

## ACT 258

S.B. NO. 467

A Bill for an Act Relating to Corrections.

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

SECTION 1. In recent years, the number of incarcerated women has increased at an alarming rate. Nationally, women compose 6.9 per cent of the prison population. In Hawaii, however, women form 11.99 per cent of the prison population. While the male prison population doubled between 1985 and 1995, the female population tripled, largely due to sentencing and incarcerating female nonviolent first-time drug offenders.

The department of public safety reports that the number of female parole violators rose thirty per cent between January 1, 2001, and January 19, 2004, and that the number of male parole violators rose 18.3 per cent during the same period.

Research establishes that female offenders have different needs from male offenders, resulting in part from female offenders' disproportionate victimization from sexual or physical abuse and their responsibility for children. Women offenders are more likely than male offenders to be addicted to drugs, suffer from a mental illness, and have been unemployed before incarceration.

Research establishes that the majority of women in prison are nonviolent and could be serving their prison terms in gender-responsive, community-based programs.

Research also indicates that correctional strategies that are gender-responsive and community-based are needed to give offenders the necessary life skills to extricate themselves from the criminal justice system and to make positive healthy choices for themselves and their families.

In the 1990s, the movement to develop programs for girls gained momentum as girls accounted for an increasing proportion of the youth entering the juvenile

justice system and because most juvenile justice programs were developed to serve boys.

There is a growing body of research dedicated to examining the differences in the developmental pathways to delinquency for girls versus boys and developing gender-specific services for girls. As of the late 1990s, states and local jurisdictions were in the early stages of understanding girls' needs, developing and modifying services for girls, and making policy changes to better serve girls.

Careful attention must be paid to the classification of programs as gender-specific. Those working on the development of programs for girls maintain that a gender-specific program should not simply be a program that serves girls exclusively but also one that addresses the particular issues and problems that affect girls.

Girls and boys in the juvenile justice system share some common traits but also have some distinct needs and issues. Research has found that girls' risks for delinquency are amplified by the presence of: sexual and/or physical abuse, substance abuse, teen pregnancy, poor academic performance, and mental health needs. To strengthen their resistance against delinquency, girls need physical and emotional security, positive female role models, and a sense of belonging and competency that may differ from what boys need.

A study entitled "Criminal Neglect: Substance Abuse, Juvenile Justice and The Children Left Behind," released in October 2004 by the National Center on Addiction and Substance Abuse at Columbia University, concluded that at least thirty per cent of adults in prison for felony crimes were incarcerated as juveniles. A recent local study, entitled "Motherhood on the Margins," examined women with at least one child who are currently on parole in Hawaii. This study revealed that thirty-six per cent of the women interviewed for this research started their interaction with the criminal justice system in the juvenile justice system.

Female offenders need gender-responsive services that address substance abuse, family relationships, vocational education, work, prior victimization, and domestic violence. They also need transitional housing and aftercare services to help them adjust to living in the community and reuniting with their children and families.

For children, the most devastating effect of incarceration is the loss of contact with their primary caregiver. Half of these children never visit their primary caregiver in prison, and the other half visit infrequently, with geographical distance posing the biggest barrier to visitation.

Because regular visits are the best indicator of a family's successful reunification after release, it is critical that gender-responsive, community-based programs for offenders be geographically close to children and family. Many of Hawaii's inmates are incarcerated outside of Hawaii, making visitation with family and children either impossible or extremely difficult. Other problems associated with female offenders in Hawaii include:

- (1) A lack of female correctional officers;
- (2) The lack of availability of rehabilitation programs; and
- (3) A paucity of gender-responsive, community-based programs.

The legislature recognizes that the needs of incarcerated women differ from the needs of incarcerated men and require approaches tailored to their specific characteristics and situations. This Act is the legislature's answer to this urgent need to enforce the equal protection clause of our Constitution.

