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# 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 independent  
2 oversight of the State's correctional system ensures personnel  
3 and fiscal accountability, supports safe conditions for  
4 employees, inmates, and detainees, and provides positive reform  
5 to a rehabilitative and therapeutic correctional system.

6           The legislature further finds that an increasing number of  
7 states are calling for independent oversight of their  
8 correctional systems with at least eight states already having  
9 established independent oversight mechanisms to monitor and  
10 improve their correctional systems.

11           The legislature further finds that the reentry commission  
12 and the corrections population management commission have  
13 overlapping responsibilities and consolidating the commissions  
14 into a single, independent oversight commission led by an  
15 oversight coordinator and guided by an experienced group of  
16 commission members will promote efficiency and provide greater  
17 opportunities for member participation.



1 The purpose of this Act is to support best practices for an  
2 effective correctional system by:

3 (1) Establishing the Hawaii correctional system oversight  
4 commission; and

5 (2) Consolidating the reentry commission and corrections  
6 population management commission into the Hawaii  
7 correctional system oversight commission and  
8 transferring the rights, powers, functions, and duties  
9 of the consolidated commissions to the Hawaii  
10 correctional system oversight commission.

11 SECTION 2. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to be appropriately designated and to read  
13 as follows:

14 "CHAPTER

15 HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

16 § -1 Hawaii correctional system oversight commission;  
17 membership; appointment; chairperson; reimbursement of expenses.

18 (a) There is established within the office of the governor for  
19 administrative purposes only a Hawaii correctional system  
20 oversight commission consisting of five members who shall be  
21 residents of this State and appointed as follows:



- 1 (1) One member shall be appointed by the governor;
- 2 (2) One member shall be appointed by the president of the
- 3 senate;
- 4 (3) One member shall be appointed by the speaker of the
- 5 house of representatives;
- 6 (4) One member shall be appointed by the chief justice;
- 7 and
- 8 (5) One member shall be appointed by the chairperson of
- 9 the board of trustees of the Office of Hawaiian
- 10 Affairs.

11 The commission members shall annually elect one of the  
12 members to serve as chairperson of the commission.

13 (b) Preferred qualifications for commission members shall  
14 be possessing knowledge in:

- 15 (1) Criminal justice or correctional systems;
- 16 (2) Native Hawaiian culture-based practices with an
- 17 emphasis on healing and reducing recidivism;
- 18 (3) Best practices for effective correctional systems; or
- 19 (4) Crime victim specialization.



1 (c) Any member of the commission may be removed from  
2 office by the governor for cause upon notice and opportunity to  
3 be heard at a public hearing.

4 (d) The members of the commission shall receive  
5 reimbursement for expenses, including travel expenses, that are  
6 necessary for the performance of their duties. No member of the  
7 commission shall be made subject to the financial disclosure  
8 requirements of sections 84-13 and 84-17 solely because of that  
9 member's participation as a member of the commission. The terms  
10 of the commissioners shall be as provided in section 26-34.

11 § -2 Oversight coordinator; appointment; term. (a) The  
12 governor shall appoint an oversight coordinator from a list of  
13 three nominees submitted by the commission. The oversight  
14 coordinator shall be a person qualified by training and  
15 experience to administer the Hawaii correctional system  
16 oversight commission and shall be well-versed in criminal  
17 justice reform and maintain a firm commitment to the  
18 correctional system's transition from a punitive model to a  
19 rehabilitative and therapeutic model. The oversight coordinator  
20 shall serve a two-year term.



1 (b) Effective December 1, 2019, the oversight coordinator  
2 of the commission shall be paid a salary set at one hundred per  
3 cent of the salary of the director of human resources  
4 development. The oversight coordinator shall be exempt from  
5 chapters 76 and 89, but shall be a member of the state  
6 employees' retirement system and shall be eligible to receive  
7 benefits of any state employee benefits program generally  
8 applicable to officers and employees of the State, including  
9 those under chapter 87A.

10 (c) The oversight coordinator shall devote the oversight  
11 coordinator's entire time and attention to the administration of  
12 the Hawaii correctional system oversight commission and shall  
13 not be engaged in any other profession or occupation.

14 (d) The oversight coordinator may employ persons not  
15 subject to chapters 76 and 78 to perform and execute the  
16 functions of the commission.

