
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 incarcerated
2 persons' rehabilitation benefits from regular family visits.
3 The legislature further finds that the department of public
4 safety has been sending Hawaii inmates to mainland prisons and
5 transferring Hawaii inmates between in-state facilities at an
6 increasing rate. Frequent transfers are of concern because they
7 disrupt educational, vocational, treatment, and other programs
8 that are integral to successful rehabilitation and reentry into
9 society. This is particularly true of inmates detained in
10 mainland prisons.

11 The legislature further finds that there are no existing
12 statutes establishing standards governing the transfer of
13 inmates to mainland prisons or between correctional facilities
14 in Hawaii.

15 The purpose of this Act is to establish standards for the
16 transfer of Hawaii incarcerated persons to mainland or between
17 in-state correctional facilities.

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

4 "§353- Transfer of inmates to other Hawaii correctional
5 facilities. The director may effect the transfer of a committed
6 felon to any correctional facility located in this State, if the
7 transfer is in the best interests of the State and the welfare
8 of the committed felon will be best served by the transfer;
9 provided that the director shall consider the following criteria
10 prior to the transfer:

11 (1) If the committed felon is currently engaged in a
12 rehabilitation or reentry program prior to the
13 proposed transfer, whether the felon may continue with
14 a similar program at the facility to which transfer is
15 proposed;

16 (2) The location of the committed felon's family and
17 whether the committed felon has maintained contact
18 with the committed felon's family; provided that if
19 contact has been maintained, whether the transfer
20 would significantly disrupt contact between the felon
21 and the felon's family; and

1 (3) Whether other committed felons have volunteered to be
 2 transferred provided that felons volunteering for a
 3 transfer shall be given preference for a transfer
 4 under this section to achieve cost savings."

5 SECTION 3. Section 353-16.2, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 "**§353-16.2 Transfer of inmates to out-of-state**

8 **institutions.** (a) The director may effect the transfer of a
 9 committed felon to any correctional institution located in
 10 another state regardless of whether the state is a member of the
 11 Western Interstate Corrections Compact; provided that the
 12 institution is in compliance with appropriate health, safety,
 13 and sanitation codes of the state, provides a level of program
 14 activity for the inmate that is suitable, and is operated by
 15 that state, by any of its political subdivisions, or by a
 16 private institution; and provided further that the transfer is
 17 either:

- 18 (1) In the interest of the security, management of the
 19 correctional institution where the inmate is presently
 20 placed, or the reduction of prison overcrowding; or
 21 (2) In the interest of the inmate.

1 (b) Terms and conditions of the transfer and any
2 reimbursement for expenses shall be agreed upon between the
3 department and the out-of-state correctional institution prior
4 to transfer.

5 (c) The director shall not affect the transfer of a
6 committed felon to any correctional institution located in
7 another state if the committed felon is regularly participating
8 in extended family leave visitations with the committed felon's
9 child.

10 For purposes of this subsection:

11 "Child" means a biological or adopted child under the age
12 of eighteen.

13 "Regularly participating" means participating on a
14 consistent, ongoing basis with the anticipation of continuing
15 participation in the future. The term "regularly participating"
16 does not include infrequent or occasional participation, unless
17 the opportunities for participation are themselves infrequent or
18 occasional.

19 (d) Prior to a transfer of a committed felon under this
20 section, the director shall consider, among other things:

21 (1) The location of the committed felon's family and
22 whether the committed felon has maintained contact

1 with the committed felon's family; provided that if
2 contact has been maintained, whether the transfer
3 would significantly disrupt contact between the felon
4 and the felon's family;

5 (2) Whether the committed felon is enrolled in a
6 vocational, educational, treatment, reentry, or other
7 program that cannot reasonably be resumed at the
8 correctional facility in another state contemplated
9 for the transfer; and

10 (3) Whether other committed felons have volunteered to be
11 transferred; provided that felons volunteering for a
12 transfer shall be given preference for a transfer
13 under this section to achieve cost savings."

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2009.

Report Title:

Public Safety; Corrections; Inmate Transfers

Description:

Clarifies the circumstances under which inmates may be transferred between correctional facilities located in Hawaii and correctional facilities located outside of Hawaii. (SD1)