

JAN 22 2016

A BILL FOR AN ACT

RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

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

1 SECTION 1. The legislature finds that hundreds of Honolulu
2 residents are cited or arrested for nonviolent offenses and do
3 not pose a threat to the public. The offenses include drinking
4 liquor in public, being in public parks after hours of closure,
5 and camping on sidewalks, beaches, and other restricted public
6 places. Most of those cited do not come to court, which leads
7 to the issuance of bench warrants for their arrest. Much time
8 and resources are then expended to bring these individuals to
9 court.

10 The legislature also finds that once these minor,
11 nonviolent offenders are brought into court, the sentences
12 imposed are often monetary fines, as the offenses are not
13 serious enough to warrant incarceration. Most of those fined,
14 however, have low or no income and are unable to pay the fines.
15 This noncompliance leads to another bench warrant, which repeats
16 the cycle and keeps the offenders in the system without offering
17 any rehabilitative measures. In addition, the prosecution of



1 these cases burdens and congests the court system without
2 producing a meaningful resolution that will prevent recurrence
3 of the offenses.

4 The legislature further finds that the prosecuting attorney
5 of the city and county of Honolulu has worked with the judiciary
6 and the public defender on a community court outreach project.
7 The project is described as the criminal justice system's
8 response to the many minor nonviolent offenses that overburden
9 the courts and law enforcement. The goal of the project is to
10 provide judges with more sentencing options for nonviolent
11 offenses and to help nonviolent offenders who face a myriad of
12 problems, such as drug abuse and mental health challenges,
13 obtain basic necessities, such as food and shelter.

14 The community court is intended to function as a mobile
15 justice system that travels to neighborhoods and resolves cases
16 against offenders who are unable to attend a traditional court
17 setting or pay fines imposed against them. The community court
18 is also intended to impose alternative sentences such as
19 community service and mandatory participation in programs deemed
20 appropriate for individual offenders based on their need for



1 specific mental health services, substance abuse treatment,
2 sustenance, and shelter.

3 The purpose of this Act is to establish a community court
4 outreach project in the city and county of Honolulu to offer
5 combined accountability and treatment options to offenders that
6 will reduce crime and recidivism. The legislature intends to
7 evaluate the community court outreach project during its
8 operational period and determine whether the project should be
9 expanded to other counties of the State.

10 SECTION 2. Community court outreach project;
11 establishment; purpose. (a) There is established the community
12 court outreach project to be administered and operated by the
13 judiciary in the city and county of Honolulu from July 1, 2016,
14 until June 30, 2020, subject to section 5 of this Act.

15 (b) The purpose of the community court outreach project
16 shall be to operate a mobile court that:

17 (1) Travels to communities where defendants who have been
18 cited or arrested for certain nonviolent offenses and
19 do not pose a threat to the public live or congregate;
20 and



1 (2) Disposes of the cases of defendants who enter plea
2 agreements after negotiations between the prosecuting
3 attorney and public defender.

4 SECTION 3. Definitions. For the purpose of this Act:

5 "Community court outreach project" or "project" means the
6 community court outreach project established by this Act.

7 "Prosecuting attorney" means the prosecuting attorney of
8 the city and county of Honolulu.

9 "Public defender" means the public defender of the State.

10 SECTION 4. Community court outreach project process. (a)

11 Under the community court outreach project, the court shall hold
12 hearings at community sites to dispose of cases for which the
13 prosecuting attorney and public defender have negotiated and
14 reached plea agreements on the disposition of the defendants.

15 (b) The chief justice shall identify the nonviolent
16 offenses under state law and city ordinance, the cases for which
17 may be heard and disposed of under the community court outreach
18 project. Before identifying the offenses, the chief justice
19 shall consult with the prosecuting attorney and public defender.



1 (c) The public defender shall engage a social service or
2 health care professional to provide outreach services to
3 defendants charged with the identified offenses who:

- 4 (1) Are willing to participate in the community court
5 outreach project;
- 6 (2) Are willing to be represented by the public defender;
7 and
- 8 (3) May benefit from participation in the project.

9 After consulting with the social service or health care
10 professional, the public defender shall develop a list of the
11 defendants who are potential participants in the project and
12 transmit the list to the prosecuting attorney.

13 (d) The prosecuting attorney shall review the list and may
14 select from the list those defendants who the prosecuting
15 attorney determines may be appropriate for participation in the
16 project. The prosecuting attorney shall enter into plea
17 agreement negotiations with the public defender for disposition
18 of those defendants.