The purpose of this Act is to appropriate funds to provide immediate additional gender-responsive, community-based program beds for community-status female offenders and for female adjudicated youth classified by the office of youth services as minimum control.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
PARITY FOR FEMALE OFFENDERS**

§ **-1 Female prisoners; parity programs.** Adult women convicted of crimes and juvenile females adjudicated for offenses that would be crimes if committed by an adult or who are adjudicated delinquents shall be provided a range and quality of programming substantially equivalent to the range and quality of programming offered to male persons who are similarly situated. Programs for female offenders shall be based upon the psychosocial developmental needs of female offenders.

§ **-2 Model programs; department of public safety.** Subject to funding by the legislature, the director of public safety shall foster a gender-responsive environment by providing model gender-responsive programs for female offenders that are responsive to statewide needs and geographical areas and shall award contracts for the programs. The gender-responsive environment and programs shall:

- (1) Respond in a rehabilitative way to the type of offenses female offenders generally commit and address pathways to crime;
- (2) Respond to the problems of female offenders with dependent children;
- (3) Respond to the importance of developing self-determination through independent living and marketable job skills;
- (4) Assist female offenders in overcoming their own extreme degree of dependency by developing and fostering strong and healthy relationships without losing self-esteem;
- (5) Respond appropriately to the specific health care needs of women, including but not limited to mental health and substance abuse services;
- (6) Offer transitional support for female offenders and their families to promote successful reentry into their families and communities; and
- (7) Offer technical assistance and training toward the implementation of other similar programs.

§ **-3 Contracts.** To encourage cooperation and assist private agencies that have existing programs designed specifically for female offenders and to encourage private agencies to develop and implement new programs, the director of public safety shall make contracts available to private agencies electing to participate in the contract program, subject to chapter 103F, Hawaii Revised Statutes.

§ **-4 Agency programs; proportionate costs.** Where several private agencies combine to provide one or more of the programs under this chapter, the cost of each program shall be borne proportionately by the participating agencies on the basis of need or use as determined by rules adopted by the director of public safety pursuant to chapter 91.

§ **-5 Duties of the director of public safety.** The director of public safety shall:

- (1) Review all plans for programs for female offenders;
- (2) Review contract applications or proposals for model programs for female offenders and award contracts for programs;
- (3) Monitor the delivery of services provided under contract programs for female offenders;

- (4) Establish, by rule, a method of determining the amount or percentage of local contribution to receive a contract under this chapter; and
- (5) Collaborate with the Community Alliance on Prisons or other advocacy group in Hawaii as a resource on women's issues for the department.

§ -6 **Female adjudicated youth.** The office of youth services shall collaborate with the departments of human services, health, labor and industrial relations, and education, as well as with representatives of the private sector, to develop a comprehensive continuum of care to address the gender-responsive needs of female adjudicated youth.

§ -7 **Model programs; office of youth services.** Subject to funding by the legislature, the director of the office of youth services shall foster a gender-responsive environment by providing model gender-responsive programs for female adjudicated youth that are responsive to statewide needs and geographical areas and shall award contracts for the programs. The gender-responsive environment and programs shall:

- (1) Respond in a rehabilitative way to the type of offenses female adjudicated youth generally commit and address pathways to crime;
- (2) Respond to the problems of female adjudicated youth with dependent children;
- (3) Respond to the importance of developing self-determination through education; employment training; special education to the learning disabled; and social, cognitive, communication, and life skills training;
- (4) Assist female adjudicated youth in overcoming their own extreme degree of dependency by developing and fostering strong and healthy relationships without losing self-esteem;
- (5) Respond appropriately to the specific health care needs of girls and women, including but not limited to mental health and substance abuse services;
- (6) Offer transitional support for female adjudicated youth and their families to promote successful reentry into their families, schools, and communities; and
- (7) Offer technical assistance and training toward the implementation of other similar programs.

