
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. The legislature finds that:

3 (1) Hawaii's pre-trial process is one of the longest in
4 the nation. The pre-trial assessment process takes
5 much longer in Hawaii (several months on average,
6 whereas it takes just days or a few weeks in other
7 jurisdictions) and budget cuts have caused these
8 already long processes to be delayed even further.

9 The result has been millions of dollars spent
10 needlessly on a growing pre-trial population;

11 (2) Inmate assessments are not currently being used
12 appropriately to put the right people in the right
13 programs, based on the research. As a result,
14 offenders who are most likely to be successful upon
15 release have been spending longer periods incarcerated
16 because they are unable to get into the rehabilitation
17 and reintegration programs;



1 (3) Hawaii often releases people who are most likely to
2 reoffend back to the communities without the necessary
3 supervision or monitoring. Parolees lacking
4 supervision also lack accountability for their
5 actions; and

6 (4) Restitution for victims is inadequate.

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



1 Overall, the analysis found that crime and victimization
2 rates have declined, as have arrests and felony convictions for
3 violent and property crime. However, the population under
4 probation supervision and incarcerated has not declined, and in
5 some cases has increased. From July 1, 1999, to June 30, 2011,
6 the State's prison and jail population grew eighteen per cent,
7 from 5,118 to 6,043. During the same period, expenditures for
8 the corrections division of the department of public safety
9 increased seventy per cent, from \$112,000,000 to \$190,000,000.
10 Approximately one-third of Hawaii's prison population is housed
11 in out-of-state facilities on the mainland. The cost of housing
12 these offenders out-of-state was \$45,000,000 from July 1, 2010,
13 to June 30, 2011.

14 According to information provided by the Justice Center,
15 this Act could gradually reduce the current prison and jail
16 population and generate savings of approximately 500 beds and
17 \$9,000,000 by the end of fiscal year 2013, 850 beds and
18 \$19,000,000 in fiscal year 2014, 1050 beds and \$26,000,000 in
19 fiscal year 2015, 1150 beds and \$30,000,000 in fiscal year 2016,
20 1,200 beds and \$32,000,000 in fiscal year 2017, and 1,200 beds
21 and \$32,000,000 in fiscal year 2018. These savings will require
22 initial and continued reinvestment in expanding and



1 strengthening victim services, notification, and restitution
2 collection; reentry and community-based treatment programs for
3 pre-trial, probation, and parole populations; pre-trial and risk
4 assessments; probation and parole officers; and research and
5 planning staff at the department of public safety.

6 It is anticipated that savings would be applied to increase
7 funding for pre-trial services, probation and parole
8 supervision, inmate assessments and diagnostic services,
9 research and planning, community-based treatment programs,
10 additional parole officers, additional Hawaii paroling authority
11 members, victim notification of release of inmates, victim
12 safety, and parolee supervision.

13 The intent of this Act is to address these areas for
14 improvement, in order to reduce costly inefficiencies, hold
15 offenders more accountable, and reinvest savings in more
16 effective public safety strategies. This Act establishes a
17 statutory structure to improve the criminal justice system, but
18 the impact of this Act will rely on the department of public
19 safety, the Hawaii paroling authority, and adult probation
20 services to effectively implement changes to policy and practice
21 based on this Act's intent. Cost savings should be reinvested



1 back into the corrections system to reduce recidivism, decrease
2 the prison population, and strengthen public safety.

3 The purpose of this Act is to enhance public safety by:

4 (1) Addressing the inefficiencies that tie up resources in
5 ways that do not reduce crime and reinvesting in ways
6 that do;

7 (2) Focusing resources on supervision, incarceration, and
8 treatment of those individuals who are most likely to
9 benefit from those investments in terms of reducing
10 their likelihood of committing another crime; and

11 (3) Increasing accountability in Hawaii's criminal justice
12 system by mandating a period of supervision and
13 increasing the amount of victim restitution collected.

14 **PART II**

15 SECTION 2. The pre-trial population has increased due to
16 longer lengths of stay. The purpose of this part is to provide
17 the court with a more timely assessment of a person's risk to
18 reoffend or likelihood of not appearing for court. Under this
19 part, an objective assessment is required to be conducted within
20 the first three working days of a person's commitment to a
21 community correctional center in order to allow the courts to



1 more quickly determine who is appropriate for release on their
2 own recognizance, to supervision, or to release on bail.

