

1 (2) Secure care services for youth incarcerated at
2 correctional facilities in Hawaii; and

3 (3) Parole and after-care services to enable incarcerated
4 youth to transition successfully to the community and
5 their families.

6 (b) In addition to any other powers provided by this
7 chapter, the commission may adopt rules, pursuant to chapter 91,
8 necessary to implement this chapter and do any and all things
9 necessary to effectuate the purposes of this chapter.

10 (c) The duties of the commission shall include but are not
11 limited to:

12 (1) Developing policies and procedures, in collaboration
13 with the Hawaii youth correctional facility and the
14 office of youth services, to ensure that national
15 standards and best practices requirements are
16 implemented;

17 (2) Developing and maintaining standardized practices for
18 Hawaii's juvenile justice system for implementation by
19 state and county agencies and private service
20 providers;



- 1 (3) Maintaining a quality assurance system to actively
2 review measurable outcomes of youth programs to meet
3 national standards and best practices requirements;
- 4 (4) Conducting audits of the Hawaii youth correctional
5 facility and the office of youth services as
6 necessary, and submitting timely audit reports to the
7 legislature;
- 8 (5) Conducting administrative investigations of critical
9 incidents and personnel, as needed;
- 10 (6) Developing and implementing a juvenile justice
11 strategic plan in collaboration with state, county,
12 and private agencies that work with youth. The plan
13 shall be submitted for public review and be updated no
14 less than every five years; and
- 15 (7) Collaborating with the University of Hawaii to develop
16 a college of criminal justice with a juvenile justice
17 component that undertakes research and program
18 development, with the goal of providing candidates to
19 work with juveniles in the criminal justice system.

20 **§ -3 Commission members; appointment and compensation.**

- 21 (a) The commission shall be comprised of five members. There
22 shall be appointed one member from each of the four counties and



1 one member appointed at large. Members shall be appointed by
2 the governor with the advice and consent of the senate for a
3 term of four years. Two members shall be selected from a list
4 of nominees submitted to the governor by the president of the
5 senate and two members shall be selected from a list of nominees
6 submitted to the governor by the speaker of the house of
7 representatives. The governor shall appoint the commission
8 members in the manner prescribed by section 26-34.

9 (b) The commission shall act by majority vote of its
10 membership and shall establish its own procedures, except as may
11 be provided by law. A majority of the commission shall elect
12 one of its members to serve as the chairperson. The commission
13 shall meet no more than once per month and no less than once per
14 quarter; provided that an emergency meeting may be convened at
15 the request of the administrator of the Hawaii youth
16 correctional facilities, the director of the office of youth
17 services, or the chairperson of the commission. Members of the
18 commission shall receive at the rate of \$100 compensation per
19 meeting.

20 (c) The commission shall appoint an executive director to
21 administer the operations of the commission. The executive
22 director shall be exempt from chapter 76. The commission may



1 appoint and employ other staff who shall be exempt from chapter
2 76 as necessary for the performance of the commission's powers
3 and duties.

4 § -4 **Salary and duties of executive director.** (a) The
5 commission shall define the executive director's powers and
6 duties and fix the executive director's compensation. The
7 executive director and any staff shall be entitled to
8 participate in any public employee benefit plan.

9 (b) In addition to the duties established by the
10 commission, the duties of the executive director shall include
11 but not be limited to:

12 (1) Assisting in the development of policies and
13 directives to ensure the well being of at-risk and
14 incarcerated youth and to preserve the civil rights of
15 at-risk and incarcerated youth;

16 (2) Obtaining and providing information on national and
17 local standard practices and best practices, as well
18 as the spectrum of services provided by the Hawaii
19 youth correctional facility and the office of youth
20 services; and

21 (3) Implementing the administrative and operational
22 responsibilities of the commission.



1 § -5 **Annual report to the legislature.** The commission
2 shall submit to the legislature and the governor an annual
3 report no later than twenty days prior to the convening of each
4 regular session, beginning with the 2008 regular session. The
5 report shall include but not be limited to:

- 6 (1) A summary of the commission's activities under this
7 chapter;
8 (2) A review of the status of youth services in the state;
9 (3) A review of the status of services provided by the
10 Hawaii youth correctional facility and the office of
11 youth services; and
12 (4) Recommendations for priorities for the development and
13 coordination of youth services."

