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# A BILL FOR AN ACT

RELATING TO PUBLIC ASSISTANCE.

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

1           SECTION 1. The legislature finds that, under section  
2 346-29(b), Hawaii Revised Statutes, an applicant or recipient of  
3 public assistance who is also an inmate of any public  
4 institution may not receive public assistance from the State  
5 under chapter 346, Hawaii Revised Statutes. The one exception  
6 is for an inmate of a public institution who is otherwise  
7 eligible for medical assistance and who has been determined by  
8 the medical director of the institution as having a major  
9 illness or medical condition requiring the provision of medical  
10 care outside of the institution. In addition, any applicant or  
11 recipient who is found guilty of fraudulently misrepresenting  
12 residence in two or more states to receive assistance is also  
13 prohibited from receiving public assistance in Hawaii for ten  
14 years from the date of conviction. Furthermore, a fugitive  
15 felon or an individual who is in violation of a condition of  
16 probation or parole, or has sufficient income or other resources  
17 to provide a standard above that required by chapter 346, Hawaii

1 Revised Statutes, may not receive public assistance in the  
2 state.

3       However, the legislature finds that the department of  
4 public safety does not provide the department of human services  
5 with lists of newly admitted inmates. The department of human  
6 services currently does not regularly screen inmates for receipt  
7 of public assistance except for inmates who are convicted of  
8 welfare fraud.

9       The purpose of this Act is to improve the efficiency of  
10 enforcing the public assistance law with respect to inmates who  
11 are no longer eligible to receive public assistance by requiring  
12 the department of public safety to provide monthly lists of  
13 newly admitted inmates to the department of human services to  
14 enable that department to screen for all inmates not eligible to  
15 receive public assistance.

16       SECTION 2. Chapter 353, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19       "§353-    Public assistance; inmates; monthly reports to  
20 department of human services. Beginning January 31, 2010, for  
21 the purpose of assisting the department of human services to  
22 enforce section 346-29(b), the director shall prepare and

1 transmit to the department of human services monthly reports  
2 listing all inmates newly admitted during the previous month to  
3 any correctional facility within the state; provided that no  
4 later than December 31, 2009, the director shall transmit to the  
5 department of human services an initial list of all inmates  
6 within the department of public safety's correctional facilities  
7 statewide."

8 SECTION 3. Section 346-29, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§346-29 Applications for public assistance; manner, form,**  
11 **conditions.** (a) Applications for public assistance under this  
12 chapter shall be made by the applicant, or by someone acting in  
13 the applicant's behalf, in the manner, place, and form  
14 prescribed by the department.

15 (b) No applicant or recipient who is found guilty of  
16 fraudulently misrepresenting residence to obtain assistance in  
17 two or more states shall be entitled to public assistance under  
18 this chapter for ten years from date of conviction. No  
19 applicant or recipient shall be entitled to public assistance  
20 under this chapter who is a fugitive felon or who is in  
21 violation of a condition of probation or parole or has  
22 sufficient income or other resources to provide a standard above

1 that provided in this chapter, or who is an inmate of any public  
2 institution, except that:

3 (1) [any] Any inmate of a public institution who is  
4 otherwise eligible for medical assistance and who has  
5 been determined by the medical director of the  
6 institution as having a major illness or medical  
7 condition requiring the provision of medical care  
8 outside of the institution may receive assistance  
9 under this chapter~~[=]~~; and

10 (2) Any inmate who has been sentenced to incarceration in  
11 a public institution for not more than thirty days  
12 shall continue to receive public assistance for the  
13 duration of the inmate's incarceration.

14 ~~[An]~~ For an inmate [of] who has been sentenced to incarceration  
15 in a public institution for a term of more than thirty days or a  
16 resident of a medical institution, public assistance shall be  
17 terminated for the duration of the inmate's incarceration or the  
18 resident's confinement, and the inmate or resident may apply for  
19 assistance to begin after the [inmate's] inmate or the  
20 resident's discharge from the respective institution. To  
21 enforce this subsection, the department, pursuant to section  
22 353- , shall examine each monthly list of newly admitted

1 inmates to a correctional facility in the State, regardless of  
2 the nature of the offense for which an inmate is incarcerated or  
3 duration of the incarceration, to identify an inmate's status  
4 with respect to the inmate's current eligibility for receipt of  
5 public assistance under this chapter.