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

5 **"§353-10 Reentry intake service centers.** There shall be
6 within the department of public safety, a reentry intake service
7 center for adults in each of the counties, to screen, evaluate,
8 and classify the admission of persons to community correctional
9 centers and to provide for the successful reentry of persons
10 back into the community. Each center shall be directed and
11 managed by a manager and shall be staffed by a team of
12 psychiatrists, social workers, technicians, and other personnel
13 as may be necessary. The director of public safety may appoint
14 full-time or part-time professional and clerical staff or
15 contract for professional services to carry out the duties of
16 the centers as identified in this section.

17 The centers shall:

- 18 (1) Provide orientation, guidance, and technical services;
- 19 (2) Provide social-medical-psychiatric-psychological
20 diagnostic evaluation;
- 21 (3) Provide pretrial risk assessments on adult offenders
22 for the courts [~~and assist in the conduct of~~



1 ~~presentence assessments on adult offenders and the~~
2 ~~preparation of presentence reports when requested by~~
3 ~~the courts,]~~ within three working days of admission to
4 a community correctional center. This paragraph shall
5 not apply to persons with local, state, or federal
6 detainers or holds, persons detained without bail,
7 persons detained for probation violation, persons
8 facing revocation of bail or supervised release, and
9 persons who have had a pretrial risk assessment
10 completed prior to admission to a community
11 correctional center. For purposes of this paragraph,
12 "pretrial risk assessment" means an objective,
13 research based, validated assessment tool that
14 measures a defendant's risk of flight and risk of
15 anticipated criminal conduct while on pretrial release
16 pending adjudication;

17 (4) Assist in the conduct of presentence assessments on
18 adult offenders and the preparation of presentence
19 reports when requested by the courts;

20 ~~[(4)]~~ (5) Provide correctional prescription program
21 planning and security classification;



1 ~~[(+5)]~~ (6) Provide such other personal and correctional
2 services as needed for both detained and committed
3 persons;

4 ~~[(+6)]~~ (7) Monitor and record the progress of persons
5 assigned to correctional facilities who undergo
6 further treatment or who participate in prescribed
7 correctional programs;

8 ~~[(+7)]~~ (8) Ensure that the present and future reentry needs
9 of persons committed to correctional facilities are
10 being evaluated and met in an effective and
11 appropriate manner;

12 ~~[(+8)]~~ (9) Provide additional reentry services to include
13 working closely and collaborating with the furlough
14 programs in each county that are currently managed by
15 the department's institutions division;

16 ~~[(+9)]~~ (10) Work closely and collaborate with the Hawaii
17 paroling authority; and

18 ~~[(+10)]~~ (11) Work closely and collaborate with the
19 corrections program services division."

20 **PART III**

21 SECTION 4. The legislature finds that the Hawaii paroling
22 authority plays a vital role in the State's criminal justice



1 system. It determines minimum terms of incarceration for almost
2 all inmates sentenced to prison; grants parole when it
3 determines that an inmate is ready for release into the
4 community; establishes terms and conditions of parole for each
5 offender granted parole; oversees parole officers who monitor
6 and supervise parolees; grants discharges from parole; and makes
7 recommendations for pardons and commutations of sentences.

8 The authority was reconstituted in 1976 by Act 92, Session
9 Laws of Hawaii 1976, with one full-time chair and two part-time
10 members. In the past thirty-six years, its workload has
11 increased eight-fold due to the rise in incarceration rates.
12 However, the authority continues to be composed of one full-time
13 and two part-time members. Because it is essentially a part-
14 time body, the authority finds proper deliberation very
15 difficult when reviewing cases and making decisions that are
16 vital to public safety. Further, the authority is experiencing
17 severe difficulties in carrying out its responsibility in
18 assuring that the terms and conditions of parole are properly
19 enforced with its existing staff.

20 The purpose of this part is to add two more part-time
21 members of the Hawaii paroling authority and authorize the



1 governor to set the salary of the chair of the paroling
2 authority.

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

5 **"§353-61 Hawaii paroling authority; appointment; tenure;**
6 **qualifications.** Members of the paroling authority shall be
7 nominated by a panel composed of the chief justice of the Hawaii
8 supreme court, the director, the president of the bar
9 association of Hawaii, a representative designated by the head
10 of the Interfaith Alliance Hawaii, a member from the general
11 public to be appointed by the governor, and the president of the
12 Hawaii chapter of the National Association of Social Workers.
13 The panel shall submit to the governor the names of not less
14 than three persons, designated as the nominees, for chairperson
15 or as a member, for each vacancy. The requirement for
16 nomination by the panel established under this section shall
17 only apply to a nominee's nomination by the governor to an
18 initial term on the paroling authority and not to any subsequent
19 consecutive term of a sitting paroling authority member or
20 chairperson whose initial appointment to office was made
21 pursuant to a nomination by the panel.



