



GOV. MSG. NO. 1241

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 20, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

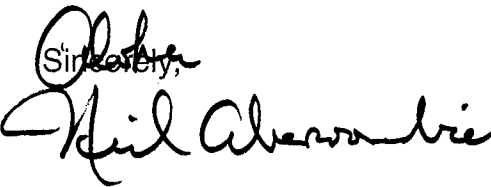
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 20, 2012, the following bill was signed into law:

SB2776 SD2 HD2 CD1

RELATING TO PUBLIC SAFETY.
Act 139 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 20 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 139

S.B. NO. 2776
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

PART I

1
2 SECTION 1. In June 2011, the governor, chief justice,
3 senate president, house speaker, and director of public safety
4 joined together to begin developing a data-driven justice
5 reinvestment strategy to bring out-of-state prisoners back to
6 Hawaii, reduce spending on corrections, and reinvest savings
7 generated in strategies that would reduce recidivism and crime
8 and increase public safety. To this end, they sought assistance
9 from the Bureau of Justice Assistance, a division of the United
10 States Department of Justice, and the Pew Center on the States.
11 The state leaders established a bipartisan, inter-branch justice
12 reinvestment working group comprising leading state and local
13 officials to receive intensive technical assistance from the
14 Council of State Governments Justice Center. The Council of
15 State Governments Justice Center assisted the working group in
16 analyzing data from every aspect of Hawaii's criminal justice
17 and corrections systems.



1 The analysis revealed that crime and victimization rates
2 have declined, as have arrests and felony convictions for
3 violent and property crimes. However, the population under
4 probation supervision and incarceration has not declined, and in
5 some cases has increased. From fiscal year 2000 to fiscal year
6 2011, the State's prison and jail population grew eighteen per
7 cent, from 5,118 inmates to 6,043 inmates. Expenditures for the
8 corrections division of the department of public safety
9 increased seventy per cent from \$112,000,000 in fiscal year 2000
10 to \$190,000,000 in fiscal year 2011. Approximately one-third of
11 Hawaii's incarcerated population is housed in out-of-state
12 facilities. The cost of housing offenders out-of-state was
13 \$45,000,000 in fiscal year 2011.

14 The analysis of the data from Hawaii's criminal justice and
15 corrections systems identified three areas for improvement:
16 pretrial process, parole, and payment of restitution. This Act
17 establishes a statutory structure to improve the criminal
18 justice system, relying on the department of public safety,
19 Hawaii paroling authority, and adult probation services to
20 effectively implement changes to policies and practices.

21 The implementation of these changes to address the target
22 areas is expected to gradually reduce the current incarcerated



1 population and generate savings of approximately five hundred
2 beds and \$9,000,000 by the end of fiscal year 2013, eight
3 hundred fifty beds and \$19,000,000 in fiscal year 2014, and one
4 thousand fifty beds and \$26,000,000 in fiscal year 2015.
5 Realizing these savings will require initial and continued
6 reinvestment in expanding and strengthening victim services,
7 notification, and restitution collection; reentry and community-
8 based treatment programs for pre-trial, probation, and parole
9 populations; pretrial and risk assessments; probation and parole
10 officers; and research and planning staff in the department of
11 public safety.

12 This Act will improve the State's criminal justice system
13 and increase public safety by focusing on incarceration,
14 supervision, and treatment in a manner that most efficiently
15 addresses the recidivism rate, thereby increasing public safety.

16 The purpose of this Act is to address the areas of pretrial
17 process, parole, and payment of restitution to reduce costly
18 inefficiencies, hold offenders more accountable, and reinvest
19 savings in more effective public safety strategies.

20 PART II

21 SECTION 2. The pretrial population has increased due to
22 longer lengths of stay. The purpose of this part is to require



1 that an objective assessment be conducted within the first three
2 working days of a person's commitment to a community
3 correctional center to allow the courts to more quickly exercise
4 discretion in determining whether to release a pre-trial
5 offender.

6 SECTION 3. Section 353-10, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§353-10 Reentry intake service centers.** (a) There shall
9 be within the department of public safety, a reentry intake
10 service center for adults in each of the counties[7] to screen,
11 evaluate, and classify the admission of persons to community
12 correctional centers and to provide for the successful reentry
13 of persons back into the community. Each center shall be
14 directed and managed by a manager and shall be staffed by a team
15 of psychiatrists, social workers, technicians, and other
16 personnel as may be necessary. The director of public safety
17 may appoint full-time or part-time professional and clerical
18 staff or contract for professional services to carry out the
19 duties of the centers as identified in this section.

