

**ACT 40**

H.B. NO. 2004

A Bill for an Act Relating to the Illegal Use of Controlled Substances.

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

**PART I**

**SECTION 1.** Parts of this Act are recommended by the joint house-senate task force on ice and drug abatement (task force). The task force found that crystal methamphetamine (ice) use and addiction has reached epidemic proportions, destroying families, resulting in increased criminal activities, and creating a burden on public resources such as child welfare, health, and social services.

The task force concluded that the solution to the ice epidemic is to prevent future generations from engaging in substance abuse and treat the present generation of ice abusers. The task force recommended over \$21,000,000 to fight the ice epidemic.

Ice addiction is a public health crisis. Ice is now the number one substance for which publicly funded treatment for addiction is sought, surpassing admissions for alcohol abuse. Between 1998 and 2002, admissions into treatment for ice increased by approximately eighty per cent.

The legislature finds that early intervention is the key to diverting young adults away from drug use. The treatment gap for adolescents who need treatment and do not receive it is over five thousand based on both state and federal estimates. Alcohol and marijuana are the two greatest threats to youth addiction, with ecstasy use on the rise. The task force recommended that school-based treatment services be expanded to the middle and intermediate schools to provide early intervention and assessment for students and prevent adolescents from graduating to using more dangerous drugs (See Final Report of the Task Force, pp. 34–39). The legislature adopts these recommendations.

The legislature finds that prevention of substance abuse is critical to ensure that the ice epidemic does not spread. The task force recommended policy guidelines for prioritizing the use of funds appropriated for substance abuse prevention: drug education and awareness in the schools and community partnerships, non-school youth activities in communities with the greatest need, education and support for families and parenting women, and community mobilization (See Final Report of the Task Force, pp. 40–46). The legislature adopts these recommendations.

The legislature finds that over six thousand ice users need treatment and fewer than three thousand are able to access publicly funded treatment. For all substance abuse, including alcohol, over eighty-two thousand persons require treatment. The task force found that women of child-bearing age, pregnant women, parents of young children in the home, and Hawaiians are under-served for substance abuse treatment and should be given priority in receiving publicly funded treatment (See Final Report of the Task Force, pp. 54–60). The legislature adopts the findings of the task force and finds that the failure to adequately provide for the substance abuse treatment needs of adults has led to the ice epidemic, which in turn has resulted in devastating societal problems, burdens on public resources, proliferation of illegal drug trafficking, and an increase in property crimes. Increased funding for adult substance abuse treatment is necessary to stop the ice epidemic.

In 2002, the legislature passed Act 161, Session Laws of Hawaii 2002, to divert first-time nonviolent drug offenders to mandatory probation for drug treatment. The legislature did not fund treatment services for offenders eligible for treatment under Act 161. The task force recommended that diversion of offenders into treatment rather than prison is more effective and successful in reducing recidivism. The legislature adopts the task force findings and recommendations. The legislature finds that funding for treatment services for nonviolent first-time drug offenders is necessary to avoid imposing a greater burden on the state's prison system and will result in savings in the costs of incarcerating offenders.

The task force recommended expansion of the canine drug interdiction program to detect illegal drugs in freight and possibly other areas. The legislature accepts this recommendation and finds that canine drug interdiction efforts are necessary to deter the entry of illegal drugs into the State.

The legislature also accepts the recommendations of the task force to fund other services necessary to fight the ice epidemic (See Final Report of the Task Force, pp. 13–15).

The purpose of this Act is to:

- (1) Make appropriations for substance abuse, including ice prevention, treatment, education, and rehabilitation;
- (2) Expand services provided by the drug courts, including family and juvenile drug courts and provide additional circuit judge positions and staff;
- (3) Provide drug treatment services for first-time nonviolent drug offenders;
- (4) Expand canine drug interdiction efforts;
- (5) Provide for an environmental study on the effects of clandestine methamphetamine laboratories;
- (6) Create grant-in-aid opportunities for counties to fund community efforts to sustain anti-drug campaigns and community-based substance abuse prevention programs;
- (7) Appropriate funds for community adolescent drug prevention programs and community anti-drug efforts aimed at preventing ice use on the island of Hawaii;
- (8) Expand the department of public safety's duties to include coordination of drug abatement efforts on a statewide basis and make an appropriation for this responsibility;
- (9) Make an appropriation for the expansion of the Weed and Seed Program;
- (10) Establish a substance abuse treatment monitoring program requiring state agencies to collect data and assess program effectiveness and make an appropriation for this purpose;
- (11) Create a multi-agency task force to respond to the effects of ice on children and make an appropriation for expenses;
- (12) Appropriate funds for the Being Empowered and Safe Together Program on Maui; and
- (13) Appropriate funds for the KASHBOX program.

