
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 PART I

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

11 (b) The governor shall appoint, in ~~[+]the[+]~~ manner
12 prescribed by section 26-34, a paroling authority to be known as
13 the Hawaii paroling authority, to consist of ~~[three]~~ five
14 members, one of whom shall be designated chairperson.
15 Appointments shall be made for terms of four years, commencing
16 from the date of expiration of the last preceding term. Any
17 vacancy in an unexpired term shall be filled by appointment for
18 the ~~[+]remainder[+]~~ of the unexpired term. Nominees to the
19 authority shall be selected on the basis of their qualifications
20 to make decisions that will be compatible with the welfare of
21 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 six-month
8 period of confinement shall not start until the paroling
9 authority has revoked the parole of the prisoner. The prisoner
10 shall be given credit for time served in custody pending a
11 hearing on revocation of parole as it relates to the six month
12 parole 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. Assessments shall be
10 performed by department of public safety staff who are trained
11 in the use of the risk assessment tool. Except for good cause
12 shown to the paroling authority, a person who is assessed as low
13 risk for re-offending shall be granted parole upon completing
14 the minimum sentence, unless the person:

15 (a) Is found to have committed misconduct while in prison
16 that is equivalent to a misdemeanor or felony crime
17 within two years of the expiration of the minimum term
18 of imprisonment;

19 (b) Has any pending felony charges in the State;

20 (c) Is incarcerated for a sexual offense under part V of
21 chapter 707 or child abuse under part VI of chapter



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

3 "**§353-22.6 Victim restitution.** The director of public
4 safety shall enforce victim restitution orders against all
5 moneys earned, deposited, or credited to an inmate's individual
6 account by the [~~prisoner~~] inmate while incarcerated. The amount
7 deducted [~~and paid once annually to the victim~~] shall be [~~ten~~]
8 twenty-five per cent of the [~~prisoner's annual earnings.~~] total
9 of all moneys earned, new deposits, and credits to the inmate's
10 individual account. The moneys shall be deducted monthly and
11 paid to the victim once the amount reaches \$25, or annually,
12 whichever is sooner. This section shall not apply to moneys
13 earned on work furlough pursuant to section 353-17."

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

16 "**§353-69 Parole when.** [~~No~~] Except as provided in section
17 706-670, no parole shall be granted unless it appears to the
18 Hawaii paroling authority that there is a reasonable probability
19 that the prisoner concerned will live and remain at liberty
20 without violating the law and that the prisoner's release is not
21 incompatible with the welfare and safety of society."



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

3 "(3) Prisoner's plan and participation. Each prisoner
4 shall be given reasonable notice of the prisoner's parole
5 hearing and shall prepare a parole plan, setting forth the
6 manner of life the prisoner intends to lead if released on
7 parole, including specific information as to ~~where~~:

8 (a) Where and with whom the prisoner will reside ~~and~~
9 ~~what~~;

10 (b) A phone contact where the prisoner can be reached; and

11 (c) What occupation or employment the prisoner will
12 follow~~(-)~~, if any.

13 The prisoner shall be paroled in the county where the prisoner
14 had a permanent residence or occupation or employment prior to
15 the prisoner's incarceration, unless the prisoner will: reside
16 in a county in which the population exceeds eight-hundred
17 thousand persons; reside in a county in the State in which the
18 committed person has the greatest family or community support,
19 opportunities for employment, job training, education,
20 treatment, and other social services, as determined by the
21 Hawaii paroling authority; or be released for immediate
22 departure from the State. The institutional parole staff shall



1 render reasonable aid to the prisoner in the preparation of the
2 prisoner's plan and in securing information for submission to
3 the authority. In addition, the prisoner shall:

4 (a) Be permitted to consult with any persons whose
5 assistance the prisoner reasonably desires, including
6 the prisoner's own legal counsel, in preparing for a
7 hearing before the authority;

8 (b) Be permitted to be represented and assisted by counsel
9 at the hearing;

10 (c) Have counsel appointed to represent and assist the
11 prisoner if the prisoner so requests and cannot afford
12 to retain counsel; and

13 (d) Be informed of the prisoner's rights as set forth in
14 this subsection."

