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# 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 misdemeanor on recognizance to prevent overcrowding  
9 when a community correctional center has reached capacity, as  
10 determined by the director. The director shall consider the  
11 circumstances and nature of the pretrial or sentenced  
12 misdemeanant's charge or offense prior to ordering a release  
13 pursuant to this section. The director's order shall supersede  
14 and have the same force and effect as an order entered by a  
15 court pursuant to chapter 804. For purposes of this section,  
16 "sentenced misdemeanor" shall mean a misdemeanor or petty  
17 misdemeanant 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. Nothing in this section shall be construed as granting  
18 any person the right to be released. An order releasing a  
19 pretrial or sentenced misdemeanant pursuant to this section  
20 shall not operate to dismiss or otherwise terminate any charges  
21 then pending against the pretrial or sentenced misdemeanant.



1       (d) The director shall notify the court where the case is  
2 assigned and the prosecuting attorney of the release of any  
3 person pursuant to this section not later than twenty-four hours  
4 prior to the time of the actual release.

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

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14 contained in any court order superseded by the director's order.

15       (b) Intentional violations of the conditions of release  
16 shall be disposed of as provided in sections 804-7.2 and  
17 804-7.3."

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



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall apply only to persons whose  
3 original crime occurred on or after the effective date of this  
4 Act.

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

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

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**Report Title:**

Release of Certain Misdemeanants

**Description:**

Defines circumstance under which the Director of Public Safety may release pretrial or sentenced misdemeanants at community correctional centers. Applies only to persons whose original crime occurred on or after the effective date of this measure. (SD1)

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

