

JAN 17 2014

A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1 SECTION 1. Section 706-670, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§706-670 Parole procedure; release on parole; terms of**
4 **parole, recommitment, and reparole; final unconditional release.**

5 (1) Parole hearing. A person sentenced to an indeterminate
6 term of imprisonment shall receive an initial parole hearing at
7 least one month before the expiration of the minimum term of
8 imprisonment determined by the Hawaii paroling authority
9 pursuant to section 706-669. If the person has been sentenced
10 to multiple terms of imprisonment, the parole hearing shall not
11 be required until at least one month before the expiration of
12 the minimum term that expires last in time. A validated risk
13 assessment shall be used to determine the person's risk of re-
14 offense and suitability for community supervision. For purposes
15 of this subsection, "validated risk assessment" means an
16 actuarial tool to determine a person's likelihood of engaging in
17 future criminal behavior. The department of public safety shall
18 select a research-based risk assessment tool and shall validate



1 the accuracy of the risk assessment tool at least every five
2 years in consultation with the paroling authority. Assessments
3 shall be performed by department of public safety staff who are
4 trained in the use of the risk assessment tool. Except for good
5 cause shown to the paroling authority, a person who is assessed
6 as low risk for re-offending shall be granted parole upon
7 completing the minimum sentence, unless the person:

- 8 (a) Is found to have an extensive criminal history record
9 that is indicative of a likelihood of future criminal
10 behavior in spite of the finding by the risk
11 assessment by the paroling authority;
- 12 (b) Is found to have committed misconduct while in prison
13 that is equivalent to a misdemeanor or felony crime
14 within thirty-six months of the expiration of the
15 minimum term of imprisonment;
- 16 (c) Has any pending felony charges in the State;
- 17 (d) Is incarcerated for a sexual offense under part V of
18 chapter 707 or child abuse under part VI of chapter
19 707; or
- 20 (e) Does not have a parole plan as set forth under section
21 706-670(3) and (4), as approved by, and at the
22 discretion of, the paroling authority.



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

12 (2) Parole conditions. The authority, as a condition of
13 parole, may impose reasonable conditions on the prisoner as
14 provided under section 706-624.

15 (3) Prisoner's plan and participation. Each prisoner
16 shall be given reasonable notice of the prisoner's parole
17 hearing and shall prepare a parole plan, setting forth the
18 manner of life the prisoner intends to lead if released on
19 parole, including specific information as to where and with whom
20 the prisoner will reside, a phone contact where the prisoner can
21 be reached, and what occupation or employment the prisoner will
22 follow, if any. The prisoner shall be paroled in the county



1 where the prisoner had a permanent residence or occupation or
2 employment prior to the prisoner's incarceration, unless the
3 prisoner will: reside in a county in which the population
4 exceeds eight-hundred thousand persons; reside in a county in
5 the State in which the committed person has the greatest family
6 or community support, opportunities for employment, job
7 training, education, treatment, and other social services, as
8 determined by the Hawaii paroling authority; or be released for
9 immediate departure from the State. The institutional parole
10 staff shall render reasonable aid to the prisoner in the
11 preparation of the prisoner's plan and in securing information
12 for submission to the authority. In addition, the prisoner
13 shall:

- 14 (a) Be permitted to consult with any persons whose
15 assistance the prisoner reasonably desires, including
16 the prisoner's own legal counsel, in preparing for a
17 hearing before the authority;
- 18 (b) Be permitted to be represented and assisted by counsel
19 at the hearing;
- 20 (c) Have counsel appointed to represent and assist the
21 prisoner if the prisoner so requests and cannot afford
22 to retain counsel; and



1 (d) Be informed of the prisoner's rights as set forth in
2 this subsection.