15 SECTION 13. Section 706-670, Hawaii Revised Statutes, is
16 amended by amending subsection (5) to read as follows:

17 "~~(5) [Release upon expiration of maximum term. If the~~
18 ~~authority fixes no earlier release date, a prisoner's release~~
19 ~~shall become mandatory at the expiration of the prisoner's~~
20 ~~maximum term of imprisonment.] Supervised parole release prior~~
21 ~~to the expiration of the maximum term. Notwithstanding a court~~
22 ~~ordered minimum, if the Hawaii paroling authority fixes no~~



1 earlier release date or has not released a prisoner upon
2 completion of a set minimum term, a prisoner shall be released
3 on parole based on the longest term of imprisonment so long as
4 the paroling authority has approved a parole plan as set forth
5 under section 706-670(3) and (4), as follows:

6 (a) For a class A felony - eighteen months prior to the
7 expiration of the maximum term;

8 (b) For a class B felony - twelve months prior to the
9 expiration of the maximum term; and

10 (c) For a class C felony - six months prior to the
11 expiration of the maximum term.

12 No prisoner shall be incarcerated beyond the expiration of the
13 prisoner's maximum term of imprisonment."

14 PART V

15 SECTION 14. (a) Savings realized by reducing the
16 incarcerated population shall be reinvested within the criminal
17 justice system to protect public safety through the proper
18 supervision of offenders in the community, adequate community-
19 based programs and services to reduce the incidence of
20 recidivism, victim services to promote restorative justice, and
21 professional support to realize the goals of the justice
22 reinvestment initiative.



1 (b) Funds saved through reducing the incarcerated
2 population shall be reinvested in staffing programs to achieve
3 the goals of the justice reinvestment initiative based on the
4 following guidelines:

5 (1) A ratio of one human services professional (intake
6 worker) per one hundred pretrial offender risk
7 assessments, bail reports, and facility intakes per
8 month;

9 (2) A ratio of one human services professional (facility
10 case manager) per one hundred risk assessments of
11 incarcerated sentenced felons per month;

12 (3) A ratio of one human services professional (parole
13 officer) per caseload of fifty supervised parolees;

14 (4) A ratio of one human services professional (probation
15 officer) per twenty-five probationers participating in
16 outpatient treatment for substance abuse;

17 (5) A ratio of one crime victim compensation restitution
18 specialist per eight hundred victim restitution cases
19 per year;

20 (6) A ratio of one victim assistance or witness counselor
21 per one hundred fifty victims per year for the city
22 and county of Honolulu;



1 (7) A ratio of one victim assistance or witness counselor
2 per one hundred fifty victims per year for the county
3 of Maui;

4 (8) A ratio of one victim assistance or witness counselor
5 per one hundred fifty victims per year for the county
6 of Hawaii;

7 (9) A ratio of one corrections program specialist per
8 three hundred sentenced felons released to community
9 supervision per year to provide victim notification
10 and safety planning services; and

11 (10) Two additional part-time members of the Hawaii
12 paroling authority to increase the number of parole
13 hearings scheduled per year.

14 SECTION 15. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so much
16 thereof as may be necessary for fiscal year 2012-2013, for the
17 following purposes:

18 (1) \$ for three full-time equivalent (3.00 FTE)
19 permanent human services professional IV positions for
20 pretrial assessments and intake service centers
21 (PSD410);



- 1 (2) \$ for one full-time equivalent (1.00 FTE)
2 permanent planner VI position in the research and
3 planning office for general administration (PSD900);
- 4 (3) \$ for two full-time equivalent (2.00 FTE)
5 permanent planner V positions in the research and
6 planning office for general administration (PSD900);
- 7 (4) \$ for one full-time equivalent (1.00 FTE)
8 permanent research statistician V position in the
9 research and planning office for general
10 administration (PSD900);
- 11 (5) \$ for one full-time equivalent (1.00 FTE)
12 permanent program specialist II position in the
13 research and planning office for general
14 administration (PSD900);
- 15 (6) \$ for one full-time equivalent (1.00 FTE)
16 permanent office assistant position in the research
17 and planning office for general administration
18 (PSD900);
- 19 (7) \$ for one full-time equivalent (1.00 FTE)
20 permanent CIP coordinator position in the research and
21 planning office for general administration (PSD900);



- 1 (8) \$ for three full-time equivalent (3.00 FTE)
2 permanent program specialist positions in the reentry
3 office for program training and oversight (PSD900);
- 4 (9) \$ for one full-time equivalent (1.00 FTE)
5 permanent office assistant position in the reentry
6 office for program training and oversight (PSD900);
- 7 (10) \$ for one full-time equivalent (1.00 FTE)
8 permanent corrections supervisor I position for risk
9 assessment (PSD900);
- 10 (11) \$ for two full-time equivalent (2.00 FTE)
11 permanent human services professional IV positions for
12 risk assessment (PSD900);
- 13 (12) \$ for one full-time equivalent (1.00 FTE)
14 permanent office assistant III position for risk
15 assessment (PSD900);
- 16 (13) \$ for two part-time Hawaii paroling authority
17 member positions (PSD611);
- 18 (14) \$ for one full-time equivalent (1.00 FTE)
19 permanent parole officer VI position (PSD612);
- 20 (15) \$ for one full-time equivalent (1.00 FTE)
21 permanent parole officer V position (PSD612);



