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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. In recent years, the number of incarcerated  
2 women has increased at an alarming rate. Nationally, women  
3 compose 6.9 per cent of the prison population. In Hawaii,  
4 however, women form 11.99 per cent of the prison population.  
5 While the male prison population doubled between 1985 and 1995,  
6 the female population tripled, largely due to sentencing and  
7 incarcerating female nonviolent first-time drug offenders.

8           The department of public safety reports that the number of  
9 female parole violators rose thirty per cent between January 1,  
10 2001, and January 19, 2004, and that the number of male parole  
11 violators rose 18.3 per cent during the same period.

12           Research establishes that female offenders have different  
13 needs from male offenders, resulting in part from female  
14 offenders' disproportionate victimization from sexual or  
15 physical abuse and their responsibility for children. Women  
16 offenders are more likely than male offenders to be addicted to  
17 drugs, suffer from a mental illness, and have been unemployed  
18 before incarceration.



1           Research establishes that the majority of women in prison  
2 are nonviolent and could be serving their prison terms in  
3 gender-responsive, community-based programs.

4           Research also indicates that correctional strategies that  
5 are gender-responsive and community-based are needed to give  
6 offenders the necessary life skills to extricate themselves from  
7 the criminal justice system and to make positive healthy choices  
8 for themselves and their families.

9           In the 1990s, the movement to develop programs for girls  
10 gained momentum as girls accounted for an increasing proportion  
11 of the youth entering the juvenile justice system and because  
12 most juvenile justice programs were developed to serve boys.

13           There is a growing body of research dedicated to examining  
14 the differences in the developmental pathways to delinquency for  
15 girls versus boys and developing gender-specific services for  
16 girls. As of the late 1990s, states and local jurisdictions  
17 were in the early stages of understanding girls' needs,  
18 developing and modifying services for girls, and making policy  
19 changes to better serve girls.

20           Careful attention must be paid to the classification of  
21 programs as gender-specific. Those working on the development  
22 of programs for girls maintain that a gender-specific program



1 should not simply be a program that serves girls exclusively but  
2 also one that addresses the particular issues and problems that  
3 affect girls.

4 Girls and boys in the juvenile justice system share some  
5 common traits but also have some distinct needs and issues.  
6 Research has found that girls' risks for delinquency are  
7 amplified by the presence of: sexual and/or physical abuse,  
8 substance abuse, teen pregnancy, poor academic performance, and  
9 mental health needs. To strengthen their resistance against  
10 delinquency, girls need physical and emotional security,  
11 positive female role models, and a sense of belonging and  
12 competency that may differ from what boys need.

13 A study entitled "Criminal Neglect: Substance Abuse,  
14 Juvenile Justice and The Children Left Behind," released in  
15 October 2004 by the National Center on Addiction and Substance  
16 Abuse at Columbia University, concluded that at least thirty per  
17 cent of adults in prison for felony crimes were incarcerated as  
18 juveniles. A recent local study, entitled "Motherhood on the  
19 Margins," examined women with at least one child who are  
20 currently on parole in Hawaii. This study revealed that thirty-  
21 six per cent of the women interviewed for this research started



1 their interaction with the criminal justice system in the  
2 juvenile justice system.

3 Female offenders need gender-responsive services that  
4 address substance abuse, family relationships, vocational  
5 education, work, prior victimization, and domestic violence.  
6 They also need transitional housing and aftercare services to  
7 help them adjust to living in the community and reuniting with  
8 their children and families.

9 For children, the most devastating effect of incarceration  
10 is the loss of contact with their primary caregiver. Half of  
11 these children never visit their primary caregiver in prison,  
12 and the other half visit infrequently, with geographical  
13 distance posing the biggest barrier to visitation.

14 Because regular visits are the best indicator of a family's  
15 successful reunification after release, it is critical that  
16 gender-responsive, community-based programs for offenders be  
17 geographically close to children and family. Many of Hawaii's  
18 inmates are incarcerated outside of Hawaii, making visitation  
19 with family and children either impossible or extremely  
20 difficult. Other problems associated with female offenders in  
21 Hawaii include:

22 (1) A lack of female correctional officers;



- 1 (2) The lack of availability of rehabilitation programs;
- 2 and
- 3 (3) A paucity of gender-responsive, community-based
- 4 programs.

5 The legislature recognizes that the needs of incarcerated  
6 women differ from the needs of incarcerated men and require  
7 approaches tailored to their specific characteristics and  
8 situations. This Act is the legislature's answer to this urgent  
9 need to enforce the equal protection clause of our Constitution.

10 The purpose of this Act is to appropriate funds to provide  
11 immediate additional gender-responsive, community-based program  
12 beds for community-status female offenders and for female  
13 adjudicated youth classified by the office of youth services as  
14 minimum control.

