

S.B. NO. 2720

JAN 25 2010

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 a new section to be appropriately designated
3 and to read as follows:

4 "Section 352- Terms and conditions of parole; suspension
5 and revocation. (a) Full power to grant and revoke paroles is
6 conferred upon the director or the director's designee. Every
7 parole granted under this part to any person whose legal custody
8 was vested in the director shall be subject to the express
9 conditions to be set forth in the official written notification
10 of parole. The provisions of subsections (b) or (c) shall
11 apply, if, in the opinion of the director or the director's
12 designee, such person is in violation of the terms and
13 conditions of the person's parole.

14 (b) In the case of a person under nineteen years of age,
15 the director or the director's designee may:

16 (1) Issue a warrant authorizing all of the officers named
17 therein to arrest and return to actual custody, any

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1 paroled ward for placement in an appropriate youth
2 correctional facility. The chief of police of each
3 county, all police officers of any county, and all law
4 enforcement officers of the State shall execute any
5 such order in like manner as ordinary criminal
6 process.

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

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

20 (1) If the alleged violation constitutes a crime, issue a
21 warrant authorizing all of the officers named therein
22 to arrest and return to actual custody any paroled

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1 ward for placement in an appropriate adult
2 correctional facility. The chief of police of each
3 county, all police officers of any county, and all law
4 enforcement officers of the State shall execute any
5 such order in like manner as ordinary criminal
6 process.

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

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

1 SECTION 2. Chapter 352, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "Section 352- Taking into custody and detaining persons
5 for absconding from furlough and escape. (a) Full power to
6 grant and revoke furlough for persons under the age of nineteen
7 is conferred upon the director or the director's designee.
8 Every furlough granted under this part to any person whose legal
9 custody was vested in the director shall be subject to the
10 express conditions to be set forth in the official written
11 notification of furlough.

12 (b) Any person whose legal custody has been vested in the
13 director and who has absconded from furlough or escaped from the
14 facility may be taken into custody by a county police officer or
15 State law enforcement officer without a warrant or an order
16 issued by the director and returned to the youth correctional
17 facility.

18 (c) For purposes of this section absconding from furlough
19 means not returning to the youth correctional facility at the
20 time designated in the written notification of furlough.
21 Absconding from furlough is an escape and may be charged as such
22 in family court or circuit court."

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1 SECTION 3. Section 352-26, Hawaii Revised Statutes, is
2 repealed.

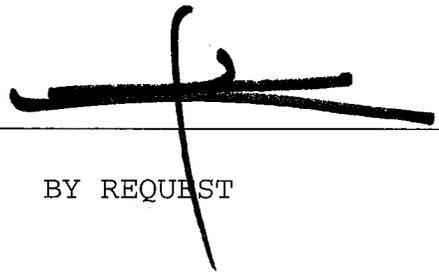
3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect July 1, 2010.

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INTRODUCED BY: _____



7

BY REQUEST

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.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO WARRANTS
ISSUED BY THE EXECUTIVE DIRECTOR OF THE
OFFICE OF YOUTH SERVICES.

PURPOSE: 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.

MEANS: Amend chapter 352, Hawaii Revised Statutes,
by adding two new sections and repeal
section 352-26, Hawaii Revised Statutes.

JUSTIFICATION: Wards committed to the Hawaii Youth
Correctional Facility may be released on
parole as part of their transition from
incarceration to the community. Currently,
when a youth violates conditions of parole
the Youth Facility Administrator issues a
letter of detention to the county police
departments. Police officers have stated
that unless a paroled ward has committed a
new status or criminal offense, the letter
of detention alone is not sufficient to
retake the ward into custody. By
authorizing the Office of Youth Services
Executive Director or designee to issue
warrants for the arrest of parole violators,
police will be able to effect an arrest
subject to the warrant and return the ward
to custody.

Wards may be furloughed for short periods of
time as part of the reintegration process,
such as a 24-hour visit with family. Such
youth are still considered to be
incarcerated and, should they fail to return
from furlough in a specified period of time,

are subject to arrest for absconding from furlough and may be charged with escape. Youth who escape from the facility buildings and grounds are also subject to arrest and may be charged with escape.

Impact on the public: Public safety will be enhanced by the timely reincarceration of wards committed to the Hawaii Youth Correctional Facility who violate parole, abscond from furlough, or escape from the facility.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 503

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2010.