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## A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 2003, the legislature created a joint house  
2 and senate task force to assess the growing abuse of crystal  
3 methamphetamine, commonly referred to as "ice". In the  
4 following series of seven informational briefings and seven  
5 hearings, fourteen site visits, and nearly eight hours of  
6 testimony and discussion from more than three hundred  
7 individuals, the joint house and senate task force on ice and  
8 drug abatement concluded that prevention, treatment, and  
9 enforcement should be the key focuses in fighting crystal  
10 methamphetamine.

11           Acting upon the findings of the joint house and senate task  
12 force on ice and drug abatement, the legislature committed more  
13 than \$10,000,000 toward prevention and treatment of crystal  
14 methamphetamine abuse, as well as increased penalties for  
15 crystal methamphetamine abuse and distribution, and began to  
16 provide law enforcement with greater resources to combat drug  
17 abuse. In 2005, the legislature continued its effort to curb  
18 crystal methamphetamine abuse by restricting the sale of



1 methamphetamine precursor chemicals, appropriating \$15,400,000  
2 toward prevention and treatment programs, and began targeting  
3 children with substance abuse problems. These efforts continue  
4 in 2006 with similar funding for substance abuse prevention and  
5 treatment, especially for children.

6 However, because between eighty and ninety per cent of  
7 methamphetamine in Hawaii is believed to come from out of state,  
8 further measures are necessary to adequately protect Hawaii's  
9 communities from the devastating effects of crystal  
10 methamphetamine abuse. One of those measures is to consolidate  
11 all drug enforcement functions and employees of state government  
12 into a department of drug enforcement. This will ensure better  
13 organization and coordination of drug enforcement functions and  
14 allow for standardized training.

15 This Act establishes a department of drug enforcement to be  
16 effective upon approval of this Act. Effective July 1, 2007,  
17 the functions and employees of the narcotics enforcement  
18 division of the department of public safety are to be  
19 transferred to the new department. The director of drug  
20 enforcement shall report to the legislature, no later than  
21 twenty days before the convening of the Regular Session of 2007,  
22 concerning the director's recommendations regarding the transfer



1 to the department of drug enforcement of all other drug  
2 enforcement functions and employees of the State.

3 This Act also provides that, in the interim between the  
4 Act's approval and July 1, 2007, a management team shall be  
5 selected by the governor, with necessary staff hired by the  
6 governor, to develop the appropriate transitional plans, rework  
7 position descriptions, review personnel classifications, develop  
8 an organizational structure, prepare a proposed budget, and  
9 attend to other administrative details so that the new  
10 department of drug enforcement can become initially operational  
11 on July 1, 2007.

12 This Act also makes appropriations for substance abuse,  
13 including ice prevention, treatment, education, and  
14 rehabilitation, to provide substance abuse treatment services  
15 for adolescents and first-time nonviolent drug offenders, and to  
16 fund community efforts to sustain anti-drug campaigns and  
17 community-based substance abuse prevention programs.

18 The purpose of this Act is to concentrate on stopping  
19 methamphetamine from entering Hawaii and continue to focus on  
20 treatment and prevention for drug endangered children.



1 SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4 "§26- Department of drug enforcement. (a) The  
5 department of drug enforcement shall be headed by a single  
6 executive to be known as the director of drug enforcement.

7 (b) The department of drug enforcement shall be  
8 responsible for the formulation and implementation of state  
9 policies and objectives for drug enforcement.

10 (c) Effective July 1, 2007, the functions and authority  
11 heretofore exercised by the department of drug enforcement  
12 relating to narcotics enforcement agents with the narcotics  
13 enforcement division shall be transferred to the department of  
14 drug enforcement."

15 SECTION 3. Section 26-4, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§26-4 Structure of government.** Under the supervision of  
18 the governor, all executive and administrative offices,  
19 departments, and instrumentalities of the state government and  
20 their respective functions, powers, and duties shall be  
21 allocated among and within the following principal departments  
22 that are hereby established:



- 1 (1) Department of human resources development (Section
- 2 26-5)
- 3 (2) Department of accounting and general services (Section
- 4 26-6)
- 5 (3) Department of the attorney general (Section 26-7)
- 6 (4) Department of budget and finance (Section 26-8)
- 7 (5) Department of commerce and consumer affairs (Section
- 8 26-9)
- 9 (6) Department of taxation (Section 26-10)
- 10 (7) University of Hawaii (Section 26-11)
- 11 (8) Department of education (Section 26-12)
- 12 (9) Department of health (Section 26-13)
- 13 (10) Department of human services (Section 26-14)
- 14 (11) Department of land and natural resources (Section
- 15 26-15)
- 16 (12) Department of agriculture (Section 26-16)
- 17 (13) Department of Hawaiian home lands (Section 26-17)
- 18 (14) Department of business, economic development, and
- 19 tourism (Section 26-18)
- 20 (15) Department of transportation (Section 26-19)
- 21 (16) Department of labor and industrial relations (Section
- 22 26-20)



- 1 (17) Department of defense (Section 26-21)
- 2 (18) Department of public safety (Section 26-14.6) [-]
- 3 (19) Department of drug enforcement."

