

JAN 29 2015

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The legislature finds that Hawaii's justice
2 reinvestment efforts in 2012 culminated in the passage of Act
3 139, Session Laws of Hawaii 2012. Specifically, Part III of Act
4 139 encapsulates the legislature's intent to "reduce recidivism
5 by using swift and certain, yet less costly and severe,
6 responses to parole condition violations".

7 The legislature further finds that following the
8 implementation of Act 139, a far lower than expected rate of
9 parolees received sanctions in lieu of revocation of parole.

10 Accordingly, the purpose of this Act is to provide for
11 greater eligibility of parolees for sanctions by limiting the
12 definition of "absconded" and establishing an additional
13 sanction available prior to full revocation of parole.

14 SECTION 2. Section 353-66, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§353-66 Terms and conditions of parole; suspension and**
17 **revocation.** (a) Every parole granted under this part to any



1 prisoner shall be subject to the express condition, to be set
2 forth in the official written notification of parole to the
3 prisoner, but to be binding upon the prisoner in any event, that
4 all or any portion of the prisoner's credits earned or to be
5 earned may be forfeited by order of the Hawaii paroling
6 authority in the event that the prisoner breaks the prisoner's
7 parole or violates any law of the State or rule of the paroling
8 authority or any of the terms or conditions of the prisoner's
9 parole.

10 (b) No parole shall be revoked and no credits forfeited
11 without cause, which cause must be stated in the order revoking
12 the parole, or forfeiting the credits after notice to the
13 paroled prisoner of the paroled prisoner's alleged offense and
14 an opportunity to be heard; provided that when a person is
15 convicted in the State of a crime committed while on parole and
16 is sentenced to imprisonment, or when it is shown by personal
17 investigation that a parolee has left the State without
18 permission from the paroling authority and due effort is made to
19 reach the parolee by registered mail directed to the parolee's
20 last known address, no hearing shall be required to revoke the
21 parolee's parole; and provided further that when any duly



1 licensed psychiatrist or licensed psychologist finds that
2 continuance on parole will not be in the best interests of a
3 parolee or the community, the paroling authority, within the
4 limitations of the sentence imposed, shall order the detention
5 and treatment of the prisoner until such time as the prisoner
6 shall be found by any duly licensed psychiatrist or licensed
7 psychologist to be eligible for continuance on parole.

8 (c) If any paroled prisoner leaves the State without
9 permission from the paroling authority, or if the whereabouts of
10 any paroled prisoner is not known to the paroling authority
11 because of the neglect or failure of the prisoner to so inform
12 it, the paroling authority may order the parole suspended
13 pending apprehension. From and after the suspension of the
14 parole of any paroled prisoner and until the paroled prisoner's
15 return to custody, the paroled prisoner shall be deemed an
16 escapee and a fugitive from justice, and no part of the time
17 during which the paroled prisoner is an escapee and a fugitive
18 from justice shall be part of the paroled prisoner's term.

19 (d) The paroling authority may at any time order the
20 arrest and temporary return to custody of any paroled prisoner,
21 as provided in section 353-65, for the purpose of ascertaining



1 whether or not there is sufficient cause to warrant the paroled
2 prisoner's reimprisonment or the revoking of the paroled
3 prisoner's parole or other action provided for by this part.

4 (e) Any paroled prisoner retaken and reimprisoned as
5 provided in this chapter shall be confined according to the
6 paroled prisoner's sentence for that portion of the paroled
7 prisoner's term remaining unserved at time of parole, but
8 successive paroles may, in the discretion of the paroling
9 authority, be granted to the prisoner during the life and in
10 respect of the sentence.

11 (f) If the paroled prisoner is retaken and reimprisoned
12 for violating a condition of parole but has not:

13 (1) Been charged with a new felony offense or a new
14 misdemeanor offense under chapter 707 or section 709-
15 906;

16 (2) Absconded or left the State without permission from
17 the paroling authority;

18 (3) Violated conditions applicable to sex offenders, such
19 as registering as a sex offender or conditions related
20 to proximity to specified locations or persons; or



1 (4) Been previously reimprisoned and revoked for violating
2 the conditions of parole on the current offense,
3 the paroled prisoner shall be confined: for the first instance
4 of violation, for no more than three months; for the second
5 instance of violation, for no more than six months; or in either
6 case, for that portion of the paroled prisoner's term remaining
7 unserved at the time of parole, whichever is shorter, so long as
8 the paroling authority has approved a parole plan as set forth
9 under section 706-670(3) and (4). The minimum term of
10 imprisonment shall be as determined by the court or the paroling
11 authority, as the case may be. The prisoner shall be given
12 credit for time served in custody pending a hearing on
13 revocation of parole as it relates to the three-month or the
14 six-month parole [~~revocation.~~] sanction. No prisoner shall be
15 incarcerated beyond the expiration of the prisoner's maximum
16 term of imprisonment.

17 As used in this subsection, "absconded" means the failure
18 of a parolee to:

- 19 (1) Report to the parole officer when required; and
20 (2) Surrender within seven days following the issuance of
21 a warrant for apprehension of the parolee.



1 A parolee who fails to report to a parole officer when required
2 but surrenders within seven days of the issuance of a warrant
3 for apprehension shall not be deemed to have "absconded" under
4 this subsection.

5 [~~(f)~~] (g) The Hawaii paroling authority may require a
6 paroled prisoner to undergo and complete a substance abuse
7 treatment program when the paroled prisoner has committed a
8 violation of the terms and conditions of parole involving
9 possession or use, not including to distribute or manufacture as
10 defined in section 712-1240, of any dangerous drug, detrimental
11 drug, harmful drug, intoxicating compound, marijuana, or
12 marijuana concentrate, as defined in section 712-1240, unlawful
13 methamphetamine trafficking as provided in section 712-1240.6,
14 or involving possession or use of drug paraphernalia under
15 section 329-43.5. If the paroled prisoner fails to complete the
16 substance abuse treatment program or the Hawaii paroling
17 authority determines that the paroled prisoner cannot benefit
18 from any substance abuse treatment program, the paroled prisoner
19 shall be subject to revocation of parole and return to
20 incarceration. As a condition of parole, the Hawaii paroling
21 authority may require the paroled prisoner to:



- 1 (1) Be assessed by a certified substance abuse counselor
2 for substance abuse dependency or abuse under the
3 applicable Diagnostic and Statistical Manual and
4 Addiction Severity Index;
- 5 (2) Present a proposal to receive substance abuse
6 treatment in accordance with the treatment plan
7 prepared by a certified substance abuse counselor
8 through a substance abuse treatment program that
9 includes an identified source of payment for the
10 treatment program;
- 11 (3) Contribute to the cost of the substance abuse
12 treatment program; and
- 13 (4) Comply with any other terms and conditions for parole.

14 As used in this subsection, "substance abuse treatment
15 program" means drug or substance abuse treatment services
16 provided outside a correctional facility by a public, private,
17 or nonprofit entity that specializes in treating persons who are
18 diagnosed with having substance abuse or dependency and
19 preferably employs licensed professionals or certified substance
20 abuse counselors.



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1 Nothing in this subsection shall be construed to give rise
2 to a cause of action against the State, a state employee, or a
3 treatment provider."

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

6 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Will Eyo

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S.B. NO. 1332

Report Title:

Public Safety; Parole; Pre-trial Risk Assessment

Description:

Establishes an additional sanction available to the judiciary prior to full parole revocation.

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