

JAN 18 2019

A BILL FOR AN ACT

RELATING TO RESTORATIVE JUSTICE.

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

1 SECTION 1. The legislature finds that restorative justice
2 programs aim to address unresolved issues confronting victims,
3 offenders, and their families. These programs bring offenders,
4 victims, and their respective personal supporters together in a
5 carefully managed, safe environment. The process is a powerful
6 healing tool and a way to empower victims to make decisions
7 about how to repair the harm caused by offenses. Participation
8 in a program is voluntary and available only to those victims
9 who choose to participate, and the program is available to those
10 inmates who want to reconcile with their victims.

11 The legislature further finds that typically, a restorative
12 justice program begins when an incarcerated person requests
13 restorative justice from that inmate's case worker. An
14 impartial, trained, and experienced community facilitator then
15 meets with the inmate to discuss the program's goals and process
16 and identifies whom the inmate has harmed by the inmate's past
17 behavior and whom the inmate wants to invite for support. The



1 parties then meet, with half of the time devoted to
2 reconciliation and the other half devoted to developing a
3 reentry transition plan for the inmate. If successful,
4 restorative justice can lead to the transformation of people,
5 relationships, and communities. Restorative justice can also
6 reduce crime, reduce repeat offending, divert individuals from
7 the criminal justice system, reduce the costs of criminal
8 justice, reduce crime victims' desire for violent revenge
9 against their offenders, and provide both victims and offenders
10 with more satisfaction than traditional criminal justice allows.

11 The legislature also finds that the restorative reentry
12 circles pilot program at the Waiawa correctional facility, based
13 upon restorative justice principles, has resolved ninety
14 incidents with a one hundred per cent satisfaction rate reported
15 by the participating victims, offenders, and prison staff. The
16 pilot program has been highlighted by the Federal Probation
17 Journal, Honolulu Magazine, and KITV News and has expanded to
18 the women's community correctional center.

19 The purpose of this Act is to establish a restorative
20 justice pilot program within the judiciary.



1 SECTION 2. (a) The judiciary shall establish a five-year
2 pilot program to allow defendants in criminal cases and their
3 victims to participate in restorative justice; provided that any
4 defendant in a criminal case involving a charged offense
5 classified as a class A or B felony or that is a violent crime
6 shall not be eligible to participate in the pilot program.

7 (b) During or prior to a pretrial conference held pursuant
8 to rule 17.1 of the Hawaii rules of penal procedure, the court
9 shall inform each eligible defendant of the right to request
10 restorative justice.

11 (c) A defendant's participation in the pilot program shall
12 require court approval and agreement of the victim.

13 (d) Notwithstanding any other law to the contrary and upon
14 successful completion of any restorative justice process,
15 approval of the victim, and approval of the prosecuting
16 attorney, the court may dismiss the charged offense or offenses.

17 (e) The judiciary shall inform the following individuals
18 in writing of the existence of the pilot program:

- 19 (1) The attorney general;
20 (2) The public defender;
21 (3) The prosecuting attorneys of each county; and



1 (4) The registered members of the criminal justice and
2 corrections section of the Hawaii State Bar
3 Association.

4 (f) The judiciary shall submit interim reports of the
5 pilot program to the legislature no later than twenty days prior
6 to the convening of the regular sessions of 2020, 2021, 2022,
7 and 2023, and shall submit a final report to the legislature no
8 later than twenty days prior to the convening of the regular
9 session of 2024. The reports shall include information and
10 recommendations about the efficacy of and the costs associated
11 with the pilot program. The final report shall also include a
12 recommendation on whether the pilot program should be made
13 permanent.

14 (g) For the purpose of this Act:

15 "Restorative justice" shall include restorative dialogues,
16 restorative conferences, restorative justice circles,
17 restorative sessions, native Hawaiian reconciliation practices
18 such as ho'oponopono, or any type of restorative justice group
19 process.

20 "Violent crime" shall mean the crimes enumerated in section
21 351-32, Hawaii Revised Statutes.



S.B. NO. 737


1 SECTION 3. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so much
 3 thereof as may be necessary for fiscal year 2019-2020 and the
 4 same sum or so much thereof as may be necessary for fiscal year
 5 2020-2021 for the restorative justice pilot program.

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

8 SECTION 4. This Act shall take effect on July 1, 2019.

9

INTRODUCED BY:


Randy H Baker



S.B. NO. 737

Report Title:

Restorative Justice; Pilot Program; Judiciary; Alternative
Dispute Resolution; Appropriation

Description:

Requires the Judiciary to establish a 5-year pilot program for restorative justice. Requires the judiciary to inform various criminal attorneys of the existence of the pilot program. Appropriates funds.

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