15 SECTION 2. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 as follows:

18 "CHAPTER

19 PARITY FOR FEMALE OFFENDERS

20 § -1 **Female prisoners; parity programs.** Adult women  
21 convicted of crimes and juvenile females adjudicated for  
22 offenses that would be crimes if committed by an adult or who

1 are adjudicated delinquents shall be provided a range and  
2 quality of programming substantially equivalent to the range and  
3 quality of programming offered to male persons who are similarly  
4 situated. Programs for female offenders shall be based upon the  
5 psychosocial developmental needs of female offenders.

6       **§ -2 Model programs; department of public safety.**

7 Subject to funding by the legislature, the director of public  
8 safety shall foster a gender-responsive environment by providing  
9 model gender-responsive programs for female offenders that are  
10 responsive to statewide needs and geographical areas and shall  
11 award contracts for the programs. The gender-responsive  
12 environment and programs shall:

- 13       (1) Respond in a rehabilitative way to the type of  
14           offenses female offenders generally commit and address  
15           pathways to crime;
- 16       (2) Respond to the problems of female offenders with  
17           dependent children;
- 18       (3) Respond to the importance of developing self-  
19           determination through independent living and  
20           marketable job skills;
- 21       (4) Assist female offenders in overcoming their own  
22           extreme degree of dependency by developing and



- 1           fostering strong and healthy relationships without
- 2           losing self-esteem;
- 3       (5) Respond appropriately to the specific health care
- 4           needs of women, including but not limited to mental
- 5           health and substance abuse services;
- 6       (6) Offer transitional support for female offenders and
- 7           their families to promote successful reentry into
- 8           their families and communities; and
- 9       (7) Offer technical assistance and training toward the
- 10          implementation of other similar programs.

11       §   -3   **Contracts.** To encourage cooperation and assist  
12 private agencies that have existing programs designed  
13 specifically for female offenders and to encourage private  
14 agencies to develop and implement new programs, the director of  
15 public safety shall make contracts available to private agencies  
16 electing to participate in the contract program, subject to  
17 chapter 103F, Hawaii Revised Statutes.

18       §   -4   **Agency programs; proportionate costs.** Where  
19 several private agencies combine to provide one or more of the  
20 programs under this chapter, the cost of each program shall be  
21 borne proportionately by the participating agencies on the basis

1 of need or use as determined by rules adopted by the director of  
2 public safety pursuant to chapter 91.

3       § -5 **Duties of the director of public safety.** The  
4 director of public safety shall:

- 5       (1) Review all plans for programs for female offenders;
- 6       (2) Review contract applications or proposals for model  
7       programs for female offenders and award contracts for  
8       programs;
- 9       (3) Monitor the delivery of services provided under  
10       contract programs for female offenders;
- 11       (4) Establish, by rule, a method of determining the amount  
12       or percentage of local contribution to receive a  
13       contract under this chapter; and
- 14       (5) Collaborate with the Community Alliance on Prisons or  
15       other advocacy group in Hawaii as a resource on  
16       women's issues for the department.

17       § -6 **Female adjudicated youth.** The office of youth  
18 services shall collaborate with the departments of human  
19 services, health, labor and industrial relations, and education,  
20 as well as with representatives of the private sector, to  
21 develop a comprehensive continuum of care to address the gender-  
22 responsive needs of female adjudicated youth.



1           §   -7   **Model programs; office of youth services.** Subject  
2 to funding by the legislature, the director of the office of  
3 youth services shall foster a gender-responsive environment by  
4 providing model gender-responsive programs for female  
5 adjudicated youth that are responsive to statewide needs and  
6 geographical areas and shall award contracts for the programs.  
7 The gender-responsive environment and programs shall:

- 8           (1) Respond in a rehabilitative way to the type of  
9           offenses female adjudicated youth generally commit and  
10          address pathways to crime;
- 11          (2) Respond to the problems of female adjudicated youth  
12          with dependent children;
- 13          (3) Respond to the importance of developing self-  
14          determination through education; employment training;  
15          special education to the learning disabled; and  
16          social, cognitive, communication, and life skills  
17          training;
- 18          (4) Assist female adjudicated youth in overcoming their  
19          own extreme degree of dependency by developing and  
20          fostering strong and healthy relationships without  
21          losing self-esteem;



1 (5) Respond appropriately to the specific health care  
2 needs of girls and women, including but not limited to  
3 mental health and substance abuse services;

4 (6) Offer transitional support for female adjudicated  
5 youth and their families to promote successful reentry  
6 into their families, schools, and communities; and

7 (7) Offer technical assistance and training toward the  
8 implementation of other similar programs.