## PART II

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2004-2005 for adolescent substance abuse treatment programs, with priority given to establishing school-based treatment programs in all high schools, and in middle and intermediate schools with the greatest need for such services, and adolescent residential treatment programs.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2004-2005 for substance abuse prevention, with priority given to drug education and awareness in the schools and community partnerships, non-school youth activities in communities with the greatest need, education and support for families and parenting women, and community mobilization.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2004-2005 for adult treatment services, including family counseling, with priority

given to women of child-bearing age, pregnant women, parents of young children in the home, and Hawaiians as defined in section 10-2, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,472,419 or so much thereof as may be necessary for fiscal year 2004-2005 for the drug courts to expand their programs, including the following:

- (1) Third Circuit (JUD 330)
  - (a) One permanent full-time equivalent (1.00 FTE) circuit court judge, one permanent full-time equivalent (1.00 FTE) judicial assistant I (SR-21A), one permanent full-time equivalent (1.00 FTE) circuit court clerk II (SR-20A), one permanent full-time equivalent (1.00 FTE) law clerk (SR-20I), and circuit court costs \$328,635
  - (b) Two permanent full-time equivalent (2.00 FTE) social worker IVs (SR-22C) and juvenile drug court costs \$188,498
  - (c) Two permanent full-time equivalent (2.00 FTE) social worker IVs (SR-22C) and adult drug court costs \$188,498

Total Third Circuit \$705,631
- (2) Second Circuit (JUD 320)
  - (a) One permanent full-time equivalent (1.00 FTE) circuit court judge, one permanent full-time equivalent (1.00 FTE) judicial assistant I (SR-21A), one permanent full-time equivalent (1.00 FTE) circuit court clerk II (SR-20A), one permanent full-time equivalent (1.00 FTE) law clerk (SR-20I), and circuit court costs \$327,555
  - (b) Two permanent full-time equivalent (2.00 FTE) drug court substance abuse counselor IIIs (SR-20C) and one permanent full-time equivalent (1.00 FTE) judicial clerk II (SR-12A) \$439,233

Total Second Circuit \$766,788

The sum appropriated shall be expended by the judiciary for purposes of this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2004-2005 for the drug courts to expand their programs, including juvenile and family drug courts.

The sum appropriated shall be expended by the judiciary for purposes of this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2004-2005 for the treatment of first-time nonviolent drug offenders sentenced by the court under sections 706-622.5 and 706-625, Hawaii Revised Statutes.

The sum appropriated shall be expended by the judiciary for purposes of this Act.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2004-2005 for the canine drug interdiction program.

The sum appropriated shall be expended by the department of public safety.

**SECTION 9.** There is appropriated out of the environmental response revolving fund the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2004-2005 for a study and analysis of the effects of clandestine methamphetamine laboratories on the environment (particularly ground water), disposal of toxic waste materials found at the site and disposal of the site itself, and recommendations for action.

The sum appropriated shall be expended by the department of health.

**SECTION 10.** There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the city and county of Honolulu to fund grassroots community efforts to sustain its anti-drug campaigns; provided that no single nonprofit entity shall receive more than \$5,000 under this section; and provided further that no funds shall be expended under this section unless matched by funds from the city and county of Honolulu.

The sum appropriated shall be expended by the city and county of Honolulu.

**SECTION 11.** There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Hawaii to fund grassroots community efforts to sustain its anti-drug campaigns; provided that no single nonprofit entity shall receive more than \$5,000 under this section; and provided further that no funds shall be expended under this section unless matched by funds from the county of Hawaii.

The sum appropriated shall be expended by the county of Hawaii.

