
A BILL FOR AN ACT

RELATING TO ALTERNATIVES TO INCARCERATION.

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

1 SECTION 1. Section 353-10.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) ~~[The]~~ As a priority, to prevent overcrowding in
5 community correctional centers, the department of public safety
6 shall implement and expand alternative programs that place,
7 control, supervise, and treat selected offenders in lieu of
8 incarceration."

9 2. By amending subsections (c) and (d) to read:

10 "(c) Sentenced offenders and other committed persons may
11 be ~~[considered for placement]~~ placed in alternative programs as
12 a condition of furlough or release~~[, provided]~~; provided that
13 the person ~~[is otherwise eligible for or has been granted~~
14 ~~furlough or release pursuant to section 353-8 or 353-17.]~~ has a
15 minimum or lower security classification in any correctional
16 facility of the department; provided further that the person may
17 be released for a valid purpose as determined by the director.



1 (d) As used in this section, "alternative programs" mean
2 programs that are established by the department or created and
3 funded by legislative appropriation or federal grant naming the
4 department of public safety or one of its operating agencies as
5 the expending agency and that are intended to provide an
6 alternative to incarceration. Alternative programs may include:

- 7 (1) Home detention, curfew [~~using electronic monitoring~~
8 ~~and surveillance~~], or both;
- 9 (2) Supervised release, graduated release, furlough, and
10 structured educational or vocational programs; [~~and~~]
- 11 (3) Similar programs created and designated as alternative
12 programs by the legislature or the director of public
13 safety for inmates who do not pose significant risks
14 to the community[-]; and
- 15 (4) The use of electronic monitoring and surveillance."

16 SECTION 2. Section 353-36, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§353-36[+] Release of [misdemeanants] offenders to
19 prevent overcrowding. (a) Notwithstanding chapter 804 and any
20 other law to the contrary and except as provided in subsection
21 (b), the director may order the release of [~~a misdemeanor~~] an



1 offender on recognizance to prevent overcrowding when a
2 community correctional center has reached capacity, as
3 determined by the director[-]; provided that the director may
4 require that an offender be subject to electronic monitoring and
5 surveillance as a condition of release. The director shall
6 consider the circumstances and nature of the [~~misdemeanant's~~]
7 offender's charge or offense prior to ordering a release
8 pursuant to this section. The director's order shall supersede
9 and have the same force and effect as an order entered by a
10 court pursuant to chapter 804. For purposes of this section and
11 section 353-37, [~~"misdemeanant"~~] "offender" means a person
12 incarcerated at a community correctional center who has been
13 charged with a [~~petty misdemeanor or misdemeanor,~~] criminal
14 offense or an incarcerated person who has been sentenced
15 pursuant to [~~section 706-663-~~] chapter 706.

16 (b) [~~No~~] A person who is incarcerated under any of the
17 following circumstances shall be [~~eligible~~] ineligible for
18 release pursuant to this section:

19 (1) The person has been denied bail [~~or whose bail has~~
20 ~~been set at more than \$5,000 pursuant to chapter 804~~];



1 (2) The person is charged with or convicted of or is on
2 probation or parole for a serious crime, as defined in
3 section 804-3;

4 (3) The person has been arrested or convicted for abuse of
5 family or household members, as defined in section
6 709-906; [~~or~~]

7 (4) Other than the offense for which release is
8 contemplated under this section, the person has been
9 previously convicted of any offense, as defined in
10 title 37, that involves injury or threat of injury to
11 the person of another, including but not limited to
12 arrest or conviction for sexual harassment in the
13 fourth degree, harassment by stalking, violation of an
14 order of protection, or violation of a temporary
15 restraining order[~~-~~]; or

16 (5) The person does not have a pre-trial risk assessment
17 tool score of moderate or lower.

18 (c) The authority to release [~~a misdemeanor~~] an offender
19 pursuant to this section is granted solely for the purpose of
20 managing the population of the community correctional centers.
21 Nothing in this section shall be construed as granting any



1 person the right to be released. An order releasing [a
2 ~~misdemeanant~~] an offender pursuant to this section shall not
3 operate to dismiss or otherwise terminate any charges then
4 pending against the [~~misdemeanant~~] offender.

5 (d) The director shall notify the court where the case is
6 assigned and the prosecuting attorney of the release of any
7 [~~misdemeanant~~] offender pursuant to this section [~~not~~] no later
8 than forty-eight hours prior to the time of the actual release.

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

16 (f) [~~The~~] No later than January 1, 2018, the director
17 shall adopt policies and procedures for the release of
18 [~~misdemeanants~~] offenders pursuant to this section."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2017-2018 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2018-2019 for electronic monitoring and surveillance for
3 offenders released pursuant to section 353-36, Hawaii Revised
4 Statutes, or participating in alternative programs established
5 pursuant to section 353-10.5, Hawaii Revised Statutes.

6 The sums appropriated shall be expended by the department
7 of public safety for the purposes of this Act.

8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval;
14 provided that section 3 shall take effect on July 1, 2017.



Report Title:

Criminal Offenders; Pre-Trial Release; Alternative Programs;
Electronic Monitoring and Surveillance; Appropriation

Description:

Expands the authority of DPS to address overcrowding at prisons by releasing certain pre-trial detainees and sentenced offenders, including certain felons, provided certain conditions are met. Requires electronic monitoring of released detainees and offenders. Authorizes electronic monitoring of offenders in programs that offer alternatives to incarceration. Appropriates funds. (HB1246 HD1)

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