9 § -8 **Annual report.** The department of public safety and  
10 the office of youth services shall submit an annual report to  
11 the legislature no later than twenty days before the convening  
12 of each regular session on the following areas: program  
13 descriptions, type and costs of contracts made, name of the  
14 private agency awarded each contract, and the success of each  
15 contract in meeting program specifications. The report shall  
16 detail the development of the comprehensive continuum of care to  
17 address the gender-responsive needs of Hawaii's female offenders  
18 and female adjudicated youth both in-state and abroad. The  
19 report shall also highlight the existing gaps in the system and  
20 include recommendations for resources needed to reach a seamless  
21 continuum of care and other relevant information concerning the  
22 creation of a gender-responsive environment for female offenders



1 and female adjudicated youth. The first report shall be  
2 submitted no later than twenty days before the convening of the  
3 regular session of 2006."

4 SECTION 3. Chapter 352, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§352- Gender-responsive, community-based programs for  
8 female adjudicated youth. Subject to funding by the  
9 legislature, the office of youth services shall develop and make  
10 available gender-responsive, community-based programs for female  
11 adjudicated youth by providing female adjudicated youth the  
12 appropriate range of opportunities to ensure that their needs  
13 are met. Program models designed to address the needs of female  
14 adjudicated youth shall include but are not limited to:

- 15 (1) Appropriate treatment, including mental health and  
16 substance abuse treatment;  
17 (2) Individualized case management to help female juvenile  
18 offenders set and achieve goals;  
19 (3) Life skills development workshops, including  
20 budgeting, money management, nutrition, and exercise;  
21 (4) Development of self-determination through education;  
22 employment training; special education for the



- 1           learning disabled; and social, cognitive,
- 2           communication, and life skills training;
- 3           (5) Family-focused programming, including issues relating
- 4           to pregnancy and single parenthood;
- 5           (6) Peer support and the development of peer networks;
- 6           (7) Transitional support for female adjudicated youth and
- 7           their families to promote successful reentry into
- 8           their families, schools, and communities;
- 9           (8) Highly skilled staff experienced in working with
- 10           female adjudicated youth and their concerns;
- 11           (9) Formal recognition of participant achievement;
- 12           (10) Ongoing attention to building community-based support;
- 13           (11) Assistance for female adjudicated youth who need to
- 14           develop a marketable job skill and a career plan;
- 15           (12) Geographical proximity to children and family;
- 16           (13) Preparation of female adjudicated youth for the
- 17           resumption of their education; and
- 18           (14) The goal of providing a gender-responsive continuum of
- 19           care."

20           SECTION 4. Chapter 353, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:



1            "§353-      Gender-responsive, community-based programs for  
2 female offenders.    Subject to funding by the legislature, the  
3 department of public safety shall develop and make available  
4 gender-responsive, community-based programs for female offenders  
5 by providing female offenders the appropriate range of  
6 opportunities to ensure that their needs are met. Program  
7 models designed to address female offender needs shall include  
8 but are not limited to:

- 9            (1)    Appropriate treatment, including substance abuse and  
10            mental health treatment;
- 11            (2)    Individualized case management to help female  
12            offenders set and achieve goals;
- 13            (3)    Life skills development workshops, including  
14            budgeting, money management, nutrition, and exercise;
- 15            (4)    Development of self-determination through education;  
16            employment training; special education for the  
17            learning disabled; and social, cognitive,  
18            communication, and life skills training;
- 19            (5)    Family-focused programming, including issues relating  
20            to pregnancy and single parenthood;
- 21            (6)    Peer support and the development of peer networks;



- 1        (7) Transitional support for female offenders and their
- 2                families to promote successful reentry into their
- 3                families and communities;
- 4        (8) Highly skilled staff experienced in working with
- 5                female offenders and their concerns;
- 6        (9) Formal recognition of participant achievement;
- 7        (10) Ongoing attention to building community-based support;
- 8        (11) Assistance for female offenders who need to develop a
- 9                marketable job skill and a career plan;
- 10       (12) Geographical proximity to children and family; and
- 11       (13) The goal of providing a gender-responsive continuum of
- 12                care."

13        SECTION 5. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$175,000 or so much  
15 thereof as may be necessary for fiscal year 2006-2007 for  
16 gender-responsive, community-based programs for women.

17        The sums appropriated shall be expended by the department  
18 of public safety for the purposes of this Act.

19        SECTION 6. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$25,000 or so much  
21 thereof as may be necessary for fiscal year 2006-2007 for



1 gender-responsive, community-based programs for female  
2 adjudicated youth.

3 The sums appropriated shall be expended by the office of  
4 youth services for the purposes of this Act.

5 SECTION 7. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2006.

SB467, SD2, HD2, CD1

**Report Title:**

Gender-Responsive Programs; Corrections; Appropriation

**Description:**

Requires the office of youth services and department of public safety to develop and implement gender-responsive, community-based programs for female adjudicated youth and female offenders, respectively. Appropriates funds. (CD1)