20 (b) The centers shall:

21 (1) Provide orientation, guidance, and technical services;



- 1 (2) Provide social-medical-psychiatric-psychological
2 diagnostic evaluation;
- 3 (3) [~~Provide~~] Conduct internal pretrial risk assessments
4 ~~on adult offenders [for the courts and assist in the~~
5 ~~conduct of presentence assessments on adult offenders~~
6 ~~and the preparation of presentence reports when~~
7 ~~requested by the courts,]~~ within three working days of
8 admission to a community correctional center which
9 shall then be provided to the court for its
10 consideration; provided that this paragraph shall not
11 apply to persons subject to county or state detainers,
12 holds, or persons detained without bail, persons
13 detained for probation violation, persons facing
14 revocation of bail or supervised release, and persons
15 who have had a pretrial risk assessment completed
16 prior to admission to a community correctional center.
17 For purposes of this paragraph, "pretrial risk
18 assessment" means an objective, research-based,
19 validated assessment tool that measures a defendant's
20 risk of flight and risk of criminal conduct while on
21 pretrial release pending adjudication;



- 1 (4) Assist in the conduct of presentence assessments on
2 adult offenders and the preparation of presentence
3 reports when requested by the courts;
- 4 [~~4~~] (5) Provide correctional prescription program
5 planning and security classification;
- 6 [~~5~~] (6) Provide [~~such~~] other personal and correctional
7 services as needed for both detained and committed
8 persons;
- 9 [~~6~~] (7) Monitor and record the progress of persons
10 assigned to correctional facilities who undergo
11 further treatment or who participate in prescribed
12 correctional programs;
- 13 [~~7~~] (8) Ensure that the present and future reentry needs
14 of persons committed to correctional facilities are
15 being evaluated and met in an effective and
16 appropriate manner;
- 17 [~~8~~] (9) Provide additional reentry services to include
18 working closely and collaborating with the furlough
19 programs in each county that are currently managed by
20 the department's institutions division;
- 21 [~~9~~] (10) Work closely and collaborate with the Hawaii
22 paroling authority; and



1 ~~[(10)]~~ (11) Work closely and collaborate with the
2 corrections program services division."

3 PART III

4 SECTION 4. The number of prisoners denied parole has
5 increased. The purpose of this part is to: increase the number
6 of members of the Hawaii paroling authority; require the Hawaii
7 paroling authority to use an objective risk assessment to
8 determine the programs that offenders shall be required to
9 complete prior to release in order to focus resources on the
10 offenders most likely to benefit from programming and
11 supervision; and reduce recidivism by using swift and certain,
12 yet less costly and severe, responses to parole condition
13 violations.

14 SECTION 5. Section 353-61, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§353-61 Hawaii paroling authority; appointment; tenure;**
17 **qualifications.** (a) Members of the paroling authority shall be
18 nominated by a panel composed of the chief justice of the Hawaii
19 supreme court, the director, the president of the ~~[bar~~
20 ~~association of Hawaii,~~] Hawaii State Bar Association, a
21 representative designated by the head of the Interfaith Alliance
22 Hawaii, a member from the general public to be appointed by the



1 governor, and the president of the Hawaii chapter of the
 2 National Association of Social Workers. The panel shall submit
 3 to the governor the names of not less than three persons,
 4 designated as the nominees, for chairperson or as a member, for
 5 each vacancy. The requirement for nomination by the panel
 6 established under this section shall only apply to a nominee's
 7 nomination by the governor to an initial term on the paroling
 8 authority and not to any subsequent consecutive term of a
 9 sitting paroling authority member or chairperson whose initial
 10 appointment to office was made pursuant to a nomination by the
 11 panel.

12 (b) The governor shall appoint, in [†]the[†] manner
 13 prescribed by section 26-34, a paroling authority to be known as
 14 the Hawaii paroling authority, to consist of [~~three~~] five
 15 members, one of whom shall be designated chairperson.

