
A BILL FOR AN ACT

RELATING TO WARRANTS ISSUED BY THE EXECUTIVE DIRECTOR OF THE
OFFICE OF YOUTH SERVICES.

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

1 SECTION 1. Chapter 352, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:
4 "§352- Terms and conditions of parole; suspension and
5 revocation. (a) Full power to revoke parole is conferred upon
6 the director or the director's designee. Every parole granted
7 under this chapter to any person whose legal custody was vested
8 in the director shall be subject to the express conditions set
9 forth in the official written notification of parole.
10 Subsection (b) or (c) shall apply, if, in the opinion of the
11 director or the director's designee, such person is in violation
12 of the terms and conditions of parole.
13 (b) In the case of a person under nineteen years of age,
14 the director or the director's designee may:
15 (1) Issue a warrant authorizing all of the officers named
16 therein to arrest and return to actual custody, any
17 paroled ward for placement in an appropriate youth



1 correctional facility. The chief of police of each
2 county, all police officers of any county, and all law
3 enforcement officers of the State shall execute any
4 such order.

5 (2) In the event of retaking for an alleged violation of
6 parole, the director or the director's designee shall
7 notify the person, and the person's parent, guardian,
8 or custodian shall be advised of the specific terms
9 and conditions of parole which the person is alleged
10 to have violated and of the person's right to legal
11 counsel and to appeal the issuance and execution of
12 such order. The youth correctional facility
13 administrator or designee shall hold a due process
14 hearing within seven days after the person's return to
15 custody to determine whether parole should be revoked.

16 (c) In the case of a person nineteen years of age, the
17 director or the director's designee may:

18 (1) If the alleged violation constitutes a crime, issue a
19 warrant authorizing all of the officers named therein
20 to arrest and return to actual custody any paroled
21 ward for placement in an appropriate adult
22 correctional facility. The chief of police of each



1 county, all police officers of any county, and all law
2 enforcement officers of the State shall execute any
3 such order.

4 (2) If the alleged violation does not constitute a crime,
5 the director or the director's designee may petition
6 the family court for an ex parte order based on the
7 alleged violation to take the person into custody and
8 place the person in an appropriate adult correctional
9 facility.

10 (3) In the event of retaking for an alleged violation of
11 parole, the director or the director's designee shall
12 notify the person of the specific terms and conditions
13 of parole which the person is alleged to have violated
14 and of the person's right to legal counsel and to
15 appeal the issuance and execution of such order. The
16 Hawaii youth correctional facility administrator or
17 designee shall hold a due process hearing within seven
18 days after the person's return to custody to determine
19 whether parole should be revoked.

20 **§352- Absconding from furlough and escape; custody,**
21 **detention.** (a) Full power to revoke furlough for persons under
22 the age of nineteen is conferred upon the director or the



1 director's designee. Every furlough granted under this chapter
2 to any person whose legal custody was vested in the director
3 shall be subject to the express conditions to be set forth in
4 the official written notification of furlough.

5 (b) Any person whose legal custody has been vested in the
6 director and who has absconded from furlough or escaped from the
7 facility may be taken into custody by a county police officer or
8 State law enforcement officer without a warrant or an order
9 issued by the director and returned to the youth correctional
10 facility.

11 (c) For purposes of this section, "absconded from
12 furlough" means not returning to the youth correctional facility
13 at the time designated in the written notification of furlough.
14 Absconding from furlough is an escape and may be charged as such
15 in family court or circuit court."

16 SECTION 2. Section 352-26, Hawaii Revised Statutes, is
17 repealed.

18 [~~§352-26 Taking into custody and detaining persons for~~
19 ~~violations of terms and conditions of parole and furlough and~~
20 ~~attempted escape.~~ (a) ~~With respect to any person whose legal~~
21 ~~custody was vested in the director, who has been paroled or~~
22 ~~furloughed from a youth correctional facility by the director~~



1 ~~and returned to the person's own home or other place within the~~
2 ~~community, the provisions of subsection (b) or (c) shall apply,~~
3 ~~if, in the opinion of a designated employee of the department,~~
4 ~~such person is in violation of the terms and conditions of the~~
5 ~~person's parole or furlough.~~