14 SECTION 2. Chapter 352, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending sections 352-1 to 352-5 to read:

17 "**§352-1 Definitions.** In this chapter, unless the context
18 clearly indicates otherwise:

19 [~~"Director"~~] "Administrator" means the [~~executive director~~
20 ~~of the office of youth services.~~] administrator of the Hawaii
21 youth correctional facility.



1 "Commission" means the commission on juvenile justice
2 established pursuant to section -1.

3 "Department" means the department of human services[+
4 ~~provided that the powers, duties, and functions relating to the~~
5 ~~Hawaii youth correctional facilities shall be administered by~~
6 ~~the office of youth services].~~

7 "Discharge" means the ending of the [~~executive director of~~
8 ~~the office of youth services'] administrator of the Hawaii youth
9 correctional facility's supervision of a person when the term of
10 the person's commitment has ended or when the [~~director]~~
11 administrator believes the purpose of the term of commitment has
12 been achieved.~~

13 "Furlough" means an authorized absence of short duration
14 from a youth correctional facility.

15 "Parole" means the conditional release of a person
16 committed to a youth correctional facility whereby the person
17 remains in the custody of the [~~director]~~ administrator and under
18 the supervision of the juvenile parole office.

19 "Term of commitment" means the time period during which
20 family court retains jurisdiction over a person after
21 adjudication. During the term of commitment, the family court



1 may vest custody of the person in another person, organization,
2 agency, facility, or other suitable entity.

3 §352-2.1 [~~Purpose.~~] Establishment; purpose. (a) [~~This~~
4 ~~chapter creates~~] There is established within the department of
5 human services for administrative purposes only[~~, and to be~~
6 ~~placed within the office of youth services under the supervision~~
7 ~~of the director and such other subordinates as the director~~
8 ~~shall designate,~~] the Hawaii youth correctional facilities. The
9 Hawaii youth correctional facilities[~~, in order to~~] shall
10 provide for the incarceration, punishment, and institutional
11 care and services to [~~reintegrate into their communities and~~
12 ~~families,~~] children committed by the courts of the State. The
13 youth correctional facilities shall also provide after care
14 services so that youth released from secure care may be
15 reintegrated into their communities and families.

16 (b) The commission shall have administrative and
17 operational oversight of the administrator of the Hawaii youth
18 correctional facilities. The commission shall appoint, without
19 regard to chapter 76 an administrator who, under the direction
20 of the commission, shall be responsible for the internal
21 organization, operation, and management of the youth
22 correctional facilities.



1 ~~[(b)]~~ (c) The policy and purpose of this chapter is to
2 harmonize the sometimes conflicting requirements of public
3 safety, secure placement, and individualized services for law
4 violators in the custody and care of the ~~[director.]~~
5 administrator. To that end, the ~~[director]~~ administrator shall
6 ~~[provide the opportunity for intelligence and aptitude~~
7 ~~evaluation, psychological testing and counseling, prevocational~~
8 ~~and vocational training, and employment counseling to]~~ ensure
9 that the youth correctional facilities and other needed
10 correctional services meet the present needs of all persons
11 committed to the Hawaii youth correctional facilities.
12 ~~[Counseling services shall be available to the committed~~
13 ~~person's family during the term of commitment.]~~ The ~~[director~~
14 ~~shall]~~ administrator shall work with the commission to
15 coordinate services provided to the facilities by other
16 departments and agencies~~[, to realize these policies and~~
17 ~~purposes].~~

18 **§352-3 Contracting with private agencies for residential**
19 **youth facilities.** The ~~[department]~~ administrator may contract
20 with private agencies to provide residential youth facilities.

21 **§352-4 Rules** ~~[and regulations.]~~ The ~~[director]~~
22 administrator, in consultation with the commission, may adopt



1 rules [~~and regulations~~] to carry out the purposes of this
2 chapter. The rules [~~and regulations~~] shall be approved by the
3 governor but shall not be subject to the public notice and
4 public hearing requirements of chapter 91, or require
5 publication [~~in order~~] to be valid and binding upon all
6 committed persons and officers and employees of such facilities.
7 The rules shall be [~~printed from time to time.~~] filed with the
8 office of the lieutenant governor and be made available online
9 on the State of Hawaii website.