16 Appointments shall be made for terms of four years, commencing
 17 from the date of expiration of the last preceding term. Any
 18 vacancy in an unexpired term shall be filled by appointment for
 19 the [†]remainder[†] of the unexpired term. Nominees to the
 20 authority shall be selected on the basis of their qualifications
 21 to make decisions that will be compatible with the welfare of
 22 the community and of individual offenders, including their



1 background and ability for appraisal of offenders and the
2 circumstances under which offenses were committed."

3 SECTION 6. Section 353-63, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§353-63 Service of Hawaii paroling authority members;
6 compensation; expenses. The chairperson of the Hawaii paroling
7 authority shall serve on a full-time basis. The other [two]
8 four members shall serve on a part-time basis. Effective July
9 1, [~~2005~~] 2012, the chairperson of the Hawaii paroling
10 authority shall be paid a salary set at eighty-seven per cent of
11 the salary of the director of public safety. The compensation
12 of each of the part-time members shall be eighty per cent of the
13 hourly wage paid the chairperson. For each hour engaged in the
14 official duties of the authority, each part-time member of the
15 authority shall be paid an hourly wage at the percentage rate
16 specified in this section based on the hourly wage paid the
17 chairperson; provided that compensation shall not exceed eighty
18 per cent of the total regular working hours in a month; provided
19 further that part-time members shall not be entitled to any
20 vacation, sick leave, or other benefits except as provided in
21 this section. All paroling authority members shall receive
22 their necessary expenses for travel and incidentals [~~which~~] that



1 shall be paid from appropriations provided the authority for
2 such purposes, on vouchers approved by the director of public
3 safety."

4 SECTION 7. Section 353-66, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) Any paroled prisoner retaken and reimprisoned as
7 provided in this chapter shall be confined according to the
8 paroled prisoner's sentence for that portion of the paroled
9 prisoner's term remaining unserved at time of parole, but
10 successive paroles may, in the discretion of the paroling
11 authority, be granted to the prisoner during the life and in
12 respect of the sentence. If the paroled prisoner is retaken and
13 reimprisoned for violating a condition of parole but has not:

- 14 (1) Been charged with a new felony offense or a new
15 misdemeanor offense under chapter 707 or section 709-
16 906;
- 17 (2) Absconded or left the State without permission from
18 the paroling authority;
- 19 (3) Violated conditions applicable to sex offenders, such
20 as registering as a sex offender or conditions related
21 to proximity to specified locations or persons; or



1 (4) Been previously reimprisoned for violating the
2 conditions of parole on the current offense,
3 the paroled prisoner shall be confined for no more than six
4 months or for that portion of the paroled prisoner's term
5 remaining unserved at the time of parole, whichever is shorter,
6 so long as the paroling authority has approved a parole plan as
7 set forth under section 706-670(3) and (4). The minimum term of
8 imprisonment shall be as determined by the court or the paroling
9 authority, as the case may be. The prisoner shall be given
10 credit for time served in custody pending a hearing on
11 revocation of parole as it relates to the six-month parole
12 revocation. No prisoner shall be incarcerated beyond the
13 expiration of the prisoner's maximum term of imprisonment."

14 SECTION 8. Section 706-670, Hawaii Revised Statutes, is
15 amended by amending subsection (1) to read as follows:

16 "(1) Parole hearing. A person sentenced to an
17 indeterminate term of imprisonment shall receive an initial
18 parole hearing at least one month before the expiration of the
19 minimum term of imprisonment determined by the Hawaii paroling
20 authority pursuant to section 706-669. If the person has been
21 sentenced to multiple terms of imprisonment, the parole hearing
22 shall not be required until at least one month before the



1 expiration of the minimum term that expires last in time. A
2 validated risk assessment shall be used to determine the
3 person's risk of re-offense and suitability for community
4 supervision. For purposes of this subsection, "validated risk
5 assessment" means an actuarial tool to determine a person's
6 likelihood of engaging in future criminal behavior. The
7 department of public safety shall select a research-based risk
8 assessment tool and shall validate the accuracy of the risk
9 assessment tool at least every five years in consultation with
10 the paroling authority. Assessments shall be performed by
11 department of public safety staff who are trained in the use of
12 the risk assessment tool. Except for good cause shown to the
13 paroling authority, a person who is assessed as low risk for re-
14 offending shall be granted parole upon completing the minimum
15 sentence, unless the person:

16 (a) Is found to have an extensive criminal history record
17 that is indicative of a likelihood of future criminal
18 behavior in spite of the finding by the risk
19 assessment by the paroling authority;

20 (b) Is found to have committed misconduct while in prison
21 that is equivalent to a misdemeanor or felony crime



1 SECTION 9. The purpose of this part is to ensure
2 accountability for victims and offenders by improving the
3 collection of restitution by the department of public safety and
4 ensuring that all felony offenders are supervised for a minimum
5 period of time after their release from incarceration.

