
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 presently there are
2 intake service centers in the corrections division of the
3 department of public safety. The responsibility of the intake
4 service centers is to provide supervision and counseling to
5 individuals following their initial contact with the criminal
6 justice system, their detainment. This responsibility continues
7 whether an individual is released pending further disposition
8 their case or they remain in detention. The legislature further
9 finds that there is a field service branch of the Hawaii parole
10 authority that provides like adult supervisory and counseling
11 services to parolees in the community and monitors their
12 compliance with their terms and conditions of release.

13 The services provided by both the intake service centers
14 and the field service branch are almost identical although they
15 are provided at different times in the span of an individual's
16 contact with the department of public safety, that is, the
17 former provides services prior to adjudication of a criminal



1 case and the latter provides the same type of services
2 subsequent to adjudication and release.

3 In order to be cost-efficient, consistent in the delivery
4 of services, and maintain a continuum of care, the supervisory
5 and counseling functions of the field service branch should be
6 transferred to the department of public safety. This transfer
7 will not affect the Hawaii paroling authority and its functions
8 that include:

- 9 (1) Selecting individuals for parole;
- 10 (2) Determining the time when parole shall be granted;
- 11 (3) Determining conditions of parole for any individual
12 granted parole;
- 13 (4) Revoking and suspending parole; and
- 14 (5) Discharging an individual from parole when supervision
15 is no longer needed.

16 The purpose of this Act is to transfer the supervisory and
17 counseling functions, positions, and employees of the field
18 service branch to the department of public safety.

19 SECTION 2. Section 353-62, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) In addition to any other responsibility or duty
2 prescribed by law for the Hawaii paroling authority, the
3 paroling authority shall:

4 (1) Serve as the central paroling authority for the State;

5 (2) In selecting individuals for parole, consider for
6 parole all committed persons, except in cases where
7 the penalty of life imprisonment not subject to parole
8 has been imposed, regardless of the nature of the
9 offense committed;

10 (3) Determine the time at which parole shall be granted to
11 any eligible individual as that time at which maximum
12 benefits of the correctional institutions to the
13 individual have been reached and the element of risk
14 to the community is minimal;

15 (4) Establish rules of operation to determine conditions
16 of parole applicable to any individual granted parole;

17 ~~(5) Provide continuing custody, control, and supervision~~
18 ~~of paroled individuals;~~

19 ~~(6)]~~ (5) Revoke or suspend parole and provide for the
20 authorization of return to a correctional institution
21 for any individual who violates parole or any
22 condition of parole when, ~~[in the opinion of]~~



1 following consultation with the department, the Hawaii
2 paroling authority~~[7]~~ finds the violation presents a
3 risk to community safety or a significant deviation
4 from any condition of parole;

5 ~~[(+7)]~~ (6) Discharge an individual from parole when
6 supervision is no longer needed;

7 ~~[(+8)]~~ (7) Interpret the parole program to the public in
8 order to develop a broad base of public understanding
9 and support; and

10 ~~[(+9)]~~ (8) Recommend to the legislature sound parole
11 legislation and recommend to the governor sound parole
12 administration."

13 SECTION 3. Section 353-63.5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The ~~[Hawaii paroling authority]~~ department, in
16 consultation with the authority, shall implement alternative
17 programs that place, control, supervise, and treat selected
18 parolees in lieu of incarceration."

19 SECTION 4. Section 353-65, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§353-65 Paroles; rules.** The Hawaii paroling authority
22 may establish rules, with the approval of the governor and the



1 director of public safety not inconsistent with this [~~part,~~
2 chapter, under which any prisoner may be paroled but shall
3 remain, while on parole, in the legal custody and under the
4 control of the paroling authority, and be subject, at any time
5 until the expiration of the term for which the prisoner was
6 sentenced, in consultation with the department, to be taken back
7 within the enclosure of the prison. The rules shall have the
8 force and effect of law. Full power, subject to this part, to
9 enforce the rules, to grant, and to revoke paroles is conferred
10 upon the paroling authority. The power to retake and reimprison
11 a paroled prisoner is conferred upon the administrative
12 secretary or the administrative secretary's designee, who may
13 issue a warrant authorizing all of the officers named therein to
14 arrest and return to actual custody any paroled prisoner. The
15 superintendent of Hawaii state prison, the chief of police of
16 each county and all police officers of the State or of any
17 county, and all prison officers shall execute any such order in
18 [~~like~~] the same manner as ordinary criminal process.

19 If any prisoner so paroled leaves the State without
20 permission from the paroling authority, the prisoner shall be
21 deemed to be an escaped prisoner[~~7~~] and may be arrested as
22 such."



