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## A BILL FOR AN ACT

RELATING TO CRIMINAL JUSTICE REFORM.

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

1           SECTION 1. The legislature finds that state laws relating  
2 to certain violations of community supervision have resulted in  
3 skyrocketing rates of incarceration and severe overcrowding in  
4 state correctional facilities. The legislature recognizes that  
5 the use of alcohol and illicit substances by parolees is often  
6 rooted in the complex issue of addiction and not simply due to a  
7 deliberate choice to disregard the law or the terms of parole.  
8 Subjecting a parolee to arrest and potential revocation of  
9 community supervision is disruptive to the person's overall  
10 efforts and progress in leading a pro-social life and is also  
11 costly for the State. The State currently spends \$253 per day,  
12 or \$92,345 per year, to incarcerate just one person. Research  
13 shows that, in contrast, community-based services may be  
14 provided at a fraction of the cost of incarceration.

15           The legislature believes that instead of expending funds to  
16 arrest a parolee who has tested positive for drug use and  
17 holding a hearing on whether parole should be revoked based on



1 the positive test, funds should be reinvested in employment,  
2 housing, social services, and community-based treatment programs  
3 that more effectively reduce recidivism.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Provide that at any time before trial, the court may  
6 order the defendant to undergo a substance abuse  
7 assessment and participate in any necessary treatment;  
8 (2) Prohibit the revocation of parole solely due to the  
9 defendant having one positive test for drug use; and  
10 (3) Prohibit the arrest of a parolee solely due to the  
11 defendant having one positive test for drug use.

12 SECTION 2. Chapter 805, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§805- Drug screening; request. At any time before  
16 trial, the court may order the defendant to undergo a substance  
17 abuse assessment and participate in any necessary treatment;  
18 provided that nothing in this section shall be construed as  
19 precluding the court from ordering that the defendant undergo a  
20 substance abuse assessment and participate in treatment after  
21 trial or as part of any conviction that results therefrom."



1 SECTION 3. Chapter 806, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§806- Drug screening; request. At any time before  
5 trial, the court may order the defendant to undergo a substance  
6 abuse assessment and participate in any necessary treatment;  
7 provided that nothing in this section shall be construed as  
8 precluding the court from ordering that the defendant undergo a  
9 substance abuse assessment and participate in treatment after  
10 trial or as part of any conviction that results therefrom."

11 SECTION 4. Section 353-66, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) No parole shall be revoked and no credits forfeited  
15 without cause, which [~~cause must~~] shall be stated in the order  
16 revoking the parole[~~r~~] but shall not be based solely upon the  
17 defendant having one positive test for drug use, or in the order  
18 forfeiting the credits after notice to the paroled prisoner of  
19 the paroled prisoner's alleged offense and an opportunity to be  
20 heard; provided that [~~when~~] if a person is convicted in the  
21 State of a crime committed while on parole and is sentenced to



1 imprisonment, or [~~when~~] if it is shown by personal investigation  
2 that a parolee has left the State without permission from the  
3 paroling authority and due effort is made to reach the parolee  
4 by registered mail directed to the parolee's last known address,  
5 no hearing shall be required to revoke the parolee's parole;  
6 [~~and~~] provided further that [~~when~~] if any duly licensed  
7 psychiatrist or licensed psychologist finds that continuance on  
8 parole will not be in the best interests of a parolee or the  
9 community, the paroling authority, within the limitations of the  
10 sentence imposed, shall order the detention and treatment of the  
11 prisoner until [~~such time as~~] the prisoner [~~shall be~~] is found  
12 by any duly licensed psychiatrist or licensed psychologist to be  
13 eligible for continuance on parole."

14 2. By amending subsection (d) to read:

15 "(d) The paroling authority may at any time order the  
16 arrest and temporary return to custody of any paroled prisoner,  
17 as provided in section 353-65, for the purpose of ascertaining  
18 whether [~~or not~~] there is sufficient cause to warrant the  
19 paroled prisoner's reimprisonment or the revoking of the paroled  
20 prisoner's parole or other action provided for by this part[~~-~~];  
21 provided that a parolee shall not be arrested under this



1 subsection solely because the defendant has one positive test  
2 for drug use."

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 16 2024



# H.B. NO. 1604

**Report Title:**

Courts; Corrections; Arrests; Substance Abuse Assessment;  
Parole; Probation

**Description:**

Allows the court to order substance abuse assessment and treatment. Prohibits the arrest of a parolee, or the revocation of parole, solely due to the defendant having 1 positive test for drug use.

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