- 1 (16) \$ for five full-time equivalent (5.00 FTE)
2 permanent parole officer IV positions (PSD612);
- 3 (17) \$ for one full-time equivalent (1.00 FTE)
4 permanent secretary I position (PSD612);
- 5 (18) \$ for four full-time equivalent (4.00 FTE)
6 permanent social worker IV positions to provide
7 in-house programming in judiciary probation drug
8 treatment and cognitive behavioral therapy staff and
9 training;
- 10 (19) \$ for two full-time equivalent (2.00 FTE)
11 permanent trainers to train in-house program staff and
12 probation staff in judiciary probation drug treatment
13 and cognitive behavioral therapy;
- 14 (20) \$ for one full-time equivalent (1.00 FTE)
15 permanent project coordinator position on the crime
16 victim compensation commission (PSD613);
- 17 (21) \$ for one full-time equivalent (1.00 FTE)
18 permanent recovery coordinator position on the crime
19 victim compensation commission (PSD613);
- 20 (22) \$ for three full-time equivalent (3.00 FTE)
21 permanent restitution specialist positions on the
22 crime victim compensation commission (PSD613);



- 1 (23) \$ for three full-time equivalent (3.00 FTE)
2 permanent program specialist positions in victim
3 notification, services, and safety planning (PSD900);
- 4 (24) \$ for one full-time equivalent (1.00 FTE)
5 permanent victim assistance counselor I (Kona)
6 position for victim assistance on the island of
7 Hawaii;
- 8 (25) \$ for one full-time equivalent (1.00 FTE)
9 permanent victim assistance counselor I (Hilo)
10 position for victim assistance on the island of
11 Hawaii;
- 12 (26) \$ for one full-time equivalent (1.00 FTE)
13 permanent legal clerk I (Hilo) position for victim
14 assistance on the island of Hawaii;
- 15 (27) \$ for one full-time equivalent (1.00 FTE)
16 permanent legal clerk I (Kona) position for victim
17 assistance on the island of Hawaii;
- 18 (28) \$ for one full-time equivalent (1.00 FTE)
19 permanent victim assistance (Hilo) position for victim
20 assistance on the island of Hawaii;



1 (29) \$ for one full-time equivalent (1.00 FTE)
2 permanent victim assistance (Kona) position for victim
3 assistance on the island of Hawaii;
4 (30) \$ for two full-time equivalent (2.00 FTE)
5 permanent victim witness counselor I positions for
6 victim assistance on the island of Maui;
7 (31) \$ for one full-time equivalent (1.00 FTE)
8 permanent victim assistance witness counselor I
9 position for victim assistance on the island of Kauai;
10 (32) \$ for four full-time equivalent (4.00 FTE)
11 permanent victim witness counselor II positions for
12 victim assistance on the island of Oahu; and
13 (33) \$ for two full-time equivalent (2.00 FTE)
14 permanent legal clerk positions for victim assistance
15 on the island of Oahu;
16 provided that for new positions authorized, funds shall be
17 provided in the first year for necessary equipment and annual
18 operating expenses shall be increased for supplies; provided
19 further that funds shall be provided for seven positions,
20 necessary equipment, and annual operating expenses for the
21 establishment of the reentry office within the department of
22 public safety; provided further that funds shall be provided for



1 seven positions, necessary equipment, and annual operating
2 expenses for the establishment of the research and planning
3 office within the department of public safety; and provided
4 further that purchase of services funds shall be provided for
5 community-based programs for pretrial offenders and parolees.
6 The sums appropriated shall be expended by the department of
7 public safety for the purposes of this Act.

8 PART VI

9 SECTION 16. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 17. This Act shall take effect on January 7, 2059.



Report Title:

Public Safety; Parole; Pre-trial Risk Assessment

Description:

Requires a pre-trial risk assessment to be conducted within three working days of commitment to a community correctional center. Increases the membership of the Hawaii Paroling Authority. Requires the use of validated risk assessments. Limits length of incarceration for first-time parole violators. Increases the percentage deducted from inmates' earnings for restitution payments. Requires release on supervised parole prior to the maximum sentence date. Adds positions in the Department of Public Safety. Appropriates funds. Effective January 7, 2059. (SB2776 HD1)

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