10 **§352-5 Staff standards and training.** All staff members
11 are exempt from the requirements under chapter 76. The
12 [~~director~~] administrator, in consultation with the commission,
13 shall establish written standards of conduct and operation to
14 govern each staff member during working hours. New staff
15 members shall undergo initial training to prepare them to comply
16 with the standards. Attendance at periodic training sessions
17 shall be mandatory to increase staff members' effectiveness in
18 carrying out their duties. For purposes of this section, "staff
19 member" means any employee of the Hawaii youth correctional
20 facilities who is directly involved with the treatment and care
21 of persons committed to a facility.

22 2. By amending section 352-7 to read:



1 "**§352-7 Records.** (a) The [~~director~~] administrator shall
2 [~~establish a~~] cause to be made:

3 (1) A needs assessment of every youth admitted and shall
4 prescribe a program plan based on the assessment
5 results; and

6 (2) A record of all facts relating to the admission,
7 discharge, escape, death, medical and mental history,
8 programs~~[7]~~ offered and completed, and significant
9 occurrences concerning a committed person.

10 (b) An exact account shall also be kept of all moneys
11 received for work performed by the committed persons and from
12 authorized sources for the use of any committed person, as well
13 as of the expenditure of such moneys as shall be authorized from
14 time to time by the [~~director.~~] administrator.

15 (c) The [~~director~~] administrator shall report any
16 information collected, except psychiatric reports, to the
17 juvenile justice information system. The date of preparation,
18 the preparer, and the existence of a psychiatric report may be
19 included in the juvenile justice information system."

20 3. By amending sections 352-12 to 352-16 to read:

21 "**§352-12 Segregation of committed persons.** Persons
22 committed to the youth correctional facilities shall be kept



1 segregated based on considerations including age, gender,
2 maturity level, attitude, behavior, offense committed,
3 commitment period, and rehabilitation status.

4 **§352-13 Evaluation, counseling, and training.** The
5 [~~director~~] administrator shall provide [~~the opportunity for~~]
6 intelligence and aptitude evaluation, diagnostic and
7 psychological testing, supervision and counseling[~~7~~] services,
8 treatment and rehabilitative services, prevocational and
9 vocational training, and employment counseling to all persons
10 committed to the youth correctional facilities. Counseling
11 services shall be available for the committed person's family,
12 including a reciprocal beneficiary, during the term of
13 commitment.

14 **§352-14 Educational programs provided by the department of**
15 **education.** (a) The department of education shall provide
16 educational programs, ranging from basic, remedial, special, and
17 vocational education, for those persons committed to the youth
18 correctional facilities. These educational programs shall be
19 adapted to the needs of the persons committed as prescribed by
20 the department of education in coordination with the [~~director.~~]
21 administrator.



1 (b) The administrator shall develop an alternative
2 education program with qualified staff. The pilot program shall
3 be established in collaboration with the commission and shall be
4 implemented for a minimum period of five years.

5 **§352-15 Recreational and program activities.** The
6 ~~[director]~~ administrator shall provide ~~[the opportunity]~~
7 opportunities for ~~[the recreation of those persons committed to~~
8 ~~the facilities.]~~ recreational and other programs to effectively
9 occupy the time of the youth placed in a facility under the
10 facility's jurisdiction that promote the development of self-
11 esteem and useful skills to prepare such persons to become
12 productive members of the community. Work programs for such
13 persons shall be established and may include farming, sewing,
14 plant nursery, ~~[and]~~ animal husbandry~~[-]~~, and other fields of
15 industry so as to be competitive in the current job market.

16 **§352-16 Establishment of work release.** (a) The
17 ~~[director,]~~ administrator, in accordance with rules ~~[and~~
18 ~~regulations]~~ adopted by the ~~[director,]~~ administrator, may
19 establish a work release plan for persons who are committed to
20 the ~~[director's]~~ administrator's care and who are receiving care
21 and treatment in a youth correctional facility; provided that



1 such a plan shall not interfere with any educational program in
2 which such persons may be enrolled.