4 SECTION 4. Effective July 1, 2007, section 26-52, Hawaii  
5 Revised Statutes, is amended to read as follows:

6 **§26-52 Department heads and executive officers.** The  
7 salaries of the following state officers shall be as follows:

- 8 (1) The salary of the superintendent of education shall be  
9 set by the board of education at a rate no greater  
10 than \$150,000 a year;
- 11 (2) The salary of the president of the University of  
12 Hawaii shall be set by the board of regents;
- 13 (3) The salaries of all department heads or executive  
14 officers of the departments of accounting and general  
15 services, agriculture, attorney general, budget and  
16 finance, business, economic development, and tourism,  
17 commerce and consumer affairs, drug enforcement,  
18 Hawaiian home lands, health, human resources  
19 development, human services, labor and industrial  
20 relations, land and natural resources, public safety,  
21 taxation, and transportation shall be \$85,302 a year  
22 and, effective July 1, 2004, and every eight years





1 of the department of drug enforcement and shall be responsible  
2 for the formulation and implementation of state goals and  
3 objectives for drug enforcement programs. In the administration  
4 of these programs, the director may:

5 (1) Preserve the public peace, prevent crime, detect and  
6 arrest offenders against the law, protect the rights  
7 of persons and property, and enforce and prevent  
8 violation of all laws and administrative rules of the  
9 State as the director deems to be necessary or  
10 desirable or upon request, to assist other state  
11 officers or agencies that have primary administrative  
12 responsibility over specific subject matters or  
13 programs;

14 (2) Train, equip, maintain, and supervise the drug  
15 enforcement officers and other employees of the  
16 department;

17 (3) Serve process both in civil and criminal proceedings;

18 (4) Perform other duties as may be required by law;

19 (5) Adopt, pursuant to chapter 91, rules that are  
20 necessary or desirable for the administration of the  
21 drug enforcement programs; and





1           (6) Enter into contracts in behalf of the department and  
2           take all actions deemed necessary and appropriate for  
3           the proper and efficient administration of the  
4           department.

5           § **-3 Deputy directors; appointment.** The director shall  
6           appoint, without regard to chapter 76, one deputy director to  
7           serve at the director's pleasure. Unless otherwise assigned by  
8           the director, the deputy director shall oversee the  
9           administration of the department.

10          § **-4 Appointment of employees with police powers and**  
11 **other employees.** (a) The director may appoint employees to be  
12 drug enforcement officers who shall have all of the powers of  
13 police officers; provided that the director may establish and  
14 assign the employees to positions or categories of positions  
15 that may have differing titles, specific duties, and limitations  
16 upon the exercise of police powers.

17          (b) The director may appoint other personnel necessary to  
18 carry out the functions of the department.

19          § **-5 Canine interdiction program.** The director shall  
20 establish and maintain a canine drug interdiction program for  
21 the purpose of preventing entry of drugs into the State through  
22 air and sea traffic. The director shall enter into cooperative



1 agreements with air and sea carriers for canine screening of  
2 shipments received in the State from interstate and foreign  
3 commerce.

4 § -6 **Interagency drug enforcement planning council.** (a)

5 There is established in the department of drug enforcement an  
6 interagency drug enforcement planning council that shall oversee  
7 the development and implementation of a statewide drug  
8 interdiction and enforcement program. The council shall be  
9 headed by the director and consist of the attorney general, the  
10 director of public safety, the county prosecuting attorneys, the  
11 county chiefs of police, or their designees, and representatives  
12 of such other state and county agencies as the director  
13 determines.

14 (b) The department of drug enforcement shall be the lead  
15 agency for interagency planning council. As the lead agency,  
16 the department shall act as facilitator of and provide  
17 administrative support to the coordinating body."

18 SECTION 6. Chapter 712, part IV, Hawaii Revised Statutes,  
19 is amended by adding four new sections to be appropriately  
20 designated and to read as follows:



1           "§712-A Methamphetamine trafficking in the first degree.

