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# A BILL FOR AN ACT

RELATING TO DEFENDANTS COMMITTED TO THE CUSTODY OF THE DIRECTOR  
OF HEALTH.

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

1           SECTION 1. Chapter 704, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§704-       Committed defendants; transfer to a correctional  
5 facility. (1) Upon application of the director of health in  
6 written agreement with the director of public safety, and after  
7 a hearing if a hearing is requested, a court may order the  
8 transfer of a defendant who has been committed to the custody of  
9 the director of health, pursuant to section 704-406, to a  
10 correctional facility if the court determines that the  
11 defendant:

12           (a) No longer requires an inpatient level of psychiatric  
13           care; provided that:

14           (i) The defendant's mental health needs can be  
15           adequately addressed at a correctional facility;  
16           and



1           (ii) The defendant is not ordered released on bail or  
2           on the defendant's own recognizance;

3       (b) No longer requires an inpatient level of psychiatric  
4       care but is not otherwise suitable for discharge into  
5       a less restrictive community or residential treatment  
6       setting; or

7       (c) Requires stricter security than can be provided at the  
8       Hawaii state hospital or other facility designated by  
9       the director of health.

10       (2) The director of health or the director's designee  
11 shall consult with the correctional facility to create an  
12 adequate mental health plan for any defendant transferred  
13 pursuant to this section.

14       (3) If a defendant transferred to a correctional facility  
15 pursuant to this section requires an inpatient level of  
16 psychiatric care, the defendant may be returned to a facility  
17 under the control of the director of health, pursuant to a court  
18 order, or as a resident in need of treatment as provided under  
19 section 334-74.

20       (4) If there is an active order obtained by the director  
21 of health authorizing involuntary administration of psychiatric  
22 medication to the defendant, then at the time the defendant is

1 ordered to be transferred to a correctional facility pursuant to  
2 subsection (1), the court may modify the order to permit the  
3 administration of psychiatric medication in the correctional  
4 facility for the duration of the term of the order."

5 SECTION 2. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Penal Responsibility; Mental Health; Hawaii State Hospital

**Description:**

Allows for persons committed to the custody of the director of health to be transferred to correctional facilities under certain conditions. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