1 The governor shall appoint, in the manner prescribed by
 2 section 26-34, a paroling authority to be known as the Hawaii
 3 paroling authority, to consist of [~~three~~] five members one of
 4 whom shall be designated chairperson. Appointments shall be
 5 made for terms of four years, commencing from the date of
 6 expiration of the last preceding term. Any vacancy in an
 7 unexpired term shall be filled by appointment for the remainder
 8 of the unexpired term. Nominees to the authority shall be
 9 selected on the basis of their qualifications to make decisions
 10 that will be compatible with the welfare of the community and of
 11 individual offenders, including their background and ability for
 12 appraisal of offenders and the circumstances under which
 13 offenses were committed."

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

16 **"§353-63 Service of Hawaii paroling authority members;**
 17 **compensation; expenses.** The chairperson of the Hawaii paroling
 18 authority shall serve on a full-time basis. The other [~~two~~]
 19 four members shall serve on a part-time basis. Effective
 20 July 1, [~~2005,~~] 2012, the chairperson of the Hawaii paroling
 21 authority shall be paid a salary [~~set at eighty-seven per cent~~
 22 ~~of the salary of the director of public safety.] that is~~



1 established by the governor. The compensation of each of the
2 part-time members shall be eighty per cent of the hourly wage
3 paid the chairperson. For each hour engaged in the official
4 duties of the authority, each part-time member of the authority
5 shall be paid an hourly wage at the percentage rate specified in
6 this section based on the hourly wage paid the chairperson;
7 provided that compensation shall not exceed eighty per cent of
8 the total regular working hours in a month; provided further
9 that part-time members shall not be entitled to any vacation,
10 sick leave, or other benefits except as provided in this
11 section. All paroling authority members shall receive their
12 necessary expenses for travel and incidentals which shall be
13 paid from appropriations provided the authority for such
14 purposes, on vouchers approved by the director of public
15 safety."

16 SECTION 7. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2012-2013 to
19 carry out the purposes of this part, including the purchase of
20 office equipment and other expenses related to the new part-time
21 paroling authority members.



1 person's risk of re-offense and suitability for community
2 supervision. Validated risk assessment means an actuarial tool
3 scientifically proven to determine a person's likelihood of
4 committing future criminal behavior. The department of public
5 safety shall select a research based risk assessment tool and
6 shall validate the accuracy of the risk assessment tool at least
7 every three years.

8 A person who is assessed as low risk for re-offending shall
9 be granted parole upon completing the person's minimum sentence,
10 unless the inmate:

11 (a) Within two years of the expiration of the minimum term
12 of imprisonment, commits a misconduct while in prison
13 that is equivalent to a misdemeanor or felony crime;

14 (b) Has any pending felony charges;

15 (c) Is incarcerated for a sex offense as defined in part V
16 of chapter 707 or child abuse in part VI of chapter
17 707 and has not completed a sex offender treatment
18 program successfully;

19 (d) Has local, state, or federal detainers or holds; or

20 (e) Is determined by the Hawaii paroling authority to pose
21 a significant risk to the safety or property of other



1 persons that can only be mitigated by additional
2 incarceration.
3 If parole is not granted at that time, additional hearings shall
4 be held at twelve-month intervals or less until parole is
5 granted or the maximum period of imprisonment expires. The
6 State shall have the right to be represented at the initial
7 parole hearing and all subsequent parole hearings by the
8 prosecuting attorney, who may present written testimony and make
9 oral comments, and the authority shall consider the testimony
10 and comments in reaching its decision. The authority shall
11 notify the appropriate prosecuting attorney of the hearing at
12 the time the prisoner is given notice of the hearing."

