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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 misdemeanants to prevent overcrowding.

5           (a) Notwithstanding chapter 804 and any other law to the  
6 contrary and except as provided in subsection (b), the director  
7 may order the release of a misdemeanant on recognizance to  
8 prevent overcrowding when a community correctional center has  
9 reached capacity, as determined by the director. The director  
10 shall consider the circumstances and nature of the  
11 misdemeanant's charge or offense prior to ordering a release  
12 pursuant to this section. The director's order shall supersede  
13 and have the same force and effect as an order entered by a  
14 court pursuant to chapter 804. For purposes of this section and  
15 section 353-B, "misdemeanant" means a person incarcerated at a  
16 community correctional center who has been charged with a petty  
17 misdemeanor or misdemeanor, or an incarcerated person who has  
18 been sentenced pursuant to section 706-663.



1        (b) No person who is incarcerated under any of the  
2 following circumstances shall be eligible for release pursuant  
3 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, as that term is defined in  
14 section 134-1.

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



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

5       (e) The State or any of its officers and employees shall  
6 not be subject to any civil liability or penalty nor to any  
7 criminal prosecution for any error in judgment or discretion  
8 made in good faith and upon reasonable grounds in any action  
9 taken or omitted by the State or any of its officers and  
10 employees acting in their official capacity pursuant to this  
11 section.

12       (f) The director shall adopt policies and procedures for  
13 the release of misdemeanants pursuant to this section.

14       §353-B Terms and conditions of release; violations;  
15 sanctions. (a) A misdemeanant released pursuant to section  
16 353-A shall be subject to the conditions stated in section 804-  
17 7.4. In addition, the director may impose any of the conditions  
18 that a court is authorized to impose pursuant to section 804-7.1  
19 and shall impose any conditions contained in any court order  
20 superseded by the director's order.



1           (b) Intentional violations of the conditions of release  
2 shall be disposed of as provided in sections 804-7.2 and  
3 804-7.3."

4           SECTION 2. Section 706-663, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§706-663 Sentence of imprisonment for misdemeanor and**  
7 **petty misdemeanor.** After consideration of the factors set forth  
8 in sections 706-606 and 706-621, the court may sentence a person  
9 who has been convicted of a misdemeanor or a petty misdemeanor  
10 to imprisonment for a definite term to be fixed by the court and  
11 not to exceed one year in the case of a misdemeanor or thirty  
12 days in the case of a petty misdemeanor[-], subject to earlier  
13 release pursuant to section 353-A."

14           SECTION 3. The director of public safety shall report to  
15 the legislature no later than twenty days prior to the convening  
16 of the regular sessions of 2018, 2019, and 2020 with respect to  
17 the implementation of this Act. The report shall include but  
18 not be limited to:

- 19           (1) Detailed information on the number of incarcerated  
20           misdemeanants released pursuant to this Act;



- 1 (2) The guidelines and criteria used by the director of  
2 public safety in deciding which incarcerated  
3 misdemeanants to release pursuant to this Act;
- 4 (3) Any information regarding post-release offenses  
5 committed or allegedly committed by any misdemeanants  
6 released pursuant to this Act;
- 7 (4) Any known incidents of interactions between released  
8 misdemeanants pursuant to this Act and law enforcement  
9 agencies due to alleged criminal behavior; and
- 10 (5) Any other information the legislature deems relevant  
11 and requests from the director of public safety to  
12 determine whether release of certain misdemeanants is  
13 in the best interests of the State.

14 SECTION 4. This Act shall apply only to persons charged  
15 with offenses subject to sentencing in section 706-663, Hawaii  
16 Revised Statutes, on or after the effective date of this Act.

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

20 SECTION 6. In codifying the new sections added by section  
21 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2016, and  
6 shall be repealed on July 1, 2020; provided that section 706-  
7 663, Hawaii Revised Statutes, shall be reenacted in the form in  
8 which it read on the day prior to the effective date of this  
9 Act.

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**Report Title:**

Early Release of Certain Misdemeanants

**Description:**

Defines circumstances under which the director of public safety may release certain misdemeanants at community correctional centers. Requires the director of public safety to submit a report to the legislature regarding certain information regarding the early release of certain incarcerated misdemeanants. Applies only to persons charged with offenses subject to sentencing in section 706-663, Hawaii Revised Statutes, on or after the effective date of this measure. Sunsets on 7/1/2020. (SD2)

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