17 **§ -3 Hawaii correctional system oversight commission;**  
18 **powers and duties.** (a) The commission shall meet with the  
19 oversight coordinator not less than once each quarter to make  
20 recommendations and set policy, receive reports from the



1 oversight coordinator, and transact other business properly  
2 brought before the commission.

3 (b) The commission shall:

4 (1) Oversee the State's correctional system and have  
5 jurisdiction over investigating complaints at  
6 correctional facilities and facilitating a  
7 correctional system transition from a punitive model  
8 to a rehabilitative and therapeutic model;

9 (2) Establish maximum inmate population limits for each  
10 correctional facility and formulate policies and  
11 procedures to prevent the inmate population from  
12 exceeding the capacity of each correctional facility;

13 (3) Work with the department of public safety in  
14 monitoring and reviewing the comprehensive offender  
15 reentry program, including facility educational and  
16 treatment programs, rehabilitative services, work  
17 furloughs, and the Hawaii paroling authority's  
18 oversight of parolees. The commission may make  
19 recommendations to the department of public safety,  
20 the Hawaii paroling authority, and the legislature  
21 regarding reentry and parole services; and



1           (4) Ensure that the comprehensive offender reentry system  
2           under chapter 353H is working properly to provide  
3           programs and services that result in the timely  
4           release of inmates on parole when the maximum terms  
5           have been served instead of delaying the release for  
6           lack of programs and services.

7           To achieve these ends, the commission shall authorize the  
8           oversight coordinator to adopt rules in accordance with chapter  
9           91.

10           § -4 Powers and duties of the oversight coordinator. In  
11           addition to any other powers and duties authorized in this  
12           chapter, the oversight coordinator shall:

13           (1) Supervise and administer the operation of the  
14           commission in accordance with this chapter and the  
15           rules adopted under this chapter, subject to the  
16           continuous duty to take into account the particularly  
17           sensitive and responsible nature of the commission's  
18           functions;

19           (2) Enforce this chapter and the rules adopted under this  
20           chapter. The oversight coordinator shall receive  
21           allegations of any violations of the laws of this



- 1 State or rules pertaining to the correctional system  
2 or conduct of the commission;
- 3 (3) Be authorized to hire staff necessary to accomplish  
4 the purpose of this chapter, including a minimum of  
5 two researchers and one clerical assistant. Employees  
6 of the oversight coordinator's office shall be exempt  
7 from chapter 76 and shall not be considered civil  
8 service employees but shall be entitled to any  
9 employee benefit plans normally inuring to civil  
10 service employees;
- 11 (4) Act as secretary and executive officer of the  
12 commission;
- 13 (5) Confer regularly as necessary or desirable and not  
14 less than once every quarter with the commission on  
15 the operation and administration of the commission;
- 16 (6) Make available for inspection by the commission, upon  
17 request, all books, records, files, and other  
18 information and documents of the commission;
- 19 (7) Advise the commission and recommend matters as are  
20 necessary and advisable to improve the operation and  
21 administration of the commission; and





1           (8) Within thirty days after receiving an allegation of a  
2           violation of the laws of this State or rules  
3           pertaining to the correctional system or conduct of  
4           the commission by a complainant and evidence  
5           substantiating the allegation, determine in  
6           proceedings in accordance with chapter 91, whether  
7           there has been a violation of the rules and whether  
8           referral for a criminal investigation is warranted.

9           § -5 Access to records by oversight coordinator and  
10          commission. The department of public safety shall provide full  
11          access to all information requested by the oversight coordinator  
12          and commission.

13          § -6 Monthly reports; annual reports. (a) The  
14          oversight coordinator shall submit a monthly report to the  
15          commission, the governor, and the legislature. The monthly  
16          report shall include actions taken by the commission and  
17          expenses for the preceding month.

18          (b) The commission shall submit an annual report to the  
19          governor and the legislature no less than twenty days before the  
20          convening of each regular session. The annual report shall  
21          include a full and complete statement of actions taken by the



1 commission for the preceding years, and recommendations,  
2 including any proposed legislation, that the commission deems  
3 necessary or desirable.

