

ACT 153

H.B. NO. 3461

A Bill for an Act Relating to the Transfer of Correctional Mental Health Employees from the Department of Health to Department of Public Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the responsibility for mental health services to inmates should be placed solely on the department of public safety.

The purpose of this Act is to transfer the functions and authority exercised by the department of health relating to the provision of mental health services to inmates, to the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§353- Mental health care. The department shall be responsible for providing mental health services in community correctional centers.”

SECTION 3. Section 334-74, Hawaii Revised Statutes, is amended to read as follows:

“§334-74 Transfer of residents of correctional facilities. If any resident of a state correctional facility is in need of hospital treatment for a primary diagnosis of mental illness, the director of public safety or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist or psychologist employed by either the department of health, or the department of public safety showing the need for [such] hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of public safety, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident’s release

from the state correctional facility; provided that a judicial hearing pursuant to sections 334-60.2 to 334-60.7 be held by the same circuit court that sentenced [such] the resident. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, "resident" means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility."

SECTION 4. The functions and authority heretofore exercised by the director of health related to the provision of mental health services in state correctional facilities, shall be transferred to the department of public safety.

SECTION 5. All officers and employees whose functions are transferred by this Act shall be transferred to the department of public safety.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform these regular duties upon their transfer, subject to State personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessary examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employees possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of health shall be transferred with the functions to which they relate to the department of public safety.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.