1 SECTION 5. Section 353-66, Hawaii Revised Statutes, is
2 amended by amending subsection (f) to read as follows:

3 "(f) The Hawaii paroling authority may require a paroled
4 prisoner to undergo and complete a substance abuse treatment
5 program administered by the department when the paroled prisoner
6 has committed a violation of the terms and conditions of parole
7 involving possession or use, not including to distribute or
8 manufacture as defined in section 712-1240, of any dangerous
9 drug, detrimental drug, harmful drug, intoxicating compound,
10 marijuana, or marijuana concentrate, as defined in section 712-
11 1240, unlawful methamphetamine trafficking as provided in
12 section 712-1240.6, or involving possession or use of drug
13 paraphernalia under section 329-43.5. If the paroled prisoner
14 fails to complete the substance abuse treatment program or the
15 Hawaii paroling authority, in consultation with the department,
16 determines that the paroled prisoner cannot benefit from any
17 substance abuse treatment program, the paroled prisoner shall be
18 subject to revocation of parole and return to incarceration. As
19 a condition of parole, the Hawaii paroling authority may require
20 the paroled prisoner to:

21 (1) Be assessed by a certified substance abuse counselor
22 for substance abuse dependency or abuse under the



- 1 applicable Diagnostic and Statistical Manual and
2 Addiction Severity Index;
- 3 (2) Present a proposal to receive substance abuse
4 treatment in accordance with the treatment plan
5 prepared by a certified substance abuse counselor
6 through a substance abuse treatment program that
7 includes an identified source of payment for the
8 treatment program;
- 9 (3) Contribute to the cost of the substance abuse
10 treatment program; and
- 11 (4) Comply with any other terms and conditions for parole.

12 As used in this subsection, "substance abuse treatment
13 program" means drug or substance abuse treatment services
14 provided outside a correctional facility by a public, private,
15 or nonprofit entity that specializes in treating persons who are
16 diagnosed with having substance abuse or dependency and
17 preferably employs licensed professionals or certified substance
18 abuse counselors.

19 Nothing in this subsection shall be construed to give rise
20 to a cause of action against the State, a state employee, or a
21 treatment provider."



1 SECTION 6. All rights, powers, functions, and duties of
2 the Hawaii paroling authority relating to the continuing
3 supervision and counseling of paroled individuals are
4 transferred to the department of public safety.

5 All officers and employees whose functions are transferred
6 by this Act shall be transferred with their functions and shall
7 continue to perform their regular duties upon their transfer,
8 subject to the state personnel laws and this Act.

9 No officer or employee of the State having tenure shall
10 suffer any loss of salary, seniority, prior service credit,
11 vacation, sick leave, or other employee benefit or privilege as
12 a consequence of this Act, and such officer or employee may be
13 transferred or appointed to a civil service position without the
14 necessity of examination; provided that the officer or employee
15 possesses the minimum qualifications for the position to which
16 transferred or appointed; and provided that subsequent changes
17 in status may be made pursuant to applicable civil service and
18 compensation laws.

19 An officer or employee of the State who does not have
20 tenure and who may be transferred or appointed to a civil
21 service position as a consequence of this Act shall become a
22 civil service employee without the loss of salary, seniority,



1 prior service credit, vacation, sick leave, or other employee
2 benefits or privileges and without the necessity of examination;
3 provided that such officer or employee possesses the minimum
4 qualifications for the position to which transferred or
5 appointed.

6 If an office or position held by an officer or employee
7 having tenure is abolished, the officer or employee shall not
8 thereby be separated from public employment, but shall remain in
9 the employment of the State with the same pay and classification
10 and shall be transferred to some other office or position for
11 which the officer or employee is eligible under the personnel
12 laws of the State as determined by the head of the department or
13 the governor.

14 SECTION 7. All appropriations, records, equipment,
15 machines, files, supplies, contracts, books, papers, documents,
16 maps, and other personal property heretofore made, used,
17 acquired, or held by the Hawaii paroling authority relating to
18 the functions transferred by this Act to the department of
19 public safety shall be transferred with the functions to which
20 they relate.

21 SECTION 8. All rules, policies, procedures, guidelines,
22 and other material adopted or developed by the Hawaii paroling



1 authority to implement provisions of the Hawaii Revised Statutes
2 which are reenacted or made applicable to the department of
3 public safety by this Act, shall remain in full force and effect
4 until amended or repealed by the department of public safety
5 pursuant to chapter 91, Hawaii Revised Statutes. In the
6 interim, every reference to the Hawaii paroling authority or the
7 chair of the Hawaii paroling authority in those rules, policies,
8 procedures, guidelines, and other material is amended to refer
9 to the department of public safety or the director of public
10 safety as appropriate.

11 SECTION 9. It is the intent of this Act not to jeopardize
12 the receipt of any federal aid nor to impair the obligation of
13 the State or any agency thereof to the holders of any bond
14 issued by the State or by any such agency, and to the extent,
15 and only to the extent, necessary to effectuate this intent, the
16 governor may modify the strict provisions of this Act, but shall
17 promptly report any such modification with reasons therefor to
18 the legislature at its next session thereafter for review by the
19 legislature.

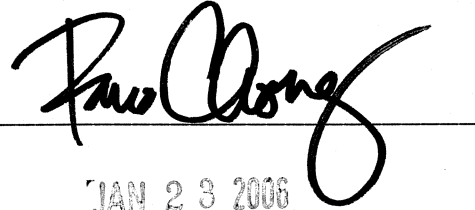
20 SECTION 10. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 11. This Act shall take effect on January 1, 2007.

2

INTRODUCED BY:



JAN 23 2006



HB 2265

Report Title:

Department of Public Safety; Hawaii Paroling Authority

Description:

Transfers continuing supervisory and counseling functions of paroled individuals from Hawaii Paroling Authority to Department of Public Safety.