13 SECTION 10. Section 353-66, Hawaii Revised Statutes, is
14 amended by amending subsection (e) to read as follows:

15 "(e) Any paroled prisoner retaken and reimprisoned as
16 provided in this chapter shall be confined according to the
17 paroled prisoner's sentence for that portion of the paroled
18 prisoner's term remaining unserved at time of parole, but
19 successive paroles may, in the discretion of the paroling
20 authority, be granted to the prisoner during the life and in
21 respect of the sentence. If the paroled prisoner is retaken and
22 reimprisoned for violating a condition of parole but has not



1 been charged with a new felony offense, absconded or left the
2 State without permission from the paroling authority, violated
3 conditions applicable to sex offenders such as registering as a
4 sex offender or conditions related to proximity to specified
5 locations or persons, or been previously reimprisoned for
6 violating the conditions of parole on the current offense, the
7 paroled prisoner shall be confined for no more than six months
8 for that portion of the paroled prisoner's term remaining
9 unserved at time of parole, whichever is shorter; provided that
10 a paroled prisoner may be reimprisoned for more than six months
11 if the Hawaii paroling authority determines that the paroled
12 prisoner poses a significant risk to the safety or property of
13 other persons that can only be mitigated by additional
14 incarceration. The six-month period of confinement shall not
15 start until the paroling authority has revoked the parole of the
16 prisoner. The prisoner shall be given credit for time served in
17 custody pending a hearing on revocation of parole."

18 **PART V**

19 SECTION 11. The purpose of this part is to ensure
20 accountability for victims and offenders by improving how
21 restitution is collected by the department of public safety and



1 ensuring all felony offenders are supervised for at least some
2 minimum period of time after release from incarceration.

3 SECTION 12. Section 353-22.6, Hawaii Revised Statutes, is
4 amended to read as follows:

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

16 SECTION 13. Section 353-69, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§353-69 Parole when.** [~~No~~] Except as provided in section
19 706-670, parole shall be granted unless it appears to the Hawaii
20 paroling authority that there is a reasonable probability that
21 the prisoner concerned will live and remain at liberty without



1 violating the law and that the prisoner's release is not
2 incompatible with the welfare and safety of society."

3 SECTION 14. Section 706-670, Hawaii Revised Statutes, is
4 amended by amending subsection (5) to read as follows:

5 " (5) [~~Release upon expiration of maximum term. If the~~
6 ~~authority fixes no earlier release date, a prisoner's release~~
7 ~~shall become mandatory at the expiration of the prisoner's~~
8 ~~maximum term of imprisonment.] Supervised parole release prior
9 to the expiration of the maximum term. Notwithstanding section
10 706-605 (1)(c), if the Hawaii paroling authority fixes no
11 earlier release date or has not released a prisoner upon
12 completion of a set minimum term, a prisoner shall be released
13 to parole based on the longest term of imprisonment as follows:~~

14 (a) Class A felony - eighteen months prior to the
15 expiration of the maximum term;

16 (b) Class B felony - twelve months prior to the expiration
17 of the maximum term; and

18 (c) Class C felony - six months prior to the expiration of
19 the maximum term.

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

22 **PART VI**



1 SECTION 15. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2012-2013 for
4 the:

5 (1) Hiring of parole officers to supervise parolees, and
6 reentry intake services personnel to perform pretrial
7 risk assessments for purposes of implementing this
8 Act; and

9 (2) Funding of inmate pre-release and reentry programs
10 through private providers of service in order to
11 expedite the release of inmates to parole.

12 The sum appropriated shall be expended by the department of
13 public safety for the purposes of this Act.

14 SECTION 16. The department of public safety shall report
15 to the legislature, no later than twenty days prior to the
16 convening of the regular sessions of 2013 to 2017, on the
17 following:

- 18 (1) The progress of implementing this Act;
- 19 (2) The number of inmates who have been paroled as a
20 result of this Act;
- 21 (3) The estimated savings in bed space of inmates paroled
22 as a result of this Act; and



1 (4) The number of Hawaii inmates brought back from the
2 mainland as a result of this Act.

3 SECTION 17. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 18. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 19. This Act shall take effect on July 1, 2012;
9 provided that:

10 (1) Sections 3 and 12 shall take effect on January 1,
11 2013;

12 (2) Sections 9 and 14 shall apply to any individual who
13 commits an offense on or after July 1, 2012; and

14 (3) Section 10 shall apply to any individual on parole
15 supervision on or after July 1, 2012.



Report Title:

Public Safety; Parole

Description:

Requires a pre-trial risk assessment to be conducted within three working days. Expands the membership on the Hawaii paroling authority. Requires the use of validated risk assessments to guide parole decisions. Limits length of re-incarceration for first-time parole violators. Increases victim restitution payments by inmates. Requires release on supervised parole prior to the maximum sentence date. Makes appropriations. (SD1)

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