§ -8 **Annual report.** The department of public safety and the office of youth services shall submit an annual report to the legislature no later than twenty days before the convening of each regular session on the following areas: program descriptions, type and costs of contracts made, name of the private agency awarded each contract, and the success of each contract in meeting program specifications. The report shall detail the development of the comprehensive continuum of care to address the gender-responsive needs of Hawaii's female offenders and female adjudicated youth both in-state and abroad. The report shall also highlight the existing gaps in the system and include recommendations for resources needed to reach a seamless continuum of care and other relevant information concerning the creation of a gender-responsive environment for female offenders and female adjudicated youth. The first report shall be submitted no later than twenty days before the convening of the regular session of 2006."

SECTION 3. Chapter 352, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§352- Gender-responsive, community-based programs for female adjudicated youth.** Subject to funding by the legislature, the office of youth services shall develop and make available gender-responsive, community-based programs for female adjudicated youth by providing female adjudicated youth the appropriate range of opportunities to ensure that their needs are met. Program models designed to address the needs of female adjudicated youth shall include but are not limited to:

- (1) Appropriate treatment, including mental health and substance abuse treatment;
- (2) Individualized case management to help female juvenile offenders set and achieve goals;
- (3) Life skills development workshops, including budgeting, money management, nutrition, and exercise;
- (4) Development of self-determination through education; employment training; special education for the learning disabled; and social, cognitive, communication, and life skills training;
- (5) Family-focused programming, including issues relating to pregnancy and single parenthood;
- (6) Peer support and the development of peer networks;
- (7) Transitional support for female adjudicated youth and their families to promote successful reentry into their families, schools, and communities;
- (8) Highly skilled staff experienced in working with female adjudicated youth and their concerns;
- (9) Formal recognition of participant achievement;
- (10) Ongoing attention to building community-based support;
- (11) Assistance for female adjudicated youth who need to develop a marketable job skill and a career plan;
- (12) Geographical proximity to children and family;
- (13) Preparation of female adjudicated youth for the resumption of their education; and
- (14) The goal of providing a gender-responsive continuum of care.”

SECTION 4. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353- Gender-responsive, community-based programs for female offenders.** Subject to funding by the legislature, the department of public safety shall develop and make available gender-responsive, community-based programs for female offenders by providing female offenders the appropriate range of opportunities to ensure that their needs are met. Program models designed to address female offender needs shall include but are not limited to:

- (1) Appropriate treatment, including substance abuse and mental health treatment;
- (2) Individualized case management to help female offenders set and achieve goals;
- (3) Life skills development workshops, including budgeting, money management, nutrition, and exercise;
- (4) Development of self-determination through education; employment training; special education for the learning disabled; and social, cognitive, communication, and life skills training;
- (5) Family-focused programming, including issues relating to pregnancy and single parenthood;
- (6) Peer support and the development of peer networks;

- (7) Transitional support for female offenders and their families to promote successful reentry into their families and communities;
- (8) Highly skilled staff experienced in working with female offenders and their concerns;
- (9) Formal recognition of participant achievement;
- (10) Ongoing attention to building community-based support;
- (11) Assistance for female offenders who need to develop a marketable job skill and a career plan;
- (12) Geographical proximity to children and family; and
- (13) The goal of providing a gender-responsive continuum of care.”

**SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$175,000 or so much thereof as may be necessary for fiscal year 2006-2007 for gender-responsive, community-based programs for women.

The sums appropriated shall be expended by the department of public safety for the purposes of this Act.

**SECTION 6.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000 or so much thereof as may be necessary for fiscal year 2006-2007 for gender-responsive, community-based programs for female adjudicated youth.

The sums appropriated shall be expended by the office of youth services for the purposes of this Act.

**SECTION 7.** New statutory material is underscored.<sup>1</sup>

**SECTION 8.** This Act shall take effect on July 1, 2006.

(Approved June 30, 2006.)

**Note**

1. Edited pursuant to HRS §23G-16.5.