4 § -7 Studies and investigations; procedures. (a) The  
5 oversight coordinator shall conduct an ongoing study and  
6 investigation of the correctional system for the following  
7 purposes:

- 8 (1) To ascertain any provisions in this chapter or rules  
9 adopted pursuant to this chapter through which any  
10 abuses in the administration and operation of the  
11 correctional system or any evasion of this chapter or  
12 its rules may arise or be practiced;
- 13 (2) To formulate recommendations for changes to this  
14 chapter; and
- 15 (3) To ensure that this chapter and rules adopted pursuant  
16 to this chapter are formalized and are administered to  
17 serve the true purposes of this chapter.

18 (b) The oversight coordinator shall conduct an ongoing  
19 study and investigation of the operation and the administration  
20 of correctional system laws in effect in other states or  
21 countries, any literature on the subject that may be published



1 or available, any federal laws that may affect the operation of  
2 the correctional system, and the reaction of residents to  
3 existing and potential features of the correctional system in  
4 order to recommend or effect changes that will tend to serve the  
5 purposes of this chapter.

6 (c) In an investigation, the oversight coordinator may  
7 make inquiries and obtain information as the oversight  
8 coordinator thinks fit, enter without notice to inspect the  
9 premises of an agency or correctional facility, and hold private  
10 hearings in accordance with chapter 91.

11 (d) The oversight coordinator shall be required to  
12 maintain confidentiality in respect to all matters and the  
13 identities of the complainants or witnesses coming before the  
14 oversight coordinator except so far as disclosures may be  
15 necessary to enable the oversight coordinator to carry out the  
16 oversight coordinator's duties and to support the oversight  
17 coordinator's recommendations."

18 SECTION 3. Act 24, Special Session Laws of Hawaii 2009, as  
19 amended by section 4 of Act 76, Session Laws of Hawaii 2012, as  
20 amended by section 1 of Act 66, Session Laws of Hawaii 2013, as  
21 amended by section 1 of Act 15, Session Laws of Hawaii 2015, is



1 amended by amending section 3, subsection (d) to read as  
2 follows:

3 " (d) The commission shall cease to exist on [~~December 1,~~  
4 ~~2019.~~] January 1, 2020."

5 SECTION 4. Chapter 353F, Hawaii Revised Statutes, is  
6 repealed.

7 SECTION 5. The chairpersons of the reentry commission and  
8 corrections population management commission and the oversight  
9 coordinator shall create a plan to ensure a smooth transition  
10 for the consolidation of commissions and the transfer of all  
11 rights, powers, functions, and duties prior to the repeal of the  
12 reentry commission and corrections populations management  
13 commission on January 1, 2020.

14 SECTION 6. All rights, powers, functions, and duties of  
15 the reentry commission are transferred to the Hawaii  
16 correctional system oversight commission.

17 SECTION 7. All appropriations, records, equipment,  
18 machines, files, supplies, contracts, books, papers, documents,  
19 maps, and other personal property heretofore made, used,  
20 acquired, or held by the reentry commission relating to the  
21 functions transferred to the Hawaii correctional system



1 oversight commission shall be transferred with the functions to  
2 which they relate.

3 SECTION 8. All rights, powers, functions, and duties of  
4 the corrections population management commission are transferred  
5 to the Hawaii correctional system oversight commission.

6 SECTION 9. All appropriations, records, equipment,  
7 machines, files, supplies, contracts, books, papers, documents,  
8 maps, and other personal property heretofore made, used,  
9 acquired, or held by the corrections population management  
10 commission relating to the functions transferred to the Hawaii  
11 correctional system oversight commission shall be transferred  
12 with the functions to which they relate.

13 SECTION 10. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2019-2020 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2020-2021 for the operations of the Hawaii correctional  
18 system oversight commission.

19 The sums appropriated shall be expended by the office of  
20 the governor for the purposes of this Act.



1 SECTION 11. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect on January 28,  
4 2081; provided that:

5 (1) Section 3 shall take effect on November 30, 2019; and

6 (2) Section 4 shall take effect on January 1, 2020.



**Report Title:**

Hawaii Correctional System Oversight Commission; Oversight Coordinator; Reentry Commission; Corrections Population Management Commission

**Description:**

Establishes the Hawaii Correctional System Oversight Commission. Creates a position for an Oversight Coordinator for the Commission. Extends the sunset date of the Reentry Commission to 1/1/2020. Repeals the Reentry Commission and Corrections Population Management Commission on 1/1/2020 and transfers all rights, powers, functions, and duties of those commissions to the Hawaii Correctional System Oversight Commission. Takes effect on 1/28/2021. (SD1)

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