3 (b) Under such a work release plan, any such person may be
4 authorized to secure or continue in suitable employment outside
5 of such youth correctional facility, and unless otherwise
6 authorized by the department with respect to specific cases,
7 return to and remain in such facility during non-working hours.

8 (c) Employment under such a work release plan may be at a
9 wage less than the minimum wage authorized in chapter 387;
10 provided that no more than five hours of a person's work week
11 shall be paid at wages less than the minimum wage.

12 (d) It shall be the duty of the employer of [~~a person~~]
13 persons participating in a work release plan to transmit to the
14 [~~director~~] administrator the earnings of such persons. The
15 transmission to the [~~director~~] administrator of the earnings of
16 such [~~person~~] persons shall operate to discharge such employer
17 from any further obligation to such [~~person~~] persons except with
18 respect to any taxes lawfully withheld from them wages of such
19 [~~person~~] persons.

20 (e) The earnings transmitted to the [~~director~~]
21 administrator by a person's employer under a work release plan
22 shall be held to the account of such person."



1 4. By amending section 352-26 to read:

2 "§352-26 Taking into custody and detaining persons for
3 violations of terms and conditions of parole and furlough and
4 attempted escape. (a) With respect to any person whose legal
5 custody was vested in the [~~director,~~] administrator, who has
6 been paroled or furloughed from a youth correctional facility by
7 the [~~director~~] administrator and returned to the person's own
8 home or other place within the community, the provisions of
9 subsection (b) or (c) shall apply, if, in the opinion of a
10 designated employee of the [~~department,~~] administrator, such
11 person is in violation of the terms and conditions of the
12 person's parole or furlough.

13 (b) In the case of a person under nineteen years of age,
14 such designated employee may:

15 (1) Notify the [~~director~~] administrator or the
16 [~~director's~~] administrator's designated agent of such
17 alleged violation and, if the [~~director~~] administrator
18 issues a written order to such effect, take such
19 person into custody and place such person in such
20 appropriate youth correctional facility as may be
21 designated in such order until determinations as to
22 such person's further care and treatment are made. In



1 the event of retaking for an alleged violation of
2 parole, the [~~director~~] administrator or the
3 [~~director's~~] administrator's agent shall notify the
4 person, and the person's parent, guardian, or
5 custodian of the right to legal counsel and to appeal
6 the issuance and execution of such order. The office
7 of juvenile parole shall hold a hearing within thirty
8 days after the person's return to determine whether
9 parole should be revoked. The juvenile parole office
10 staff shall render reasonable aid to the person in
11 preparation for the hearing.

- 12 (2) Take such person into custody and place the person in
13 an appropriate youth correctional facility until
14 determinations as to such person's further care and
15 treatment are made by the [~~department~~] administrator
16 if such employee has reason to believe that permitting
17 such person to remain in the person's own home or
18 other place within the community would be dangerous to
19 the person or to the community or that such person is
20 about to flee the jurisdiction of the department.
21 Such employee, at the time of taking such person into
22 custody, shall advise such person as to the specific



1 terms and conditions of the person's parole or
2 furlough which the person is alleged to have violated
3 and of the person's right to legal counsel and appeal.
4 Provisions regarding possible parole revocation shall
5 apply as enumerated in paragraph (1).

6 (c) In the case of a nineteen-year-old person such a
7 designated employee may:

8 (1) Take the person into custody and place the person in
9 an appropriate adult correctional facility if the
10 alleged violation constitutes a crime and the
11 [~~director~~] administrator has been notified and
12 subsequently issued a written order to that effect.
13 In the event of retaking for such an alleged violation
14 of parole, the [~~director~~] administrator or the
15 [~~director's~~] administrator's agent shall notify the
16 person of the right to legal counsel and to appeal the
17 issuance and execution of such order. The office of
18 juvenile parole shall hold a hearing within thirty
19 days after the person's incarceration in an adult
20 facility to determine whether parole should be
21 revoked. The juvenile parole office staff shall



1 render reasonable aid to the person in preparation for
2 the hearing.

