

JAN 23 2009

---

---

# 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. (a) The director may effect the transfer of a  
6 committed felon to any correctional facility located in this  
7 State, if the transfer is in the best interests of the State and  
8 the welfare of the committed felon will be best served by the  
9 transfer; provided that the director shall consider the  
10 following criteria 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       (b) A committed felon shall be given not less than  
6       fourteen days notice prior to transfer under this section, and a  
7       right to appeal the decision to transfer."

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

10       **"§353-16.2 Transfer of inmates to out-of-state**

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



1 (1) In the interest of the security, management of the  
2 correctional institution where the inmate is presently  
3 placed, or the reduction of prison overcrowding; or

4 (2) In the interest of the inmate.

5 (b) Terms and conditions of the transfer and any  
6 reimbursement for expenses shall be agreed upon between the  
7 department and the out-of-state correctional institution prior  
8 to transfer.

9 (c) The director shall not effect the transfer of a  
10 committed felon to any correctional institution located in  
11 another state if the committed felon:

12 (1) Is regularly participating in extended family leave  
13 visitations with the committed felon's child;

14 (2) Is regularly participating in parent-teacher  
15 conferences involving the committed felon's child; or

16 (3) Has had at least six contacts, whether in person or by  
17 telephone, with the committed felon's child prior to  
18 time of the proposed transfer.

19 For purposes of this subsection:

20 "Child" means a biological, adopted, or hanai child under  
21 the age of eighteen.



1       "Regularly participating" means participating on a  
2 consistent, ongoing basis with the anticipation of continuing  
3 participation in the future. The term "regularly participating"  
4 does not include infrequent or occasional participation, unless  
5 the opportunities for participation are themselves infrequent or  
6 occasional.

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

9       (1) The location of the committee felon's family and  
10 whether the committed felon has maintained contact  
11 with the committed felon's family; provided that if  
12 contact has been maintained, whether the transfer  
13 would significantly disrupt contact between the felon  
14 and the felon's family;

15       (2) Whether the committed felon is enrolled in a  
16 vocational, educational, treatment, reentry, or other  
17 program that cannot reasonably be resumed at the  
18 correctional facility in another state contemplated  
19 for the transfer; and

20       (3) Whether other committed felons have volunteered to be  
21 transferred; provided that felons volunteering for a



# S.B. NO. 240

1           transfer shall be given preference for a transfer  
2           under this section to achieve cost savings.

3           (e) A committed felon shall be given not less than  
4           fourteen days notice prior to transfer under this section, and a  
5           right to appeal the decision to transfer."

6           SECTION 4. New statutory material is underscored.

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

8

INTRODUCED BY:

Will Engw  
Bob Brown  
Michelle D. Kudani



**Report Title:**

Public Safety; Corrections; Inmate Transfers

**Description:**

Clarifies the circumstances under which inmates may be transferred between Hawaii facilities and facilities outside of Hawaii.