**SECTION 12.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$380,000 or so much thereof as may be necessary for fiscal year 2004-2005, pursuant to chapter 103F, Hawaii Revised Statutes, for community adolescent drug prevention programs on the island of Hawaii.

The sum appropriated shall be expended by the county of Hawaii.

**SECTION 13.** There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Kauai to fund grassroots community efforts to sustain its anti-drug campaigns; provided that no single nonprofit entity shall receive more than \$5,000 under this section; and provided further that no funds shall be expended under this section unless matched by funds from the county of Kauai.

The sum appropriated shall be expended by the county of Kauai.

**SECTION 14.** There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Maui to fund grassroots community efforts to sustain its anti-drug campaigns; provided that no single nonprofit entity shall receive more than \$5,000 under this section; and provided further that no funds shall be expended under this section unless matched by funds from the county of Maui.

The sum appropriated shall be expended by the county of Maui.

**SECTION 15.** There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the city and county of Honolulu to fund community-based substance abuse prevention programs, with priority given to drug

education and awareness in the schools, community partnerships, and non-school youth activities in communities with the greatest need.

The sum appropriated shall be expended by the city and county of Honolulu.

SECTION 16. There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Hawaii to fund community-based substance abuse prevention programs, with priority given to drug education and awareness in the schools, community partnerships, and non-school youth activities in communities with the greatest need.

The sum appropriated shall be expended by the county of Hawaii.

SECTION 17. There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Kauai to fund community-based substance abuse prevention programs, with priority given to drug education and awareness in the schools, community partnerships, and non-school youth activities in communities with the greatest need.

The sum appropriated shall be expended by the county of Kauai.

SECTION 18. There is appropriated out of the emergency and budget reserve fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 as a grant-in-aid to the county of Maui to fund community-based substance abuse prevention programs, with priority given to drug education and awareness in the schools, community partnerships, and non-school youth activities in communities with the greatest need.

The sum appropriated shall be expended by the county of Maui.

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2004-2005, to be matched with federal funds, for community anti-drug efforts aimed at preventing crystal methamphetamine use.

The sum appropriated shall be expended by the county of Hawaii.

SECTION 20. There is appropriated out of the general revenues of the State of Hawaii the sum of \$125,000 or so much thereof as may be necessary for fiscal year 2004-2005 for a needs assessment for adult substance abuse treatment services or the implementation of the substance abuse treatment monitoring program, and for coordination of community-based drug abatement and mobilization efforts.

The sum appropriated shall be expended by the department of public safety.

SECTION 21. There is appropriated out of the emergency budget and reserve fund the sum of \$350,000 or so much thereof as may be necessary for fiscal year 2004-2005 for the expansion of the Weed and Seed Program to other communities that meet federal guidelines for receiving federal funding under the Weed and Seed Program.

There shall be a steering committee for the Weed and Seed Program. A representative of the department of the attorney general shall chair the steering committee. The steering committee shall advise the Weed and Seed Program regarding the disbursements of the funds.

The Weed and Seed Program shall receive legislative appropriations only if an account is established for legislative appropriations, federal funds, and private contributions for the Program.

The sum appropriated shall be expended by the department of the attorney general.

SECTION 22. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2004-2005 for a grant-in-aid to the Being Empowered and Safe Together Reintegration Program for staffing, equipment, and other operating expenses for the establishment and continuation of services to provide a supportive environment that assists former incarcerated individuals returning to the community to remain free from the influences, temptations, and dangers related to illegal drugs.

The sum appropriated shall be expended by the department of public safety.

### PART III

SECTION 23. The legislature finds that effective crime reduction depends in part upon the effectiveness of drug treatment programs. The effectiveness of drug treatment programs can only be assessed through the gathering of pertinent data.

The purpose of this part is to require the department of health, the office of youth services, the department of public safety, and the judiciary to collect data from private providers of substance abuse treatment services that receive public funds and state agencies that provide direct treatment services.

