartial panel;
- 6        (5) Written notice to every incarcerated person who has  
7        filed a grievance of the decision of the impartial  
8        panel;
- 9        (6) Appropriate disciplinary sanctions for every grievance  
10       against a staff person found to be justified;
- 11       (7) Written records of every grievance, investigation,  
12       decision, and final action taken;
- 13       (8) Assurances from the administrators of the facility  
14       where a grievance was lodged that no retaliative  
15       action will be taken against the inmate or ward who  
16       initiated the grievance; and
- 17       (9) The right of any person aggrieved by the resolution of  
18       a grievance to appeal to the impartial panel."

19       SECTION 3. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$                    or so much  
21 thereof as may be necessary for fiscal year 2006-2007 for the  
22 community advisory panel established by this Act.



1           The sum appropriated shall be expended by the department of  
2 the attorney general for the purposes of this Act.

3           SECTION 4. New statutory material is underscored.

4           SECTION 5. This Act shall take effect on July 1, 2020.



**Report Title:**

Corrections; Inmate Grievance Reform

**Description:**

Establishes a community advisory panel to advise the Department of Public Safety and the Department of Human Services in handling grievances for incarcerated adult and juvenile offenders. Appropriates funds for the panel. (HB355 HD1)