2           (1) A person commits the offense of methamphetamine trafficking  
3           in the first degree if the person knowingly:

4           (a) Possesses one or more preparations, compounds,  
5           mixtures, or substances of an aggregate weight of one  
6           ounce or more containing methamphetamine or any of its  
7           salts, isomers, and salts of isomers;

8           (b) Distributes one or more preparations, compounds,  
9           mixtures, or substances of an aggregate weight of one-  
10           eighth ounce or more containing methamphetamine or any  
11           of its salts, isomers, and salts of isomers;

12           (c) Distributes methamphetamine in any amount to a minor;  
13           or

14           (d) Manufactures methamphetamine in any amount.

15           (2) Methamphetamine trafficking in the first degree is a  
16           class A felony for which the defendant shall be sentenced as  
17           provided in subsection (3).

18           (3) Notwithstanding sections 706-620(2), 706-640, 706-641,  
19           706-659, 706-669, and any other law to the contrary, a person  
20           convicted of methamphetamine trafficking in the first degree  
21           shall be sentenced to an indeterminate term of imprisonment of  
22           twenty years with a mandatory minimum term of imprisonment of



1 not less than two years and not greater than eight years and a  
2 fine not to exceed \$20,000,000; provided that:

3 (a) If the person has one prior conviction for  
4 methamphetamine trafficking pursuant to this section  
5 or section 712-B, the mandatory minimum term of  
6 imprisonment shall be not less than six years, eight  
7 months and not greater than thirteen years, four  
8 months;

9 (b) If the person has two prior convictions for  
10 methamphetamine trafficking pursuant to this section  
11 or section 712-B, the mandatory minimum term of  
12 imprisonment shall be not less than thirteen years,  
13 four months and not greater than twenty years; or

14 (c) If the person has three or more prior convictions for  
15 methamphetamine trafficking pursuant to this section  
16 or section 712-B, the mandatory minimum term of  
17 imprisonment shall be twenty years.

18 **§712-B Methamphetamine trafficking in the second degree.**

19 (1) A person commits the offense of methamphetamine trafficking  
20 in the second degree if the person knowingly distributes  
21 methamphetamine in any amount.

1           (2) Methamphetamine trafficking in the second degree is a  
2 class B felony for which the defendant shall be sentenced as  
3 provided in subsection (3).

4           (3) Notwithstanding sections 706-620, 706-640, 706-641,  
5 706-660, 706-669, and any other law to the contrary, a person  
6 convicted of methamphetamine trafficking in the second degree  
7 shall be sentenced to an indeterminate term of imprisonment of  
8 ten years with a mandatory minimum term of imprisonment of not  
9 less than one year and not greater than four years and a fine  
10 not to exceed \$10,000,000; provided that:

11           (a) If the person has one prior conviction for  
12 methamphetamine trafficking pursuant to this section  
13 or section 712-A, the mandatory minimum term of  
14 imprisonment shall be not less than three years, four  
15 months and not greater than six years, eight months;

16           (b) If the person has two prior convictions for  
17 methamphetamine trafficking pursuant to this section  
18 or section 712-A, the mandatory minimum term of  
19 imprisonment shall be not less than six years, eight  
20 months and not greater than ten years; or

21           (c) If the person has three or more prior convictions for  
22 methamphetamine trafficking pursuant to this section or section



1 712-A, the mandatory minimum term of imprisonment shall be ten  
2 years.

3 **§712-C Methamphetamine trafficking; restitution and**  
4 **reimbursement.** When sentencing a defendant convicted of  
5 methamphetamine trafficking pursuant to sections 712-A or 712-B,  
6 the court may order restitution or reimbursement to the state or  
7 county government for the cost incurred for any cleanup  
8 associated with the manufacture or distribution of  
9 methamphetamine and to any other person injured as a result of  
10 the manufacture or distribution of methamphetamine.

11 SECTION 7. Chapter 712, Hawaii Revised Statutes, is  
12 amended by adding a new section to part V to be appropriately  
13 designated and to read as follows:

14 **"§712-D Inspection and rehabilitation of premises. (a)**  
15 No premises or portion thereof ordered to be closed pursuant to  
16 this part shall be released or opened unless it has been  
17 inspected by the department of health and found to be in  
18 compliance with applicable county or state housing, building,  
19 fire, zoning, health and safety codes, laws, ordinances, rules,  
20 regulations, or statutes. The premises must be specifically  
21 cleaned of all drug-related paraphernalia including any residual  
22 biological and chemical material. Where the inspection reveals



1 violations of any such code, law, ordinance, rule, regulation,  
2 or statute, the court shall issue such orders or grant such  
3 relief as may be necessary to bring the premises or portion  
4 thereof into compliance. In that event, the court may order the  
5 premises or portion thereof to remain closed pending such  
6 necessary repairs or modification.

