
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. The legislature finds that prison overcrowding
2 is a problem in the State of Hawaii. On June 12, 1985, state
3 officials entered into a constant decree in federal court after
4 being found guilty of having inadequate safety and programs,
5 mainly due overcrowding. The state agreed to set prison
6 population limits and make sweeping facility and program
7 improvements at Oahu Community Correctional Center and the
8 women's prison.

9 The legislature also finds that to comply with the
10 federally enforced consent decree, Hawaii sent its first
11 prisoners to private prisons in Texas in 1995 due to overcrowded
12 conditions. The state had no intention of using the practice of
13 sending the state's inmates to the mainland as a long-term
14 correction strategy. However, Hawaii's prison population has
15 nearly doubled since 1991 and last state prison built in Hawaii
16 was completed in 1987. In September 1999, Federal court stated
17 that Hawaii state prisons are in substantial compliance and the
18 consent decree was lifted.



1 The legislature also finds that the cost of building a new
2 prison is problematic. In 2003, the Department of Public Safety
3 announced an updated master plan that proposed spending one
4 billion dollars over the next 10 years. The plan would have
5 doubled the capacity of the correctional system by building new
6 facilities and expanding existing prisons and jails to
7 accommodate the increase of incarcerated individuals in Hawaii.
8 However, the state Legislature never appropriated the necessary
9 amounts needed to complete the master plan and inmates are
10 continuing to be shipped to the mainland.

11 The legislature further finds that sending prisoners to the
12 mainland is a stop-gap measure, and not a long-term solution to
13 the problem of prison overcrowding. More than 2,100 prisoners
14 are incarcerated in correction facilities on the mainland
15 because it is more cost effective than incarcerating them in a
16 correctional facility in Hawaii. On average, a prisoner can be
17 housed on the mainland at a cost of \$43 to \$52 a day, compared
18 to \$102 a day it takes to house them in Hawaii. However,
19 relocating Hawaii prisoners to mainland correctional facilities
20 can have unintended consequences. Moving inmates from prison to
21 prison can disrupt training and rehabilitation programs and
22 strain relationships inmates have with their families in Hawaii.



1 Several recidivism studies have found that convicts who keep in
2 touch with family members through phone privileges and face-to-
3 face contact are less likely to violate their parole or commit
4 new offenses. However, Hawaiian prisoners have found it hard to
5 keep in touch with relatives. Unlike mainland prisoners, many
6 Hawaii prisoners' families cannot afford to fly to the mainland
7 to see their incarcerated family member. Furthermore, each time
8 a prisoner moves from one prison to another, they must apply for
9 phone privileges, a process which could take up to six months.

10 The legislature further finds that while some states have
11 experimented with financial incentives (bonding) to prevent
12 overcrowding, conditional release bonds have been shown to be a
13 relatively inexpensive way of allowing for the conditional early
14 release of non-violent criminal offenders. Accordingly, the
15 purpose of this Act is to enact a statutory framework for the
16 creation and use of conditional early release bonds as a means
17 to address the issue of prison overcrowding.

18 SECTION 2. The Hawaii Revised Statutes is amended by
19 adding a new chapter to be appropriately designated and to read
20 as follows:

21 "CHAPTER CONDITIONAL EARLY RELEASE BOND

22



1 **§A-1 Definitions.** As used in this chapter:

2 "Bond" means the written undertaking delivered by the
3 surety to the releasing authority and describing the terms and
4 conditions of surety's duties.

5 "Breach" means any condition of release violated by the
6 principal.

7 "Breach penalty" means the amount of money to be paid by
8 the surety to the state upon the surety's failure to meet the
9 requirements under this Act. The breach penalty shall be equal
10 to the face amount of the bond.

11 "Charge" means the amount of money the surety charges to
12 write the bond. In no case shall the charges be less than
13 fifteen per cent of the breach penalty amount which charge shall
14 be fully earned when the bond is written.

15 "Conditions" means such conditions as the releasing
16 authority may impose as a prerequisite or prerequisites to being
17 released from custody.

18 "Mandatory conditions" mean those conditions the releasing
19 authority must place upon the principal as a condition to early
20 release.

21 "Principal" means any person to be released under this
22 chapter.



1 "Releasing authority" means the Hawaii paroling authority.

2 "Revocation of bond" means the use and effectiveness of the
3 bond has ceased. The releasing authority may revoke the bond
4 upon a breach of continue the bond by nullifying the breach.
5 Or, the bond may be revoked at any time the releasing authority
6 determines that the principal is not attempting to abide by the
7 conditions of the bond.

8 "Surety" means any person or entity licensed under the laws
9 of the state to execute bonds filed in criminal cases.