6 ~~(b) In the case of a person under nineteen years of age,~~
7 ~~such designated employee may:~~

8 ~~(1) Notify the director or the director's designated agent~~
9 ~~of such alleged violation and, if the director issues~~
10 ~~a written order to such effect, take such person into~~
11 ~~custody and place such person in such appropriate~~
12 ~~youth correctional facility as may be designated in~~
13 ~~such order until determinations as to such person's~~
14 ~~further care and treatment are made. In the event of~~
15 ~~retaking for an alleged violation of parole, the~~
16 ~~director or the director's agent shall notify the~~
17 ~~person, and the person's parent, guardian, or~~
18 ~~custodian of the right to legal counsel and to appeal~~
19 ~~the issuance and execution of such order. The office~~
20 ~~of juvenile parole shall hold a hearing within thirty~~
21 ~~days after the person's return to determine whether~~
22 ~~parole should be revoked. The juvenile parole office~~



1 ~~staff shall render reasonable aid to the person in~~
2 ~~preparation for the hearing.~~

3 ~~(2) Take such person into custody and place the person in~~
4 ~~an appropriate youth correctional facility until~~
5 ~~determinations as to such person's further care and~~
6 ~~treatment are made by the department if such employee~~
7 ~~has reason to believe that permitting such person to~~
8 ~~remain in the person's own home or other place within~~
9 ~~the community would be dangerous to the person or to~~
10 ~~the community or that such person is about to flee the~~
11 ~~jurisdiction of the department. Such employee, at the~~
12 ~~time of taking such person into custody, shall advise~~
13 ~~such person as to the specific terms and conditions of~~
14 ~~the person's parole or furlough which the person is~~
15 ~~alleged to have violated and of the person's right to~~
16 ~~legal counsel and appeal. Provisions regarding~~
17 ~~possible parole revocation shall apply as enumerated~~
18 ~~in paragraph (1).~~

19 ~~(e) In the case of a nineteen year old person such a~~
20 ~~designated employee may:~~

21 ~~(1) Take the person into custody and place the person in~~
22 ~~an appropriate adult correctional facility if the~~



1 ~~alleged violation constitutes a crime and the director~~
2 ~~has been notified and subsequently issued a written~~
3 ~~order to that effect. In the event of retaking for~~
4 ~~such an alleged violation of parole, the director or~~
5 ~~the director's agent shall notify the person of the~~
6 ~~right to legal counsel and to appeal the issuance and~~
7 ~~execution of such order. The office of juvenile~~
8 ~~parole shall hold a hearing within thirty days after~~
9 ~~the person's incarceration in an adult facility to~~
10 ~~determine whether parole should be revoked. The~~
11 ~~juvenile parole office staff shall render reasonable~~
12 ~~aid to the person in preparation for the hearing.~~

13 ~~(2) Notify the director of an alleged violation of parole.~~
14 ~~The director may petition the family court for an ex~~
15 ~~parte order based on the alleged violation to take the~~
16 ~~person into custody and place the person in an~~
17 ~~appropriate adult correctional facility. The person~~
18 ~~shall be notified of the issuance and execution of~~
19 ~~such a court order and of the right to legal counsel~~
20 ~~and appeal. A juvenile parole office hearing shall be~~
21 ~~held within thirty days after a person's placement in~~



1 ~~an adult facility to determine whether parole shall be~~
2 ~~revoked.~~

3 ~~(d) Any person whose legal custody has been vested in the~~
4 ~~director and who has escaped from the facility may be taken into~~
5 ~~custody by a police officer or an employee of the department~~
6 ~~without a warrant or an order issued by the director and~~
7 ~~returned to the facility.~~

8 ~~(e) When called upon by any designated employee of the~~
9 ~~department, any police officer shall assist in taking a person~~
10 ~~into custody pursuant to the provisions of this section."]~~

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2010.

14



Report Title:

Taking into Custody; Paroled, Furloughed, or Escaped Wards Committed to the Hawaii Youth Correctional Facility.

Description:

Authorizes the executive director of the office of youth services to issue warrants for the arrest and return to custody of wards paroled from the Hawaii youth correctional facility. Additionally, authorizes county police and state law enforcement officers to arrest any ward who absconds from furlough or escapes from the Hawaii youth correctional facility. (SD1)

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