
A BILL FOR AN ACT

RELATING TO THE RELEASE OF CERTAIN MISDEMEANANTS.

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

1 SECTION 1. Chapter 353, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:
4 "§353- Release of pretrial and sentenced misdemeanants
5 to prevent overcrowding. (a) Notwithstanding chapter 804 and
6 any other law to the contrary and except as provided in
7 subsection (b), the director may order the release of a pre-
8 trial or sentenced misdemeanor on recognizance to prevent
9 overcrowding when a community correctional center has reached
10 capacity, as determined by the director. The director's order
11 shall supersede and have the same force and effect as an order
12 entered by a court pursuant to chapter 804. A copy of the
13 director's order shall be filed with the court in which the
14 charge against the inmate is pending. "Sentenced misdemeanor"
15 for this section means misdemeanor or petty misdemeanor
16 sentenced pursuant to section 706-663.

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1 (b) No person who has been denied bail or whose bail has
2 been set at more than \$5,000 pursuant to chapter 804, or who has
3 been charged with or convicted of or is on probation or parole
4 for a serious crime, as defined in section 804-3, shall be
5 eligible for release pursuant to this section.

6 (c) The authority to release a pre-trial or sentenced
7 misdemeanant pursuant to this section is granted solely for the
8 purpose of managing the population of the community correctional
9 centers and nothing herein shall be construed as granting any
10 person the right to be released. An order releasing a pre-trial
11 or sentenced misdemeanant pursuant to this section shall not
12 operate to dismiss or otherwise terminate any charges then
13 pending against the pre-trial or sentenced misdemeanant.

14 (d) The State, its officers, and employees, shall not be
15 subject to any civil liability or penalty, nor to any criminal
16 prosecution, for any error in judgment or discretion made in
17 good faith and upon reasonable grounds in any action taken or
18 omitted by the State, its officers, and employees, in an
19 official capacity under this section.

20 (e) The director shall adopt policies and procedures for
21 the release of pre-trial and sentenced misdemeanants pursuant to
22 this section.

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Report Title:

Release of Certain Misdemeanants

Description:

Defines the circumstance for the Director of Public Safety to release pre-trial and sentenced misdemeanants at community correctional centers.

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

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO THE RELEASE OF CERTAIN MISDEMEANANTS.

PURPOSE: To authorize the Director of Public Safety to release pretrial or sentenced misdemeanants based on specific criteria and referenced procedures.

MEANS: Adds two new sections to chapter 353, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Public Safety has experienced significant overcrowded conditions at the jail facilities over the years. This bill will create an alternative to incarceration subject to the discretion and authority of the Director of Public Safety.

Impact on the public: Provides an additional methodology for alternatives to incarceration.

Impact on the department and other agencies: Provides an additional resource for the management of cases by the Judiciary, the relevant County Prosecutor's Office, and the Office of the Public Defender.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: PSD 900.

OTHER AFFECTED AGENCIES: County Prosecutor, Office of the Public Defender, Judiciary.

EFFECTIVE DATE: July 1, 2016.