
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-A Release of pretrial and sentenced misdemeanants to
5 prevent overcrowding. (a) Notwithstanding chapter 804 and any
6 other law to the contrary and except as provided in subsection
7 (b), the director may order the release of a pretrial or
8 sentenced misdemeanant on recognizance to prevent overcrowding
9 when a community correctional center has reached capacity, as
10 determined by the director. The director's order shall
11 supersede and have the same force and effect as an order entered
12 by a court pursuant to chapter 804. A copy of the director's
13 order shall be filed with the court in which the charge against
14 the inmate is pending. For purposes of this section, "sentenced
15 misdemeanant" shall mean a misdemeanant or petty misdemeanant
16 sentenced pursuant to section 706-663.



1 (b) No person who is currently incarcerated under any of
2 the following circumstances shall be eligible for release
3 pursuant to this section:

4 (1) The person has been denied bail or whose bail has been
5 set at more than \$5,000 pursuant to chapter 804;

6 (2) The person is charged with or convicted of or is on
7 probation or parole for a serious crime, as defined in
8 section 804-3;

9 (3) The person has been arrested or convicted for abuse of
10 family or household members, as defined in section
11 709-906; or

12 (4) The person has been arrested for or convicted of any
13 other crime of violence.

14 (c) The authority to release a pretrial or sentenced
15 misdemeanant pursuant to this section is granted solely for the
16 purpose of managing the population of the community correctional
17 centers and nothing herein shall be construed as granting any
18 person the right to be released. An order releasing a pretrial
19 or sentenced misdemeanant pursuant to this section shall not
20 operate to dismiss or otherwise terminate any charges then
21 pending against the pretrial or sentenced misdemeanant.



1 (d) The director shall notify the prosecuting attorney of
2 the release of any person pursuant to this section not later
3 than the time of the actual release.

4 (e) The director shall adopt policies and procedures for
5 the release of pretrial and sentenced misdemeanants pursuant to
6 this section.

7 §353-B Terms and conditions of release; violations;
8 sanctions. (a) A pretrial or sentenced misdemeanant released
9 pursuant to section 353-A shall be subject to the conditions
10 stated in section 804-7.4. In addition, the director may impose
11 any of the conditions that a court is authorized to impose
12 pursuant to section 804-7.1 and shall impose any conditions
13 contained in any court order superseded by the director's order.

14 (b) Intentional violations of the conditions of release
15 shall be disposed of as provided in sections 804-7.2 and 804-
16 7.3."

17 SECTION 2. In codifying the new sections added by section
18 1 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall apply only to persons whose
2 incarceration commences after the effective date of this Act.

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

6 SECTION 6. This Act shall take effect on July 1, 2016.



Report Title:

Release of Certain Misdemeanants

Description:

Defines the circumstance for the Director of Public Safety to release pretrial or sentenced misdemeanants at community correctional centers. Applies only to persons whose incarceration commences after the effective date of this measure. (HB2391 HD2)

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