10 **SA-2 Early release upon bond.** (a) Upon the decision of the
11 releasing authority to return an inmate to society, the
12 releasing authority may release a principal by requiring the
13 posting of an early release bond by a surety. The releasing
14 authority may set conditions of release, which shall be appended
15 to and made a part of the bond. The conditions may, unless
16 otherwise specified, be any combination of the following, but
17 are not limited to:

- 18 (1) Drug and/or alcohol testing of the principal;
19 (2) Participation and completion of a drug and/or
20 alcohol recovery program;



1 (3) Prohibition from contacting or communicating with
2 any witness involved in the conviction of the
3 principal;

4 (4) Prohibition from contacting or communicating with
5 any victim involved in the conviction of the
6 principal;

7 (5) Obtaining and retaining gainful employment;

8 (6) Remaining on home arrest via electronic
9 monitoring device approved by the State;

10 (7) Abiding by specified travel restrictions;

11 (8) Making specified restitution payments;

12 (9) Making payment of specified fines and court
13 costs;

14 (10) Performance of community services;

15 (11) Pursuit and completion of specified education
16 courses; or

17 (12) Participation in family or third-party
18 involvement as specified

19 (b) In addition to any conditions of release imposed by
20 the releasing authority pursuant to this section, the releasing
21 authority shall set the following mandatory conditions of
22 release, which shall be appended to and made a part of the bond:



- 1 (1) Payment of the surety's charge; and
- 2 (2) Personally reporting to the surety at such time
- 3 and in such manner as directed by the releasing
- 4 authority and the surety.

5 **SA-3 Terms of bond.** (a) The early release bond put up by
6 the surety shall:

- 7 (1) be for a term of one year, and may be renewed
- 8 annually;
- 9 (2) be in favor of and payable to the State; and
- 10 (3) be conditioned that the releasing authority
- 11 shall:
 - 12 (A) give the surety written notice of any breach
 - 13 of condition within 30 calendar days of the
 - 14 breach;
 - 15 (B) if within 180 calendar days from date of
 - 16 receipt of written notice by releasing
 - 17 authority that the principal has failed to
 - 18 meet one or more of the conditions of
 - 19 principal's early release, the principal
 - 20 shall have been placed back into custody,
 - 21 whether by surety or another, then the bond
 - 22 shall be exonerated.



1 **SA-4 Penalties; surety.** The surety shall pay the breach
2 penalty upon the breach of a condition by the principal. There
3 shall be only one penalty per bond.

4 **SA-5 Surrender of principal.** At any time after receiving
5 notice of a breach by the principal, the surety may arrest the
6 principal and surrender him to the nearest county jail. If the
7 principal is surrendered within 180 calendar days of receipt of
8 the notice of the breach, the bond shall be exonerated."

9 SECTION 3. Section 353-62, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§353-62 Hawaii paroling authority; responsibilities and**
12 **duties; operations; records, reports, staff.** (a) In addition
13 to any other responsibility or duty prescribed by law for the
14 Hawaii paroling authority, the paroling authority shall:

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

16 (2) In selecting individuals for parole, consider for
17 parole all committed persons, except in cases where
18 the penalty of life imprisonment not subject to parole
19 has been imposed, regardless of the nature of the
20 offense committed;

21 (3) Determine the time at which parole shall be granted to
22 any eligible individual as that time at which maximum



- 1 benefits of the correctional institutions to the
2 individual have been reached and the element of risk
3 to the community is minimal;
- 4 (4) Establish rules of operation to determine conditions
5 of parole applicable to any individual granted parole
6 and conditions for the use of conditional early
7 release bonds under chapter to any individual
8 eligible for parole or early release;
- 9 (5) Provide continuing custody, control, and supervision
10 of paroled individuals and individuals released under
11 conditional early release bonds;
- 12 (6) Revoke or suspend parole and provide for the
13 authorization of return to a correctional institution
14 for any individual who violates parole or any
15 condition of parole when, in the opinion of the Hawaii
16 paroling authority, the violation presents a risk to
17 community safety or a significant deviation from any
18 condition of parole;
- 19 (7) Discharge an individual from parole when supervision
20 is no longer needed;



1 (8) Interpret the parole program to the public in order to
2 develop a broad base of public understanding and
3 support; [~~and~~]

4 (9) Recommend to the legislature sound parole legislation
5 and recommend to the governor sound parole
6 administration; and

7 (10) Establish other rules as necessary to effect the
8 purpose of chapter _____.

9 (b) In its operations the paroling authority shall:

10 (1) Keep and maintain a record of all meetings and
11 proceedings;

12 (2) Send a detailed report of its operations to the
13 governor every three months;

14 (3) In promulgating rules, conform to chapter 91;

15 (4) In all matters act by a majority of its members; and

16 (5) Appoint an administrative secretary and such other
17 clerical and other assistants as may be necessary
18 within the limits of available appropriations, subject
19 to any applicable salary classification and civil
20 service schedules, laws, and rules."

21 SECTION 4. If any provision of this Act, or the
22 application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
 2 applications of the Act, which can be given effect without the
 3 invalid provision or application, and to this end the provisions
 4 of this Act are severable.

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

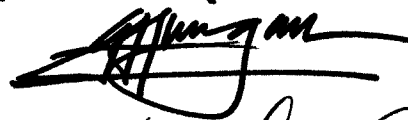
7 SECTION 6. This Act shall take effect on January 1, 2009.

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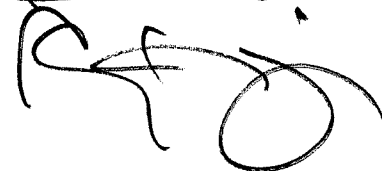
INTRODUCED BY: _____




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JAN 11 2008



Report Title:

Conditional early release bond

Description:

Provides a system of bonding that will allow for the conditional early release of nonviolent criminal offenders.