7 (b) The court may authorize any person or government  
8 official to enter a premises or portion thereof closed pursuant  
9 to this section for the purpose of conducting an inspection or  
10 making any repairs or modifications necessary to abate the  
11 nuisance or to bring the premises or portion thereof into  
12 compliance with any applicable housing, building, fire, zoning,  
13 health or safety code, law, ordinance, rule, regulation or  
14 statute."

15 SECTION 8. Section 706-622.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (1) to read as follows:

17 "(1) Notwithstanding section 706-620(3), a person  
18 convicted for the first time for any offense under section  
19 329-43.5 involving the possession or use of drug paraphernalia  
20 or any felony offense under part IV of chapter 712 involving the  
21 possession or use~~[, not including to distribute or manufacture~~  
22 ~~as defined in section 712-1240,]~~ of any dangerous drug,



1 detrimental drug, harmful drug, intoxicating compound,  
2 marijuana, or marijuana concentrate, as defined in section  
3 712-1240, [~~unlawful methamphetamine trafficking as provided in~~  
4 ~~section 712-1240.6, or involving possession or use of drug~~  
5 ~~paraphernalia under section 329-43.5,~~] but not including any  
6 offense under part IV of chapter 712 involving the distribution  
7 or manufacture of any such drugs or substances and not including  
8 any methamphetamine trafficking offenses under section 712A and  
9 712B, is eligible to be sentenced to probation under subsection  
10 (2) if the person meets the following criteria:

11 (a) The court has determined that the person is nonviolent  
12 after reviewing the person's criminal history, the  
13 factual circumstances of the offense for which the  
14 person is being sentenced, and any other relevant  
15 information;

16 (b) The person has been assessed by a certified substance  
17 abuse counselor to be in need of substance abuse  
18 treatment due to dependency or abuse under the  
19 applicable Diagnostic and Statistical Manual and  
20 Addiction Severity Index; and

21 (c) Except for those persons directed to substance abuse  
22 treatment under the supervision of the drug court, the





1 person presents a proposal to receive substance abuse  
2 treatment in accordance with the treatment plan  
3 prepared by a certified substance abuse counselor  
4 through a substance abuse treatment program that  
5 includes an identified source of payment for the  
6 treatment program."

7 SECTION 9. Section 712-1241, Hawaii Revised Statutes, is  
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of promoting a dangerous  
10 drug in the first degree if the person knowingly:

11 (a) Possesses one or more preparations, compounds,  
12 mixtures, or substances of an aggregate weight of:

13 (i) One ounce or more, containing [~~methamphetamine,~~  
14 heroin, morphine, or cocaine or any of their  
15 respective salts, isomers, and salts of isomers;

16 or

17 (ii) One and one-half ounce or more, containing one or  
18 more of any of the other dangerous drugs[+]

19 except methamphetamine; or

20 (b) Distributes, except for methamphetamine [~~as provided~~  
21 ~~in section 712-1240.6~~]:



1 (i) Twenty-five or more capsules, tablets, ampules,  
2 dosage units, or syrettes containing one or more  
3 dangerous drugs; or

4 (ii) One or more preparations, compounds, mixtures, or  
5 substances of an aggregate weight of:

6 (A) One-eighth ounce or more, containing heroin,  
7 morphine, or cocaine or any of their  
8 respective salts, isomers, and salts of  
9 isomers; or

10 (B) Three-eighths ounce or more, containing any  
11 other dangerous drug;

12 (c) Distributes any dangerous drug in any amount to a  
13 minor except for methamphetamine [~~as provided in~~  
14 ~~section 712-1240.6~~]; or

15 (d) Manufactures a dangerous drug in any amount, except  
16 for methamphetamine [~~as provided in section~~  
17 ~~712-1240.6~~]; provided that this subsection shall not  
18 apply to any person registered under section 329-32."