3 (2) Notify the [~~director~~] administrator of an alleged
4 violation of parole. The [~~director~~] administrator may
5 petition the family court for an ex parte order based
6 on the alleged violation to take the person into
7 custody and place the person in an appropriate adult
8 correctional facility. The person shall be notified
9 of the issuance and execution of such a court order
10 and of the right to legal counsel and appeal. A
11 juvenile parole office hearing shall be held within
12 thirty days after a person's placement in an adult
13 facility to determine whether parole shall be revoked.

14 (d) Any person whose legal custody has been vested in the
15 [~~director~~] administrator and who has escaped from the facility
16 may be taken into custody by a police officer or an employee of
17 the [~~department~~] administrator without a warrant or an order
18 issued by the [~~director~~] administrator and returned to the
19 facility.

20 (e) When called upon by any designated employee of the
21 [~~department~~] administrator, any police officer shall assist in



1 taking a person into custody pursuant to the provisions of this
2 section."

3 5. By amending section 352-30 to read:

4 **"§352-30 Delegation of responsibilities.** The [~~director~~]
5 administrator may delegate any of the [~~director's~~]
6 administrator's responsibilities pursuant to this chapter to a
7 representative of the [~~department~~] administrator except those
8 that relate to discretionary discharge before the term of the
9 person's commitment has ended."

10 6. By amending sections 352-6, 352-8, 352-9, 352-10,
11 352-11, 352-17, 352-18, 352-19, 352-20, 352-21, 352-22, 352-23,
12 352-24, 352-25, 352-26.1, 352-27, 352-28, 352-29, 352-31, by
13 substituting the word "administrator" or like term, wherever the
14 word "director" or like term, appears, as the context requires.

15 SECTION 3. Chapter 352D, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding a new definition to section 352D-3 to be
18 appropriately inserted and to read as follows:

19 "Commission" means the commission on juvenile justice
20 established pursuant to section -1."

21 2. By amending section 352D-4 to read:



1 "[-]§352D-4[+] **Establishment; purpose.** There is
2 established within the department of human services for
3 administrative purposes only the office of youth services. The
4 office of youth services is established to provide services and
5 programs for youth at risk under one umbrella agency in order to
6 facilitate optimum service delivery, to prevent delinquency, and
7 to reduce the incidence of recidivism among juveniles through
8 the provision of prevention, rehabilitation, and treatment
9 services. The office shall also be responsible for program
10 planning and development, intake/assessment, oversight, as well
11 as consultation, technical assistance, and staff training
12 relating to the delivery of services. The commission shall have
13 administrative and operational oversight of the office of youth
14 services.

15 The office shall provide a continuum of services as
16 follows:

- 17 (1) An integrated intake/assessment and case management
18 system;
- 19 (2) The necessary educational, vocational, social
20 counseling and mental health services;
- 21 (3) Community-based shelter and residential facilities;
- 22 (4) Oversight of youth services; and



1 (5) Other programs which encourage the development of
2 positive self-images and useful skills in such youth.

3 ~~[To this end, on July 1, 1991, this office shall assume the~~
4 ~~responsibilities for juvenile corrections functions, which were~~
5 ~~temporarily placed in the department of corrections pursuant to~~
6 ~~Act 338 of 1987. These functions shall include, but not be~~
7 ~~limited to, all responsibilities, under chapter 352, for the~~
8 ~~Hawaii youth correctional facilities.]"~~

9 3. By amending subsection (a) of section 352D-5 to read:

10 "(a) The office of youth services shall be headed by an
11 executive director who shall be appointed by the ~~[governor]~~
12 commission without regard to chapter 76. The executive director
13 may appoint such other staff as may be necessary to carry out
14 the duties of the office of youth services."