3 (4) Authority's decision; initial minimum term of parole.
4 The authority shall render its decision regarding a prisoner's
5 release on parole within a reasonable time after the parole
6 hearing. A grant of parole shall not be subject to acceptance
7 by the prisoner. If the authority denies parole after the
8 hearing, it shall state its reasons in writing. A verbatim
9 stenographic or mechanical record of the parole hearing shall be
10 made and preserved in transcribed or untranscribed form. The
11 authority, in its discretion, may order a reconsideration or
12 rehearing of the case at any time and shall provide reasonable
13 notice of the reconsideration or rehearing to the prosecuting
14 attorney. If parole is granted by the authority, the authority
15 shall set the initial minimum length of the parole term.

16 (5) Supervised parole release prior to the expiration of
17 the maximum term. Notwithstanding section 706-605(1)(c) to the
18 contrary, if the authority fixes no earlier release date or has
19 not released a prisoner upon completion of a set minimum term, a
20 prisoner shall receive a parole hearing with a validated risk
21 assessment and may be released to parole based on the longest
22 term of imprisonment as follows:



- 1 (a) Class A felony--eighteen months prior to the
- 2 expiration of the maximum term;
- 3 (b) Class B felony--twelve months prior to the expiration
- 4 of the maximum term; and
- 5 (c) Class C felony--six months prior to the expiration of
- 6 the maximum term.

7 The paroling authority has the discretion to not grant
8 supervised parole prior to the expiration of a maximum sentence
9 for certain offenders.

10 [~~5~~] (6) Release upon expiration of maximum term. If the
11 authority fixes no earlier release date, a prisoner's release
12 shall become mandatory at the expiration of the prisoner's
13 maximum term of imprisonment.

14 [~~6~~] (7) Sentence of imprisonment includes separate
15 parole term. A sentence to an indeterminate term of
16 imprisonment under this chapter includes as a separate portion
17 of the sentence a term of parole or of recommitment for
18 violation of the conditions of parole.

19 [~~7~~] (8) Revocation hearing. When a parolee has been
20 recommitted, the authority shall hold a hearing within sixty
21 days after the parolee's return to determine whether parole
22 should be revoked. The parolee shall have reasonable notice of



1 the grounds alleged for revocation of the parolee's parole. The
2 institutional parole staff shall render reasonable aid to the
3 parolee in preparation for the hearing. In addition, the
4 parolee shall have, with respect to the revocation hearing,
5 those rights set forth in subsection (3)(a), (3)(b), (3)(c), and
6 (3)(d). A record of the hearing shall be made and preserved as
7 provided in subsection (4).

8 ~~[-(8)]~~ (9) Length of recommitment and reparole after
9 revocation of parole. If a parolee's parole is revoked, the
10 term of further imprisonment upon such recommitment and of any
11 subsequent reparole or recommitment under the same sentence
12 shall be fixed by the authority but shall not exceed in
13 aggregate length the unserved balance of the maximum term of
14 imprisonment.

15 ~~[-(9)]~~ (10) Final unconditional release. When the
16 prisoner's maximum parole term has expired or the prisoner has
17 been sooner discharged from parole, a prisoner shall be deemed
18 to have served the prisoner's sentence and shall be released
19 unconditionally."

20 SECTION 2. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun before its effective date.



S.B. NO. 2307

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2014;
4 provided that:

5 (1) Section 1 shall apply to any individual who commits an
6 offense on or after July 1, 2014; and

7 (2) The amendments made to section 706-670, Hawaii Revised
8 Statutes, by section 1 of this Act shall not be
9 repealed when that section is reenacted pursuant to
10 section 14 of Act 139, Session Laws of Hawaii 2012.

11

INTRODUCED BY:

Will Evers

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S.B. NO. 2307

Report Title:

Parole Hearing; Supervised Release; Risk Assessment

Description:

Requires a parole hearing and validated risk assessment for prisoners who have not been released upon completion of a set minimum term or received an earlier release date. Permits supervised release on parole eighteen months prior to the expiration of the maximum term for class A felonies, twelve months prior to the expiration of the maximum term for class B felonies, and six months prior to the expiration of the maximum term for class C felonies. Permits the paroling authority to deny supervised parole prior to the expiration of a maximum sentence for certain offenders.

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