

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO CRIME.

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

1 PART I

2 SECTION 1. Section 353-16.35, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "**§353-16.35 Development or expansion of in-state**  
5 **correctional facilities.** (a) Notwithstanding any other law to  
6 the contrary, the governor, with the assistance of the director,  
7 may negotiate with any person for the development or expansion  
8 of private in-state correctional facilities or public in-state  
9 turnkey correctional facilities to reduce prison overcrowding;  
10 provided that if an environmental assessment or environmental  
11 impact statement is required for a proposed site or for the  
12 expansion of an existing correctional facility under section  
13 343-5, then notwithstanding the time periods specified for  
14 public review and comments under section 343-5, the governor  
15 shall accept public comments for a period of sixty days  
16 following public notification of either an environmental  
17 assessment or an environmental impact statement.



1 (b) Any development or expansion proposal shall address  
2 the construction of the facility separate from the operation of  
3 the facility and shall consider and include:

4 (1) The percentage of low, medium, and high security  
5 inmates and the number of prison beds needed to  
6 incarcerate each of the foregoing classes of inmates;

7 (2) The facility's impact on existing infrastructure, and  
8 an assessment of improvements and additions that will  
9 be necessary;

10 (3) The facility's impact on available modes of  
11 transportation, including airports, roads, and  
12 highways; and

13 (4) A useful life costs analysis.

14 (c) The department shall develop or expand in-state  
15 facilities sufficient to meet the requirements of section  
16 353H-7.

17 [~~e~~] (d) For the purposes of this section, "useful life  
18 costs" means an economic evaluation that compares alternate  
19 building and operating methods and provides information on the  
20 design, construction methods, and materials to be used with  
21 respect to efficiency in building maintenance and facilities  
22 operation."



1 SECTION 2. Section 353H-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§353H-7[+] Return of out-of-state inmates. (a) The  
4 director of public safety shall return Hawaii inmates held in  
5 out-of-state prisons at least one year prior to the inmate's  
6 parole or release date [~~in order~~] for these inmates to  
7 participate in programs preparing them for reentry on the island  
8 where they have the most support; provided that inmates  
9 participating in reentry programs at the mainland facility in  
10 which they are incarcerated consent to the return.

11 (b) The provisions of subsection (a) shall not prevent the  
12 return of other Hawaii inmates held in out-of-state prisons with  
13 less than one year left of their sentence from being returned in  
14 preparation for reentry to the island where they have the most  
15 support.

16 (c) The director of public safety shall return to Hawaii  
17 all inmates that are detained or incarcerated in out-of-state  
18 prison or correctional facilities by December 31, 2018; provided  
19 that there exists sufficient capacity and bed space in Hawaii's  
20 prisons and correctional facilities to accommodate those  
21 additional inmates.



1        (d) Effective December 31, 2015, the director of public  
2 safety shall permit no more than a total of five hundred inmates  
3 from Hawaii, at any one time, to be incarcerated in out-of-state  
4 prison or correctional facilities.

5        (e) The department shall plan, design, and construct  
6 sufficient facilities to house all prisoners committed to the  
7 department's custody to meet the requirements of subsections  
8 (a), (c), and (d). The department shall also develop  
9 alternative programs or forms of incarceration, such as  
10 electronic monitoring, to detain or house the Hawaii inmates  
11 returning to Hawaii from a mainland prison or correctional  
12 facility.

13        [~~(e)~~] (f) The department [~~of public safety~~] shall provide  
14 a report to the legislature at the end of each calendar year on  
15 any inmates not returned pursuant to this section with an  
16 explanation of the reasoning and circumstances for  
17 noncompliance."

18        SECTION 3. Section 353-16.2, Hawaii Revised Statutes, is  
19 repealed.

20        [~~"§353-16.2 Transfer of inmates to out-of-state~~  
21 ~~institutions.~~ (a) ~~The director may effect the transfer of a~~  
22 ~~committed felon to any correctional institution located in~~



1 ~~another state regardless of whether the state is a member of the~~  
2 ~~Western Interstate Corrections Compact; provided that the~~  
3 ~~institution is in compliance with appropriate health, safety,~~  
4 ~~and sanitation codes of the state, provides a level of program~~  
5 ~~activity for the inmate that is suitable, and is operated by~~  
6 ~~that state, by any of its political subdivisions, or by a~~  
7 ~~private institution; and provided further that the transfer is~~  
8 ~~either:~~

9       ~~(1) In the interest of the security, management of the~~  
10           ~~correctional institution where the inmate is presently~~  
11           ~~placed, or the reduction of prison overcrowding; or~~

12       ~~(2) In the interest of the inmate.~~

13       ~~(b) Terms and conditions of the transfer and any~~  
14 ~~reimbursement for expenses shall be agreed upon between the~~  
15 ~~department and the out-of-state correctional institution prior~~  
16 ~~to transfer." ]~~

17       SECTION 4. Section 353-16.3, Hawaii Revised Statutes, is  
18 repealed.

19       ~~["§353-16.3 Development of out-of-state Hawaii~~  
20 ~~correctional facilities. Notwithstanding any other provision to~~  
21 ~~the contrary, the governor, with the assistance of the director,~~  
22 ~~may negotiate with any appropriate out-of-state jurisdiction for~~



1 ~~the development of Hawaii correctional facilities to reduce~~  
2 ~~prison overcrowding; provided that any agreement negotiated~~  
3 ~~pursuant to this section shall be subject to legislative~~  
4 ~~approval by concurrent resolution in any regular or special~~  
5 ~~session." ]~~

6 SECTION 5. The director of finance is authorized to issue  
7 general obligation bonds in the sum of \$ or so much  
8 thereof as may be necessary, and the same sum or so much thereof  
9 as may be necessary is appropriated for fiscal year 2013-2014  
10 for the purpose of planning, designing, and constructing  
11 sufficient facilities to house all prisoners committed to the  
12 department's custody.

13 The sum appropriated shall be expended by the department of  
14 accounting and general services for the purposes of this Act.

15 PART II

16 SECTION 6. There is created within the department of  
17 public safety a work release pilot program to allow incarcerated  
18 individuals to work on community projects that benefit the local  
19 community and the State; provided that those individuals who  
20 would work outside a correctional facility as part of the work  
21 release pilot program pose no threat to public safety, as  
22 determined by the director of public safety.



1 (b) The department of land and natural resources shall  
2 collaborate with the department of public safety to identify any  
3 potential community projects and employers that could benefit  
4 from using incarcerated persons in accordance with this Act.

5 (c) The department of public safety may provide for the  
6 shelter of incarcerated persons outside of a correctional  
7 facility while participating in the work release pilot program.

8 (d) As an incentive for private companies to hire  
9 incarcerated persons, the department of public safety may  
10 reimburse the costs of the incarcerated persons' workers'  
11 compensation and health insurance expenses.

12 (e) The department of public safety may receive public and  
13 private grants for purposes of this Act.

14 SECTION 7. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so  
16 much thereof as may be necessary for fiscal year 2013-2014 and  
17 the same sum or so much thereof as may be necessary for fiscal  
18 year 2014-2015 for the purposes of this part.

19 The sums appropriated shall be expended by the department  
20 of public safety for the purposes of this Act.

21 PART III



1 SECTION 8. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§321- Establishment of community inpatient drug  
5 treatment centers. There shall be established a community  
6 inpatient drug treatment center to be administered by the  
7 director. The community inpatient drug treatment center may be  
8 integrated and operated concurrently with any state hospital."

9 SECTION 9. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2013-2014 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2014-2015 for the purposes of this part.

14 The sums appropriated shall be expended by the department  
15 of health for the purposes of this Act.

16 PART IV

17 SECTION 10. Chapter 603, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20 "§603- Drug court program; established. (a) There is  
21 established a permanent drug court program within the circuit  
22 court of the first circuit. Nonviolent substance abusing





1 offenders may be accepted into the drug court program with or  
2 without the consent of either the prosecuting attorney or the  
3 defendant's attorney. The purpose of the drug court program is  
4 to enhance the effectiveness of the criminal justice system and  
5 its substance abuse treatment system through:

6 (1) A probationary treatment period that is tailored to  
7 meet the specific rehabilitation needs of the  
8 defendant and designed to end or substantially  
9 mitigate substance abuse through any combination of:

10 (A) Counseling;

11 (B) Life and social skill development;

12 (C) Academic training; and

13 (D) Employment, as deemed appropriate by the drug  
14 court; and

15 (2) Access to:

16 (A) A continuum of substance abuse treatment options;

17 (B) Related case management;

18 (C) Auxiliary and support services;

19 (D) Urinalysis; and

20 (E) Intensive supervision mechanisms; and

21 (3) Judicial tracking and involvement in monitoring

22 treatment participation that may include the use of



1                    incentives for compliance and graduated sanctions for  
2                    noncompliance.

3                    (b) The drug court program shall consist of at least one  
4 of the existing first circuit court judges, to be selected by  
5 the chief justice.

6                    (c) The chief justice may select one or more judges of the  
7 second, third, and fifth circuits for the drug court program."

8                    SECTION 11. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$                    or so  
10 much thereof as may be necessary for fiscal year 2013-2014 and  
11 the same sum or so much thereof as may be necessary for fiscal  
12 year 2014-2015 for the purposes of this part.

13                    The sums appropriated shall be expended by the judiciary  
14 for the purposes of this Act.

15                    PART V

16                    SECTION 12. The appropriation made for the capital  
17 improvement project authorized by this Act shall not lapse at  
18 the end of the fiscal year for which the appropriation is made;  
19 provided that all moneys from the appropriation unencumbered as  
20 of June 30, 2016, shall lapse as of that date.

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



1 SECTION 14. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

R. D. D. L.  
by request



**Report Title:**

Correctional Facilities; Prisons; Out-of-State Inmates; Work Release; Pilot Program; Drug Treatment; Drug Court; Appropriation

**Description:**

Requires return of all out-of-state inmates by 12/31/2018 if adequate bed space exists in Hawaii's prisons and correctional facilities. Requires that a maximum of 500 Hawaii inmates shall be detained in out-of-state prisons by 12/31/2015. Requires PSD to plan, design, and construct sufficient facilities to house inmates in Hawaii and to pursue alternatives to incarceration for returning inmates. Provides for a pilot program for allow incarcerated individuals to work on community projects. Establishes community inpatient drug treatment. Expands drug court. Makes appropriations and authorizes the issuance of general obligation bonds.

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