19 SECTION 10. Section 712-1240.6, Hawaii Revised Statutes,  
20 is repealed.

21 [~~§712-1240.6 Unlawful methamphetamine trafficking,~~  
22 ~~penalties.~~ (1) A person commits the offense of unlawful

1 ~~methamphetamine trafficking if the person knowingly~~  
2 ~~manufactures, distributes, dispenses, or possesses with intent~~  
3 ~~to manufacture, distribute or dispense, one or more~~  
4 ~~preparations, compounds, mixtures, or substances of~~  
5 ~~methamphetamine, or any of its salts, isomers, and salts of~~  
6 ~~isomers.~~

7 ~~(2) The manufacture, distribution, or dispensing of or~~  
8 ~~possession with intent to manufacture, distribute, or dispense~~  
9 ~~one or more preparations, compounds, mixtures, or substances of~~  
10 ~~an aggregate weight of one-eighth ounce or more of~~  
11 ~~methamphetamine, or any of its salts, isomers, and salts of~~  
12 ~~isomers is a class A felony with a mandatory minimum prison term~~  
13 ~~of five years; provided however:~~

14 ~~(a) If death or serious bodily injury as defined in~~  
15 ~~section 707-700 to any person other than the~~  
16 ~~defendant, results from the manufacture, distribution,~~  
17 ~~or dispensing of or possession with intent to~~  
18 ~~manufacture, distribute, or dispense any~~  
19 ~~methamphetamine substance, conviction under this~~  
20 ~~section shall be treated as a class A felony, with a~~  
21 ~~mandatory minimum prison term of ten years and a fine~~  
22 ~~not to exceed \$4,000,000 if the defendant is an~~



1           ~~individual, or a fine not to exceed \$10,000,000 if the~~  
2           ~~defendant is other than an individual; and~~

3           ~~(b) If the defendant has been convicted of any felony drug~~  
4           ~~offense prior to conviction of the offense under this~~  
5           ~~section, conviction under this section shall be~~  
6           ~~punishable by a term of life imprisonment with the~~  
7           ~~possibility of parole, with a mandatory minimum prison~~  
8           ~~term of fifteen years and a fine not to exceed~~  
9           ~~\$8,000,000 if the defendant is an individual, or a~~  
10           ~~fine not to exceed \$20,000,000 if the defendant is~~  
11           ~~other than an individual.~~

12           ~~(3) The manufacture, distribution, or dispensing of one or~~  
13           ~~more preparations, compounds, mixtures, or substances of an~~  
14           ~~aggregate weight of less than one-eighth ounce of~~  
15           ~~methamphetamine, or any of its salts, isomers, and salts of~~  
16           ~~isomers is a class B felony with a mandatory minimum prison term~~  
17           ~~of three years; provided however:~~

18           ~~(a) If death or serious bodily injury as defined in~~  
19           ~~section 707-700 to any person other than the defendant~~  
20           ~~results from the manufacture, distribution or~~  
21           ~~dispensing of any methamphetamine substance,~~  
22           ~~conviction under this section shall be treated as a~~



1 ~~class B felony, with a mandatory minimum prison term~~  
2 ~~of five years and a fine not to exceed \$2,000,000 if~~  
3 ~~the defendant is an individual, or a fine not to~~  
4 ~~exceed \$5,000,000 if the defendant is other than an~~  
5 ~~individual; and~~

6 ~~(b) If the defendant has been convicted of any felony drug~~  
7 ~~offense prior to conviction of the offense under this~~  
8 ~~section, conviction under this section shall be~~  
9 ~~treated as a class A felony, with a mandatory minimum~~  
10 ~~prison term of eight years and a fine not to exceed~~  
11 ~~\$4,000,000 if the defendant is an individual, or a~~  
12 ~~fine not to exceed \$10,000,000 if the defendant is~~  
13 ~~other than an individual.~~

14 ~~(c) If the distribution or dispensing of any amount of a~~  
15 ~~methamphetamine substance is to a minor, then~~  
16 ~~conviction under this section shall be treated as a~~  
17 ~~class A felony, with a mandatory minimum prison term~~  
18 ~~of five years.~~

19 ~~(4) A defendant convicted of the offense of unlawful~~  
20 ~~methamphetamine trafficking shall be sentenced in accordance~~  
21 ~~with this section, notwithstanding sections 706-620(2), 706-659,~~  
22 ~~706-640, and 706-641. When sentencing a defendant convicted of~~



1 ~~the offense of unlawful methamphetamine trafficking, the court~~  
2 ~~may order restitution or reimbursement to:~~

3 ~~(a) The state or county government for the cost incurred~~  
4 ~~for any cleanup associated with the manufacture,~~  
5 ~~distribution, or dispensing of methamphetamine, or any~~  
6 ~~of its salts, isomers, and salts of isomers by the~~  
7 ~~defendant; and~~

8 ~~(b) Any other person injured as a result of the~~  
9 ~~manufacture, distribution, or dispensing of~~  
10 ~~methamphetamine, or any of its salts, isomers, and~~  
11 ~~salts of isomers, by the defendant.]"~~

12 SECTION 11. The governor shall appoint a management team  
13 and may hire necessary staff, who shall be exempt from chapter  
14 77, Hawaii Revised Statutes, to develop the appropriate  
15 transition plans, rework position descriptions, revise personnel  
16 classifications, develop an organizational structure, prepare a  
17 proposed budget, and attend to other administrative details so  
18 that the new department of drug enforcement can be initially  
19 operational by July 1, 2007.