6 SECTION 10. Section 353-22.6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§353-22.6 Victim restitution. The director of public
9 safety shall enforce victim restitution orders against all
10 moneys earned by the [~~prisoner~~] inmate or deposited or credited
11 to the inmate's individual account while incarcerated. The
12 amount deducted [~~and paid once annually to the victim~~] shall be
13 [~~ten~~] twenty-five per cent of the [~~prisoner's annual earnings.~~]
14 total of all moneys earned, new deposits, and credits to the
15 inmate's individual account. The moneys intended for victim
16 restitution shall be deducted monthly and paid to the victim
17 once the amount reaches \$25, or annually, whichever is sooner.
18 This section shall not apply to moneys earned on work furlough
19 pursuant to section 353-17."

20 SECTION 11. Section 353-69, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§353-69 Parole when. [~~No~~] Except as provided in section
2 706-670, no parole shall be granted unless it appears to the
3 Hawaii paroling authority that there is a reasonable probability
4 that the prisoner concerned will live and remain at liberty
5 without violating the law and that the prisoner's release is not
6 incompatible with the welfare and safety of society."

7 SECTION 12. Section 706-670, Hawaii Revised Statutes, is
8 amended by amending subsection (3) to read as follows:

9 "(3) Prisoner's plan and participation. Each prisoner
10 shall be given reasonable notice of the prisoner's parole
11 hearing and shall prepare a parole plan, setting forth the
12 manner of life the prisoner intends to lead if released on
13 parole, including specific information as to where and with whom
14 the prisoner will reside [~~and~~], a phone contact where the
15 prisoner can be reached, and what occupation or employment the
16 prisoner will follow[-], if any. The prisoner shall be paroled
17 in the county where the prisoner had a permanent residence or
18 occupation or employment prior to the prisoner's incarceration,
19 unless the prisoner will: reside in a county in which the
20 population exceeds eight-hundred thousand persons; reside in a
21 county in the State in which the committed person has the
22 greatest family or community support, opportunities for



1 employment, job training, education, treatment, and other social
2 services, as determined by the Hawaii paroling authority; or be
3 released for immediate departure from the State. The
4 institutional parole staff shall render reasonable aid to the
5 prisoner in the preparation of the prisoner's plan and in
6 securing information for submission to the authority. In
7 addition, the prisoner shall:

- 8 (a) Be permitted to consult with any persons whose
9 assistance the prisoner reasonably desires, including
10 the prisoner's own legal counsel, in preparing for a
11 hearing before the authority;
- 12 (b) Be permitted to be represented and assisted by counsel
13 at the hearing;
- 14 (c) Have counsel appointed to represent and assist the
15 prisoner if the prisoner so requests and cannot afford
16 to retain counsel; and
- 17 (d) Be informed of the prisoner's rights as set forth in
18 this subsection."

19 PART V

20 SECTION 13. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect on July 1, 2012;
2 provided that:

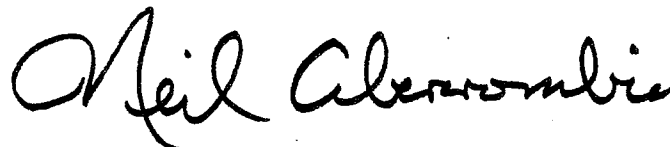
3 (1) Section 3 shall take effect on January 1, 2013;

4 (2) Section 7 shall take effect on July 1, 2012, for any
5 individual on parole supervision on or after July 1,
6 2012;

7 (3) Section 8 shall take effect on July 1, 2012, and shall
8 be applicable to individuals committing an offense on
9 or after that date; and

10 (4) Sections 3, 7, 8, 10, and 11 shall be repealed on July
11 1, 2018, and sections 353-10, 353-66, 706-670(1), 353-
12 22.6, and 353-69, Hawaii Revised Statutes, shall be
13 reenacted in the form on which it read on June 30,
14 2018.

APPROVED this 20 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII