

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. Section 353-62, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) In its operations the paroling authority shall:

4 (1) Keep and maintain a record of all meetings and
5 proceedings;

6 (2) Send a detailed report of its operations to the
7 governor every three months;

8 (3) In promulgating rules, conform to chapter 91;

9 (4) ~~[In all matters]~~ Entitle a prisoner to a hearing
10 before a panel of three of its members which shall act
11 by a majority of [its] the panel members; [and]

12 (5) If it is determined immediately preceding or during
13 the course of a hearing that a sitting panel member
14 must be recused due to a conflict of interest, the
15 panel may proceed with two members; and

16 ~~[+5]~~ (6) Appoint an administrative secretary and such
17 other clerical and other assistants as may be
18 necessary within the limits of available

1 appropriations, subject to any applicable salary
2 classification and civil service schedules, laws, and
3 rules."

4 SECTION 2. 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 134, chapter 707, or
16 section 709-906;

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

22 (4) Been previously reimprisoned for violating the
23 conditions of parole on the current offense,

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

15 SECTION 3. Act 139, Session Laws of Hawaii 2012, is
16 amended by amending section 14 to read as follows:

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

- 19 (1) Section 3 shall take effect on January 1, 2013;
20 (2) Section 7 shall take effect on July 1, 2012, for any
21 individual on parole supervision on or after July 1,
22 2012;

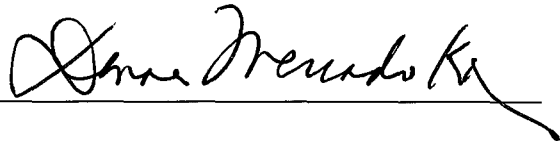
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1 (3) Section 8 shall take effect on July 1, 2012, and shall
2 be applicable to individuals committing an offense on
3 or after that date; and

4 (4) Sections 3, 7, 8, 10, and 11 shall be repealed on July
5 1, 2018, and sections 353-10, 353-66, 706-670(1), 353-
6 22.6, and 353-69, Hawaii Revised Statutes, shall be
7 reenacted in the form ~~[on]~~ in which ~~[it]~~ they read on
8 June 30, ~~[2018-]~~ 2012."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12
13 INTRODUCED BY: 
14 BY REQUEST

15

Report Title:

Public Safety

Description:

Clarifies the intent of Act 139, Session Laws of Hawaii 2012, by defining the quorum required to take action on matters before the Hawaii Paroling Authority, amending conditions for time served for a parole violation, and correcting the sunset section.

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

JUSTIFICATION SHEET

SB. NO. 1178

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.

PURPOSE: To define the number of members necessary for the Hawaii Paroling Authority to make decisions, amend the conditions for time served for a parole violation, and correct an error in the sunset clause of Act 139, Session Laws of Hawaii (SLH) 2012.

MEANS: Amend sections 353-62(b) and 353-66(e), Hawaii Revised Statutes (HRS), and section 14 of Act 139, SLH 2012.

JUSTIFICATION: Act 139, SLH 2012, is the center piece of the Justice Reinvestment Initiative.

Section 6 of Act 139 increases the members of the Hawaii Paroling Authority (HPA) from a chairperson and two part-time members to a chairperson and four part-time members. This section, as introduced by the Administration, was intended to allow part-time members to rotate duties, requiring three members be present to act on matters before the parole board. The purpose of this section was to ensure a panel of three members was always available while other members were ill, on vacation, family leave, etc. It also allows for some members to be reviewing cases while others are hearing other cases.

Section 92-12, HRS, defines a quorum as "all the members to which the board or commission is entitled" unless it is otherwise specified in law. The proposed amendment allows for a panel of three members to convene a hearing, with all matters acted upon by the majority of those present. As some HPA members have previously been employed in the criminal justice system, it is not unusual for conflicts of interest in a given case to arise. Convening panels of three allows HPA to avoid conflicts requiring recusal of a member by not scheduling a member having a conflict when such a situation is identified

beforehand.

On rare occasions, a member will not be aware prior to the hearing of a potential conflict of interest. This measure also allows for two members to continue to proceed with a hearing should a third member of the panel determine immediately preceding or during the course of a hearing that there is a conflict of interest that requires recusal.

Under Act 139, certain parole violators will be limited to a six-month revocation period of incarceration. Those excluded include offenders charged with new felonies and certain misdemeanors. The identified misdemeanors do not include firearms and dangerous weapons offenses, which are deemed as serious violations of parole. This proposal amends section 353-66(e) to include firearms and dangerous weapons misdemeanors as defined in chapter 134, HRS.

An oversight was discovered in Act 139 that impacts those arrested while out-of-state. Another jurisdiction may notify the Hawaii Paroling Authority that it has a person in custody for which there is an outstanding State of Hawaii parole warrant and will place a hold on that person at HPA's request. If the person is charged with another offense in the holding jurisdiction, the person may not be returned to Hawaii on the parole warrant for a considerable period of time. The proposed amendment addresses this situation by stating the period of confinement for the parole violation does not begin until the person is returned to the custody of the State.

Section 14 of Act 139 contains a sunset date for certain provisions. An error was made in identifying the date when previous law was in effect, nullifying the sunset date. This proposal states that the affected sections "shall be reenacted in the form on which it read on June 30, 2012."

Impact on the public: None.

Impact on the department and other agencies:
The Hawaii Paroling Authority will be able to consider more cases in a timelier manner than was possible in the past. This will require defense attorneys and prosecutors to respond to an increased number of actions taken per year.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: PSD 611.

OTHER AFFECTED
AGENCIES: County prosecutors and the Office of the Public Defenders.

EFFECTIVE DATE: Upon approval.