6 (c) In determining the needs of an applicant or recipient  
7 for public assistance by the department, the department shall:

8 (1) Disregard the amounts of earned or unearned income as  
9 required or allowed by federal acts and other  
10 regulations, to receive federal funds and disregard  
11 from gross earned income twenty per cent plus \$200 and  
12 a percentage of the remaining balance of earned income  
13 consistent with federal regulations and other  
14 requirements;

15 (2) Consider as net income in all cases the income as  
16 federal acts and other regulations require the  
17 department to consider for receipt of federal funds  
18 and may consider the additional income and resources  
19 as these acts and regulations permit to be considered;

20 (3) For households with minor dependents, disregard a  
21 total of \$5,000 in assets and the value of one motor  
22 vehicle in determining the needs of persons for

1 financial assistance; provided that the amount to be  
2 disregarded shall not exceed standards under federally  
3 funded financial assistance programs. This paragraph  
4 shall not apply to persons eligible for federal  
5 supplemental security income benefits, aid to the  
6 aged, blind or disabled, or general assistance to  
7 households without minor dependents. In determining  
8 the needs of persons eligible for federal supplemental  
9 security income benefits, aid to the aged, blind, or  
10 disabled, or general assistance to households without  
11 minor dependents, the department shall apply all the  
12 resource retention and exclusion requirements under  
13 the federal supplemental security income program;

14 (4) Apply the resource retention requirements under the  
15 federal supplemental security income program in  
16 determining the needs of a single person for medical  
17 assistance only;

18 (5) Apply the resource retention requirements under the  
19 federal supplemental security income program in  
20 determining the needs of a family of two persons for  
21 medical assistance only and an additional \$250 for

- 1 each additional person included in an application for  
2 medical assistance only;
- 3 (6) Disregard amounts of emergency assistance granted  
4 under section 346-65;
- 5 (7) Not consider as income or resources any payment for  
6 services to or on behalf of, or any benefit received  
7 by, a participant under the first to work program of  
8 part XI, other than wages. Wages earned by a  
9 participant while participating in the first to work  
10 program shall be considered income of the participant,  
11 unless the wages are excluded or disregarded under any  
12 other law;
- 13 (8) Not consider as income or resources payment made to  
14 eligible individuals, eligible surviving spouses,  
15 surviving children or surviving parents as specified  
16 under Title I of the Civil Liberties Act of 1988,  
17 Public Law 100-383, which made restitution to  
18 individuals of Japanese ancestry who were interned  
19 during World War II;
- 20 (9) Allow the community spouse of an individual residing  
21 in a medical institution to maintain countable  
22 resources to the maximum allowed by federal statutes

- 1 or regulations with provisions for increases, as  
2 allowed by the Secretary of Health and Human Services  
3 by means of indexing, court order, or fair hearing  
4 decree, without jeopardizing the eligibility of the  
5 institutionalized spouse for medical assistance;
- 6 (10) Allow an individual residing in a medical institution  
7 to contribute toward the support of the individual's  
8 community spouse, thereby enabling the community  
9 spouse to maintain the monthly maximum income allowed  
10 by federal statutes or regulations, with provisions  
11 for increases as allowed by the Secretary of Health  
12 and Human Services by means of indexing, court order,  
13 or fair hearing decree;
- 14 (11) Consider the transfer of assets from the applicant's  
15 name to another name within the specified time period  
16 as required by federal regulations, known as the  
17 "lookback" period, prior to the application for  
18 medical assistance for care in a nursing home or other  
19 long-term care facility. Pursuant to rules adopted  
20 under chapter 91, the director may attribute any  
21 assets that have been transferred within the required  
22 federal "lookback" period from the applicant if the



1 director determines that transfer of certain assets  
2 was made solely to make the applicant eligible for  
3 assistance under this chapter; and

4 (12) Not consider as income or resources any funds  
5 deposited into a family self-sufficiency escrow  
6 account on behalf of a participant under a federal  
7 housing choice voucher family self-sufficiency program  
8 as required or allowed under federal law.

9 [~~e~~] (d) In determining eligibility for medical  
10 assistance, the department shall require from all applicants and  
11 recipients the assignment of any benefits due to a third party  
12 liability. Any rights or amounts so assigned shall be applied  
13 against the cost of medical care paid under this chapter.

14 [~~d~~] (e) The director shall adopt rules pursuant to  
15 chapter 91 defining assets and to determine eligibility for  
16 medical assistance; provided that the cash surrender value of  
17 life insurance policies owned by persons included in an  
18 application shall be treated as assets."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect upon its approval.

**Report Title:**

Welfare; Inmates; Reports to Department of Human Services

**Description:**

Requires the department of public safety to provide the department of human services (DHS) with a monthly report listing newly admitted inmates. Requires DHS to identify the status of each inmate on the monthly list with respect to the inmate's current receipt of public assistance. Requires continuation of public assistance to inmates sentenced to be incarcerated in a public institution for not more than thirty days and termination of assistance to inmates sentenced to more than thirty days. (SD1)