20 SECTION 12. The director of drug enforcement shall report  
21 to the legislature, no later than twenty days before the  
22 convening of the regular session of 2008, concerning the



1 director's recommendations regarding the transfer to the  
2 department of drug enforcement of all other drug enforcement  
3 functions and employees of the State.

4 SECTION 13. All officers and employees of the department  
5 of public safety whose functions are transferred by this Act  
6 shall be transferred with their functions and shall continue to  
7 perform their regular duties upon their transfer, subject to  
8 state personnel laws and this Act.

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

19 In the event that an office or position held by an officer  
20 or employee having tenure is abolished and the officer,  
21 employee, or position is not transferred to the department of  
22 drug enforcement by this Act, the officer or employee shall not



1 thereby be separated from public employment, but shall remain in  
2 the employment of the State with the same pay and classification  
3 and shall be transferred to some other office or position of the  
4 State for which the officer or employee is eligible under the  
5 personnel laws of the State as determined by the head of the  
6 department or the governor.

7 Any employee who, prior to this Act, was exempt from civil  
8 service and may be transferred as a consequence of this Act,  
9 shall continue to retain the employee's exempt status and shall  
10 not be appointed to a civil service position because of this  
11 Act. Employees who may be transferred by this Act and who are  
12 receiving entitlements, benefits, or privileges in accordance  
13 with chapter 77, Hawaii Revised Statutes, shall continue to  
14 receive only those entitlements, benefits, or privileges  
15 received under chapter 77, Hawaii Revised Statutes, after such  
16 transfer.

17 SECTION 14. Transfers of records, equipment,  
18 appropriations, authorizations, and other property. All  
19 appropriations, records, equipment, files, supplies, contracts,  
20 books, papers, documents, maps, computer software and data,  
21 authorizations and other property, both real and personal,  
22 heretofore made, used, acquired, or held by the department,





1 office, board, commission, or agency in the exercise of the  
2 functions and programs transferred by this Act shall be  
3 transferred to the department of drug enforcement when the  
4 functions or programs are so transferred.

5 SECTION 15. All rules, policies, procedures, guidelines,  
6 and other material adopted or developed by the department of  
7 public safety to implement provisions of the Hawaii Revised  
8 Statutes which are reenacted or made applicable to the  
9 department of drug enforcement by this Act, shall remain in full  
10 force and effect until amended or repealed by the department of  
11 drug enforcement pursuant to chapter 91, Hawaii Revised  
12 Statutes. In the interim, every reference to the department of  
13 public safety or director of public safety in those rules,  
14 policies, procedures, guidelines, and other material is amended  
15 to refer to the department drug enforcement or director of drug  
16 enforcement, as appropriate.

17 SECTION 16. No offense committed and no penalty or  
18 forfeiture incurred under the law shall be affected by this Act;  
19 provided that whenever any punishment, penalty, or forfeiture is  
20 mitigated by any provision of this Act, such provision may be  
21 extended and applied to any judgment pronounced after the  
22 passage of this Act. No suit or prosecution pending at the time



1 this Act takes effect shall be affected by this Act. The right  
2 of any administrative officer whose function is transferred by  
3 this Act to the department of drug enforcement, to institute  
4 proceedings for prosecution for an offense or an action to  
5 recover a penalty or forfeiture shall be vested in the director  
6 of drug enforcement or the director's designee.

7 SECTION 17. The right of appeal from administrative  
8 actions or determinations as provided by law shall not be  
9 impaired by this Act.

10 Except as otherwise provided by this Act, wherever a right  
11 of appeal from administrative actions or determinations is  
12 provided by law to or from any officer, board, department,  
13 bureau, commission, administrative agency, or instrumentality of  
14 the State which, or any of the programs of which, is transferred  
15 by this Act to the department of drug enforcement, the right of  
16 appeal shall lie to or from the department of drug enforcement  
17 when the transfer is made. The right of appeal shall exist to  
18 the same extent and in accordance with the applicable procedures  
19 that are in effect immediately prior to the effective date of  
20 this Act.

21 If the provisions of the preceding paragraph relating to  
22 appeals cannot be effected by reason of abolishment, splitting,



1 or shifting of functions or otherwise, the right of appeal shall  
2 lie to the circuit court of the State pursuant to the Hawaii  
3 Rules of Civil Procedure.

4 SECTION 18. It is the intent of this Act not to jeopardize  
5 the receipt of any federal aid nor to impair the obligation of  
6 the State or any agency thereof to the holders of any bond  
7 issued by the State or by any such agency, and to the extent,  
8 and only to the extent, necessary to effectuate this intent, the  
9 governor is authorized and empowered to modify the strict  
10 provisions of this Act, but shall promptly report any such  
11 modifications with reasons therefor to the legislature at its  
12 next session thereafter for review by the legislature.

13 SECTION 19. The revisor of statutes may incorporate into  
14 the Hawaii Revised Statutes, any of the provisions contained in  
15 this Act. The revisor of statutes shall substitute the  
16 appropriate department of drug enforcement reference in all  
17 existing statutes where a department, board, commission, agency,  
18 program, or organizational segment is transferred to the  
19 department of drug enforcement if such existing statutory  
20 language has not been amended by this Act.

21 SECTION 20. All Acts passed during this Regular Session of  
22 2006, whether enacted before or after the passage of this Act,



1 shall be amended to conform to this Act, unless such Acts  
2 specifically provide that the Act relating to a "department of  
3 drug enforcement" is being amended. Amendments made to sections  
4 of the Hawaii Revised Statutes that are amended by this Act as  
5 of a future effective date shall include amendments made after  
6 the approval of this Act and before the effective date of the  
7 amendments made by this Act, to the extent that the intervening  
8 amendments may be harmonized with the amendments made by this  
9 Act.

10 SECTION 21. There is hereby appropriated out of the  
11 general revenues of the State of Hawaii the sum of \$500,000, or  
12 so much thereof as may be necessary, for fiscal year 2006-2007,  
13 to carry out the purposes of section 11 of this Act.

14 The sum appropriated shall be expended by the office of the  
15 governor.

16 SECTION 22. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$3,000,000 or so much  
18 thereof as may be necessary for fiscal year 2006-2007 for  
19 adolescent substance abuse treatment programs, with priority  
20 given to establishing school-based treatment programs in all  
21 high schools, middle and intermediate schools, and adolescent  
22 residential treatment programs.



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

3           SECTION 23. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$2,000,000 or so much  
5 thereof as may be necessary for fiscal year 2006-2007 for  
6 substance abuse prevention, with priority given to drug  
7 education and awareness in the schools and community  
8 partnerships, non-school youth activities in communities with  
9 the greatest need, education and support for families and  
10 parenting women, and community mobilization.

11           The sum appropriated shall be expended by the department of  
12 health for the purposes of this Act.

13           SECTION 24. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$4,000,000 or so much  
15 thereof as may be necessary for fiscal year 2006-2007 for adult  
16 treatment services, including family counseling, with priority  
17 given to women of child-bearing age, pregnant women, parents of  
18 young children in the home, and Hawaiians as defined in section  
19 10-2, Hawaii Revised Statutes.

20           The sum appropriated shall be expended by the department of  
21 health for the purposes of this Act.



1 SECTION 25. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$500,000 or so much  
3 thereof as may be necessary for fiscal year 2006-2007 for the  
4 treatment of first-time nonviolent drug offenders sentenced by  
5 the court under sections 706-622.5 and 706-625, Hawaii Revised  
6 Statutes.

7 SECTION 26. There is appropriated out of the emergency and  
8 budget reserve fund the sum of \$100,000 or so much thereof as  
9 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
10 the city and county of Honolulu to fund grassroots community  
11 efforts to sustain its anti-drug campaigns; provided that no  
12 single nonprofit entity shall receive more than \$5,000 under  
13 this section; and provided further that no funds shall be  
14 expended under this section unless matched by funds from the  
15 city and county of Honolulu.

16 The sum appropriated shall be expended by the city and  
17 county of Honolulu.

18 SECTION 27. There is appropriated out of the emergency and  
19 budget reserve fund the sum of \$100,000 or so much thereof as  
20 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
21 the county of Hawaii to fund grassroots community efforts to  
22 sustain its anti-drug campaigns; provided that no single



1 nonprofit entity shall receive more than \$5,000 under this  
2 section; and provided further that no funds shall be expended  
3 under this section unless matched by funds from the county of  
4 Hawaii.