15 4. By amending section 352D-6 to read:

16 "**§352D-6 [Organizational] Functions of office;**
17 **organizational structure.** (a) The office of youth services
18 shall be composed of such divisions and sections as are deemed
19 necessary by the executive director to:

20 (1) Provide diagnostic evaluation, treatment, and
21 rehabilitation services for all youths referred to



1 services provided by the office or placed in the
2 office's custody by the family court;

3 (2) Provide supervision and counseling services for youth
4 in [~~shelter or correctional facilities under the~~
5 ~~office's jurisdiction,~~] shelters, including community-
6 based facilities;

7 [~~(3)~~] ~~Provide educational, vocational-educational, and other~~
8 ~~programs to effectively occupy the time of the youth~~
9 ~~placed in a facility under the office's jurisdiction~~
10 ~~which promote the development of self-esteem and~~
11 ~~useful skills to prepare youths in becoming productive~~
12 ~~members of the community;~~

13 ~~(4)]~~ (3) Provide continuous program planning, development,
14 and coordination of youth services, including the
15 coordination with other government and private social
16 service agencies that work with youths to ensure that
17 a full-range of programs is available and that such
18 programs are consistent with the policy of this
19 chapter and are not unnecessarily duplicative or
20 conflicting;

21 [~~(5)]~~ (4) Provide prevention services to include a
22 comprehensive intake/assessment and



1 information/referral system throughout the State which
2 shall access services to youth and their families;

3 ~~[(6)]~~ (5) Provide a case management system based on the
4 individual needs of youth which shall provide for in-
5 depth client assessment, appropriate service planning,
6 and client advocacy;

7 ~~[(7)]~~ ~~Provide for the implementation of chapter 352, youth~~
8 ~~correctional facilities and other needed correctional~~
9 ~~services, including ensuring that these facilities and~~
10 ~~services meet the present and future needs of youth~~
11 ~~under the jurisdiction of the youth correctional~~
12 ~~facilities;~~

13 ~~[(8)]~~ (6) Facilitate the development of and, when
14 appropriate, provide for training programs for persons
15 offering services to youth at risk;

16 ~~[(9)]~~ (7) Provide for technical assistance and consultation
17 to providers and potential providers;

18 ~~[(10)]~~ (8) Seek, apply for, and encourage the use of all
19 federal funds for youth services and facilitate the
20 coordination of federal, state, and local policies
21 concerning services for youth; and



1 ~~[(11) Prepare and submit an annual report to the governor~~
2 ~~and the legislature. This report shall include, but~~
3 ~~not be limited to, a review of the status of youth~~
4 ~~services within the State, recommendations for~~
5 ~~priorities for the development and coordination of~~
6 ~~youth services; and~~

7 ~~(12)]~~ (9) Monitor, evaluate, and audit all grants,
8 subsidies, and purchase of services under chapter 42D
9 which relate to the office of youth services.

10 (b) The executive director, in collaboration with the
11 commission, shall develop benchmarks for each function listed in
12 subsection (a) to gauge progress in its areas of
13 responsibility."

14 5. By amending subsection (b) of section 352D-9 to read:

15 "(b) There shall be a combined meeting of all boards at
16 least once a year. Each regional board shall advise the
17 commission and the office on:

18 (1) General policies relating to the youth service system,
19 including but not limited to planning, integration,
20 development, and coordination to effectuate the
21 purposes of this chapter;



1 (2) Monitoring and evaluating youth services as they
2 relate to the coordination and integration of the
3 youth service system within its region; and

4 (3) Any pertinent issue related to the youth service
5 system within its region."

6 6. By amending section 352D-10 to read:

7 "[+]§352D-10[+] **Regional directors; powers, duties, and**
8 **authority.** The executive director shall appoint a regional
9 director in each county. Each regional director shall be exempt
10 from chapter 76, and shall answer to the commission and the
11 executive director. The regional director shall:

12 (1) Oversee the youth services centers located in the
13 director's region;

14 (2) Assist the executive director in coordinating,
15 monitoring, and evaluating all programs and activities
16 operated by the office within its region;

17 (3) Advise the executive director on any pertinent issue
18 related to the youth service system within the
19 director's region; and

20 (4) Provide staff support for the regional advisory board
21 located in the director's region."



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2006-2007 for
4 the creation of the Hawaii commission on juvenile justice.

5 The sum appropriated shall be expended by the department of
6 human services for the purposes of this Act.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2006;
10 provided that section 1 shall take effect on July 1, 2007.



HB 937

HD1

Report Title:

Youth Services; Hawaii Commission on Juvenile Justice

Description:

Creates a Hawaii commission on juvenile justice to oversee the Hawaii youth correctional facility and the office of youth services. Attaches for administrative purposes to the department of human services. Appropriates funds. (HB937 HD1)