SECTION 24. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVI to be appropriately designated and to read as follows:

**“§321-A Substance abuse treatment monitoring program.** (a) To determine the effectiveness of substance abuse treatment services and maintain accurate numbers of individuals receiving publicly funded substance abuse treatment, the department shall establish a statewide substance abuse treatment monitoring program to collect the following information from all treatment providers accredited by the department, pursuant to section 321-198, on every individual who receives substance abuse treatment paid by public funds. Treatment providers shall report admission and discharge data, as determined by the department, with a final annual report due no later than sixty days after the close of the fiscal year, which shall include:

- (1) An accurate count of all admissions and discharges during the reporting period;
- (2) An unduplicated count of individuals served by each treatment provider;
- (3) Demographic data on each individual as determined by the department, which may include age, race, ethnicity, employment status, source of payment, source of referral to treatment, length of treatment, and the primary substance for which treatment was sought;
- (4) Data on the number of individuals who were discharged due to successful completion of treatment and the reasons individuals withdrew from treatment during the reporting period;
- (5) Six-month follow-up data on persons who were discharged due to successful completion of treatment, reporting on criteria for measurement of successful treatment as determined by the department; and
- (6) Any other information deemed relevant by the department to assess the effectiveness of treatment on each individual.

(b) The department shall establish criteria to measure the success of treatment for individuals and establish criteria to determine whether the treatment provider is achieving success in treating individuals with substance abuse. The

department shall include in the contract with the treatment provider all criteria to determine whether the treatment provider is achieving success in treating individuals with substance abuse.

(c) The department shall include the information under subsection (a) as part of the annual report to the legislature under section 321-195.

(d) This section shall not be construed to abrogate an individual's right to privacy. The department shall implement sufficient protections to ensure that the identity of a recipient of substance abuse treatment services remains strictly confidential and that aggregate data collected pursuant to this section is used solely for the purpose of this section."

SECTION 25. Chapter 352D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§352D- Substance abuse treatment monitoring program.** (a) To determine the effectiveness of substance abuse treatment services and maintain accurate numbers of individuals receiving publicly funded substance abuse treatment, the office shall comply with the requirements of the statewide substance abuse treatment monitoring program established by the department of health under section 321-A. The office shall collect data in accordance with section 321-A from any provider of substance abuse treatment that provides substance abuse treatment to youths served through public funds administered by the office.

(b) The office shall include in the contract with any treatment provider all criteria established by the department of health pursuant to section 321-A to determine whether the treatment provider is achieving success in treating individuals with substance abuse.

(c) The office shall include the information collected under subsection (a) as part of the annual report submitted pursuant to section 352D-6.

(d) This section shall not be construed to abrogate an individual's right to privacy. The office shall implement sufficient protections to ensure that the identity of a recipient of substance abuse treatment services remains strictly confidential and that aggregate data collected pursuant to this section is used solely for the purpose of this section."

SECTION 26. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§601- Substance abuse treatment monitoring program.** (a) To determine the effectiveness of substance abuse treatment services and maintain accurate numbers of individuals receiving publicly funded substance abuse treatment, the judiciary shall comply with the requirements of the statewide substance abuse treatment monitoring program established under section 321-A. The judiciary shall collect data in accordance with section 321-A from any circuit court, adult probation, and any provider of substance abuse treatment that provides substance abuse treatment to persons served through public funds administered by the judiciary.

(b) The judiciary shall include in the contract with any treatment provider all criteria established by the department of health pursuant to section 321-A to determine whether the treatment provider is achieving success in treating individuals with substance abuse.

(c) The judiciary shall include the information collected under subsection (a) as part of the annual report submitted pursuant to section 601-2.

(d) This section shall not be construed to abrogate an individual's right to privacy. The judiciary shall implement sufficient protections to ensure that the identity of a recipient of substance abuse treatment services remains strictly confi-



dential and that aggregate data collected pursuant to this section is used solely for the purpose of this section.”

SECTION 27. Section 353G-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]~~§353G-13 Reporting and implementation~~[-]; substance abuse treatment monitoring program.~~ (a) Every assessment program, treatment program, correctional center or facility, and parole agency that provides services pursuant to this chapter or that otherwise supervises a person or issues an order pursuant to this chapter shall keep case-specific records and aggregate data and statistics as may be required by the department of health~~[-]~~ and which shall be required by the statewide substance abuse treatment monitoring program under section 321-A. The department of public safety shall collect data in accordance with section 321-A from any assessment program, treatment program, treatment provider, correctional center or facility, and parole agency that provides substance abuse treatment to persons served through public funds administered by the department of public safety. The department of public safety shall implement sufficient protections to ensure that the identity of a recipient of substance abuse treatment services remains strictly confidential and that aggregate data collected pursuant to this section is used solely for the purpose of this section.