5 The sum appropriated shall be expended by the county of  
6 Hawaii.

7 SECTION 28. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$380,000 or so much  
9 thereof as may be necessary for fiscal year 2006-2007, pursuant  
10 to chapter 103F, Hawaii Revised Statutes, for community  
11 adolescent drug prevention programs on the island of Hawaii.

12 The sum appropriated shall be expended by the county of  
13 Hawaii.

14 SECTION 29. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$100,000 or so much thereof as  
16 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
17 the county of Kauai to fund grassroots community efforts to  
18 sustain its anti-drug campaigns; provided that no single  
19 nonprofit entity shall receive more than \$5,000 under this  
20 section; and provided further that no funds shall be expended  
21 under this section unless matched by funds from the county of  
22 Kauai.



1       The sum appropriated shall be expended by the county of  
2 Kauai.

3       SECTION 30. There is appropriated out of the emergency and  
4 budget reserve fund the sum of \$100,000 or so much thereof as  
5 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
6 the county of Maui to fund grassroots community efforts to  
7 sustain its anti-drug campaigns; provided that no single  
8 nonprofit entity shall receive more than \$5,000 under this  
9 section; and provided further that no funds shall be expended  
10 under this section unless matched by funds from the county of  
11 Maui.

12       The sum appropriated shall be expended by the county of  
13 Maui.

14       SECTION 31. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$100,000 or so much thereof as  
16 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
17 the city and county of Honolulu to fund community-based  
18 substance abuse prevention programs, with priority given to drug  
19 education and awareness in the schools, community partnerships,  
20 and non-school youth activities in communities with the greatest  
21 need.





1           The sum appropriated shall be expended by the city and  
2 county of Honolulu.

3           SECTION 32. There is appropriated out of the emergency and  
4 budget reserve fund the sum of \$100,000 or so much thereof as  
5 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
6 the county of Hawaii to fund community-based substance abuse  
7 prevention programs, with priority given to drug education and  
8 awareness in the schools, community partnerships, and non-school  
9 youth activities in communities with the greatest need.

10          The sum appropriated shall be expended by the county of  
11 Hawaii.

12          SECTION 33. There is appropriated out of the emergency and  
13 budget reserve fund the sum of \$100,000 or so much thereof as  
14 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
15 the county of Kauai to fund community-based substance abuse  
16 prevention programs, with priority given to drug education and  
17 awareness in the schools, community partnerships, and non-school  
18 youth activities in communities with the greatest need.

19          The sum appropriated shall be expended by the county of  
20 Kauai.

21          SECTION 34. There is appropriated out of the emergency and  
22 budget reserve fund the sum of \$100,000 or so much thereof as



1 may be necessary for fiscal year 2006-2007 as a grant-in-aid to  
2 the county of Maui to fund community-based substance abuse  
3 prevention programs, with priority given to drug education and  
4 awareness in the schools, community partnerships, and non-school  
5 youth activities in communities with the greatest need.

6 The sum appropriated shall be expended by the county of  
7 Maui.

8 SECTION 35. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$50,000 or so much  
10 thereof as may be necessary for fiscal year 2006-2007, to be  
11 matched with federal funds, for community anti-drug efforts  
12 aimed at preventing crystal methamphetamine use.

13 The sum appropriated shall be expended by the county of  
14 Hawaii.

15 SECTION 36. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$125,000 or so much  
17 thereof as may be necessary for fiscal year 2006-2007 for a  
18 needs assessment for adult substance abuse treatment services or  
19 the implementation of the substance abuse treatment monitoring  
20 program, and for coordination of community-based drug abatement  
21 and mobilization efforts.



1 The sum appropriated shall be expended by the department of  
2 public safety.

3 SECTION 37. Statutory material to be repealed is  
4 bracketed. New statutory material is underscored.

5 SECTION 38. This Act shall take effect upon its approval;  
6 provided that specific provisions of this Act shall take effect  
7 as otherwise specified in this Act; and provided further that  
8 sections 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
9 35, and 36 shall take effect on July 1, 2006.

10

INTRODUCED BY:



Paul A. ...  
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JAN 25 2006

H. B. NO. 3246

**Report Title:**

Drugs; Treatment; Enforcement; Appropriations

**Description:**

Establishes a new state new drug enforcement department with statewide responsibility for drug enforcement, including interdiction and interagency planning. Establishes new methamphetamine trafficking offenses. Requires cleanup of drug houses closed under nuisance abatement law. Appropriates funds to establish new department. Appropriates funds for substance abuse prevention and treatment programs.

