

STAND. COM. REP. NO. 616 -22

Honolulu, Hawaii

FEB 18 , 2022

RE: H.B. No. 2344
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Corrections, Military, & Veterans, to which was referred H.B. No. 2344 entitled:

"A BILL FOR AN ACT RELATING TO PROBATION,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Create a good time credit system by which criminal defendants on probation may reduce their time on probation through compliance with conditions of probation;
- (2) Provide that a condition of probation that prohibits unnecessary associations may only apply with respect to certain persons having a connection to the underlying crime or the prosecution of the crime;
- (3) Provide that a condition of probation that prohibits the possession or use of alcohol or unauthorized drugs may only be imposed if it reasonably relates to the crime for which the defendant was convicted;
- (4) Provide that substance abuse treatment shall not be required of a defendant on probation if a program is not available in the county of the defendant's residence or

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if the defendant has not been accepted into a program;
and

(5) Prohibit incarceration for certain technical violations.

Your Committee received testimony in support of this measure from the Hawai'i Correctional System Oversight Commission, Office of the Public Defender, American Civil Liberties Union of Hawai'i, Community Alliance on Prisons, Maui Economic Opportunity, Hawaii Appleseed Center for Law & Economic Justice, Our Revolution Hawaii, and numerous individuals. Your Committee received testimony in opposition to this measure from the Judiciary, Department of the Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, and two individuals.

Your Committee finds that existing state laws relating to certain violations of community supervision are resulting in counterproductive, skyrocketing rates of incarceration and severe overcrowding in local jails and prisons. Based on weekly population reports, typically one fourth of all jail and prison admissions in Hawaii are the result of probation or parole violations of the terms of legal supervision, other than the commission of certain crimes.

Your Committee further finds that incarceration for parole violations is expensive, with the State spending \$219 per day to incarcerate just one person. Research shows that community-based services are a fraction of the cost of incarceration, and that investment in access to employment, housing, social services, and voluntary community-based reentry programs reduces recidivism more effectively than incarceration. Accordingly, this measure seeks to reform probation procedures to reduce the incarcerated population.

Your Committee notes concerns, however, with the breadth of the use of the term "technical violation" in the measure and its application. Your Committee therefore finds that all references to "technical violation" should be removed from the substantive provisions of the measure. As this measure proceeds through the legislative process, your Committee requests that a workable definition for "technical violation" be considered and included if appropriate.

Your Committee has amended this measure by:



- (1) Deleting provisions relating to a good time credit system;
- (2) Deleting the proposed limitations on conditions of probation relating to prohibited associations, possession or use of alcohol or unauthorized drugs, and substance abuse treatment;
- (3) Deleting all references to "technical violations" from the substantive provisions of this measure and the prohibition on incarceration for certain technical violations;
- (4) Requiring the probation officer to conduct a formal review of the defendant's progress halfway through the defendant's period of probation and provide the defendant information on how to file a motion with the court for early termination of probation, if the defendant so chooses;
- (5) Giving a probation or law enforcement officer who has probable cause to believe a defendant has failed to comply with a discretionary condition of probation under section 706-624(2), Hawaii Revised Statutes, the discretion to issue the defendant a written notice of a court hearing that states the defendant's alleged violation and the date, time, location, and purpose of the hearing;
- (6) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Corrections, Military, & Veterans that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2344, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.



Respectfully submitted on
behalf of the members of the
Committee on Corrections,
Military, & Veterans,



TAKASHI OHNO, CHAIR



