



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
**OFFICE OF YOUTH SERVICES**  
820 Millilani Street, Suite 817  
Honolulu, Hawaii 96813

February 4, 2010

**TO:** The Honorable John M. Mizuno, Chair  
House Committee on Human Services

**FROM:** David Hipp, Executive Director

**SUBJECT: HB 2982, Relating to Warrants Issued by the Executive Director of the Office of Youth Services**

Hearing: Thursday, February 4, 2010; 8:45 AM.  
State Capitol, Conference Room 329

The Office of Youth Service (OYS) has reviewed House Bill No. 2982, a measure that appears to have some conflict between its title and content. The title is the same as a proposal included in the Administration's package, introduced as House Bill No. 2567, but the content makes non-substantive changes to Section 352D-5 relating to the appointment of the OYS Executive Director. OYS respectfully requests that this bill be amended to authorize the Office of Youth Services Executive Director or designee to issue warrants for the arrest of juvenile parole violators.

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.

In addition to parole, 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.

To achieve the goal of issuing warrants, we respectfully request that the content of this measure be deleted and replaced with the language below.

Thank you for your consideration of this matter which is of great importance to the Office of Youth Services.

### **RECOMMENDED AMENDMENT**

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

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

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

- (1) Issue a warrant authorizing all of the officers named therein to arrest and return to actual custody, any paroled ward for placement in an appropriate youth correctional facility. The chief of police of each county, all police officers of any county, and all law enforcement officers of the State shall execute any such order in like manner as ordinary criminal process.

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

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

(1) If the alleged violation constitutes a crime, issue a warrant authorizing all of the officers named therein to arrest and return to actual custody any paroled ward for placement in an appropriate adult correctional facility. The chief of police of each county, all police officers of any county, and all law enforcement officers of the State shall execute any such order in like manner as ordinary criminal process.

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

(3) In the event of retaking for an alleged violation of parole, the director or the director's designee shall notify the person of the specific terms and conditions of the person's parole which the person is alleged to have violated and of the person's right to legal counsel and to appeal the issuance and execution of such order. The Hawaii youth

correctional facility administrator or designee shall hold a due process hearing within seven days after the person's return to determine whether parole should be revoked."

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

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

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

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

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

SECTION 4. New statutory material is underscored.

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