This subsection shall not be construed to abrogate an individual’s right to privacy.

(b) The department of public safety shall include in the contract with any treatment provider all criteria established by the department of health pursuant to section 321-A to determine whether the treatment provider is achieving success in treating individuals with substance abuse.

~~[(b)]~~ (c) The department of public safety, in conjunction with the department of health, shall report on an annual basis to the legislature and to the governor, its findings concerning the need for and implementation of the various provisions of this chapter. The report shall include information collected under subsection (a) and a synopsis of information or data necessary to determine the impact, utility, and cost-benefits of the provisions of this chapter.

~~[(e)]~~ (d) The department of public safety, in conjunction with the department of health, shall establish an advisory board that shall be comprised of judges, prosecutors, defense attorneys, adult probation officials, parole officials, correctional officials, representatives of assessment programs and treatment programs, and individuals working in licensed alcohol and other drug abuse treatment facilities who are past consumers of treatment services. The advisory board shall meet periodically to discuss the provisions, implementation, and evaluation of this chapter, and to make recommendations to the department of health.

~~[(d)]~~ (e) Except as provided in this chapter, all data, information, or records kept or compiled pursuant to this section shall be deemed to be government records for the purposes of chapter 92F.”

SECTION 28. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2004-2005 for three full-time equivalent positions in the alcohol and drug abuse division of the department of health to collect data and evaluate outcomes as required by this part, and for a needs assessment for adult substance abuse treatment services or the implementation of the substance abuse treatment monitoring program.

The sum appropriated shall be expended by the department of health for the purposes of this part.

## PART IV

SECTION 29. The department of health shall submit an annual report to the legislature prior to the convening of each regular session, beginning with the regular session of 2005, pursuant to section 321-195, Hawaii Revised Statutes, that shall include progress in the implementation of the statewide substance abuse plan and on the following:

- (1) Progress toward establishing uniform evaluation criteria with benchmark goals to measure the success of substance abuse treatment programs funded through public funds;
- (2) Specific information compiled through the new statewide substance abuse treatment monitoring program on individuals served through public funds;
- (3) Progress toward requiring purchase of services contractors that receive public funds for substance abuse treatment programs to compile data, implement standard evaluation criteria, and performance goals;
- (4) Analysis of the effectiveness of substance abuse treatment programs in reducing costs for government services in other areas; and
- (5) Progress toward implementing the specific programs and services appropriated under this Act.

## PART V

SECTION 30. The task force recommended that a multi-agency task force be created to analyze the effects of ice use by children and the effects upon children whose household members use ice, to be known as the drug endangered child protection program task force. The purpose of the task force shall be to develop a first response program by law enforcement and child welfare workers to protect the child who is discovered in a drug house or clandestine methamphetamine laboratory (See Final Report of Task Force, pp. 29–32). The legislature adopts this recommendation. The department of human services shall be the lead agency to coordinate the efforts of the department of health, department of human services, department of the attorney general, department of education, county police departments, county prosecutors, the judiciary, and community agencies to develop the drug endangered child protection program.

The task force may seek the advice and recommendations of private sources, including but not limited to physicians, hospitals, and clinics.

The department of human services shall report to the legislature on findings and recommendations, including proposed legislation, no later than twenty days prior to the convening of the regular session of 2005.

SECTION 31. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 for the multi-agency task force created under this part.

The sum appropriated shall be expended by the department of human services for purposes of this part.

## PART VI

SECTION 32. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2004-2005 for staffing, equipment, and other operating expenses for the expansion of the KASHBOX substance abuse treatment program at the Waiawa correctional facility.

## **ACT 40**

The sum appropriated shall be expended by the department of public safety for the purposes of this part.

### **PART VII**

**SECTION 33.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 34.** In codifying the new section and cross-references thereto added in part III of this Act, the revisor of statutes shall substitute the appropriate section number for the letter used in designating the new section in this Act.

**SECTION 35.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 36.** This Act shall take effect on July 1, 2004.

(Became law on April 30, 2004, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

#### **Note**

1. Edited pursuant to HRS §23G-16.5.