19 (e) The plea agreement for a defendant may include a
20 proposed fine, community service, court-ordered treatment, or



1 other court-ordered condition, but shall not include
2 imprisonment.

3 The court shall not hear or dispose of a case in which the
4 plea agreement for the defendant proposes any imprisonment.

5 (f) At the hearing, the court may finalize the plea
6 agreement by court order or judgment; provided that the court
7 shall not be bound by the proposed disposition in the plea
8 agreement, except that the court shall not order imprisonment.

9 SECTION 5. Community court outreach project; subject to
10 the availability of funds and memoranda of agreement with the
11 prosecuting attorney and public defender. (a) The judiciary
12 shall administer and operate the community court outreach
13 project during a fiscal year if:

14 (1) The chief justice determines that sufficient funds are
15 available to administer and operate the project,
16 either through a specific appropriation for the
17 project, another appropriation in the judiciary budget
18 act, or a federal or other grant;

19 (2) The chief justice and prosecuting attorney enter into
20 a memorandum of agreement specifying the terms and
21 conditions of the prosecuting attorney's participation



1 in the project and the funding to be provided by the
2 judiciary to the prosecuting attorney for the project;
3 and

4 (3) The chief justice and public defender enter into a
5 memorandum of agreement specifying the terms and
6 conditions of the public defender's participation in
7 the project and the funding to be provided by the
8 judiciary to the public defender for the project.

9 If all of the conditions under paragraphs (1) to (3) are
10 not met for a fiscal year, the chief justice shall not
11 administer or operate the project during that fiscal year.

12 (b) The chief justice shall transfer the entire amount of
13 funds for a fiscal year specified in the memoranda of agreement
14 with the prosecuting attorney and the public defender to each of
15 them by September 1 of that fiscal year.

16 If the entire amount of funds for a fiscal year is not
17 transferred to the prosecuting attorney or public defender by
18 the deadline set under this subsection, the prosecuting attorney
19 or public defender, as applicable, may choose to decline
20 participation in the project.



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1 If, despite not receiving the entire amount of funds by the
2 deadline, the prosecuting attorney or public defender
3 participates or continues to participate in the project, the
4 prosecuting attorney or public defender may collect the amount
5 in accordance with any remedies set forth in the applicable
6 memorandum of agreement.

7 (c) If the project is not operated during a fiscal year,
8 any specific appropriation to the judiciary for the project for
9 that fiscal year shall not be expended, and the entirety of the
10 specific appropriation shall lapse on June 30 of that fiscal
11 year.

12 SECTION 6. Annual report. The chief justice shall submit
13 a report on the community court outreach project to the
14 legislature and the governor at least twenty days prior to the
15 convening of the regular sessions of 2017, 2018, 2019, and 2020.
16 The report shall include a quantification and discussion of
17 program measures and outcomes. In any report, the chief justice
18 may recommend that this Act be amended, expanded to other
19 counties through June 30, 2020, or made permanent with expansion
20 to other counties. The report shall also include separate



1 chapters or sections containing the comments and recommendations
2 of the prosecuting attorney and public defender.

3 SECTION 7. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$612,610 or so much
5 thereof as may be necessary for fiscal year 2016-2017 for the
6 establishment, administration, and operation of the community
7 court outreach project.

8 The sum appropriated shall be expended by the judiciary for
9 the purposes of this Act; provided that the chief justice shall
10 transfer:

- 11 (1) \$170,000 to the prosecuting attorney for the
12 participation of the prosecuting attorney in the
13 project during fiscal year 2016-2017; and
- 14 (2) \$200,000 to the public defender for the participation
15 of the public defender in the project during fiscal
16 year 2016-2017.

17 Notwithstanding section 5(b) of this Act, for fiscal year
18 2016-2017, the chief justice shall transfer the funds to the
19 prosecuting attorney and public defender within thirty days of
20 entering into the latter dated of the memoranda of agreement
21 with each of them.



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1 SECTION 8. This Act shall take effect on July 1, 2016, and
 2 shall be repealed on June 30, 2020.

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Report Title:

Community Court Outreach Project; Nonviolent Criminal Offenders

Description:

Establishes a community court outreach project in the city and county of Honolulu from July 1, 2016, to June 30, 2020.

Requires, under the project, the judiciary to operate a mobile court that travels to community sites where defendants cited or arrested for nonviolent offenses live or congregate and disposes of the cases after plea agreements have been reached by the Honolulu prosecuting attorney and public defender. Appropriates general funds.

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