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# 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  
18 these cases burdens and congests the court system without



1 producing a meaningful resolution that will prevent recurrence  
2 of the offenses.

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

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



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

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

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

- 15           (1) Travels to communities where defendants who:  
16               (A) Have been cited or arrested for certain  
17                       nonviolent offenses; and  
18               (B) Do not pose a threat to the public,  
19                       live or congregate; 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) Only cases involving nonviolent, nonfelony offenses  
16 under state law and city ordinance may be heard and disposed of  
17 under the community court outreach project.

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



1 (1) Are willing to participate in the community court  
2 outreach project;

3 (2) Are willing to be represented by the public defender;  
4 and

5 (3) May benefit from participation in the project.

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

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

16 (e) The plea agreement for a defendant may include a  
17 proposed fine, community service, court-ordered treatment, or  
18 other court-ordered condition, but shall not include  
19 imprisonment.

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



1 (f) At the hearing, the court may finalize the plea  
2 agreement by court order or judgment; provided that the court  
3 shall not be bound by the proposed disposition in the plea  
4 agreement, except that the court shall not order imprisonment.

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

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

15 (2) The chief justice and prosecuting attorney enter into  
16 a memorandum of agreement specifying the terms and  
17 conditions of the prosecuting attorney's participation  
18 in the project and the funding to be provided by the  
19 judiciary to the prosecuting attorney for the project;  
20 and



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

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

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

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

18          If, despite not receiving the entire amount of funds by the  
19          deadline, the prosecuting attorney or public defender  
20          participates or continues to participate in the project, the  
21          prosecuting attorney or public defender may collect the amount



1 in accordance with any remedies set forth in the applicable  
2 memorandum of agreement.

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

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

19 SECTION 7. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so  
21 much thereof as may be necessary for fiscal year 2016-2017 for





1 the establishment, administration, and operation of the  
2 community court outreach project.

3 The sum appropriated shall be expended by the judiciary for  
4 the purposes of this Act; provided that the chief justice shall  
5 transfer:

6 (1) \$ to the prosecuting attorney for the  
7 participation of the prosecuting attorney in the  
8 project during fiscal year 2016-2017; and

9 (2) \$ to the public defender for the  
10 participation of the public defender in the project  
11 during fiscal year 2016-2017.

12 Notwithstanding section 5(b) of this Act, for fiscal year  
13 2016-2017, the chief justice shall transfer the funds to the  
14 prosecuting attorney and public defender within thirty days of  
15 entering into the latter dated of the memoranda of agreement  
16 with each of them.

17 SECTION 8. This Act shall take effect on January 7, 2059,  
18 and shall be repealed on June 30, 2020.

19



**Report Title:**

Community Court Outreach Project; Nonviolent Nonfelony  
Offenders; Appropriation

**Description:**

Establishes a community court outreach project in the city and county of Honolulu that requires the judiciary to operate a mobile court that travels to community sites where defendants cited or arrested for nonviolent, nonfelony 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. Takes effect on 1/7/2059. (SD1)

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