H.B. NO. 3188

A BILL FOR AN ACT

RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM.

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

PART I. OFFENDER REENTRY SYSTEM

SECTION 1. The Legislature recognized the importance of a comprehensive offender reentry system to help ex-offenders to reintegrate back into the community and reduce recidivism and passed Act 8, Special Session Laws of Hawaii 2007, to this purpose.

Currently, the department of public safety serves offenders through a system of programs and services for the purpose of reintegrating offenders back into Hawaii's communities. From in-depth assessments of offenders' risks and needs to transitional programs for individuals exiting the correctional system, the department of public safety's existing programs and services build a solid foundation for Hawaii's offender reentry efforts. In order for the department to fundamentally implement the comprehensive offender reentry plan, as set forth in Act 8, Special Session 2007, more flexibility needs to be provided to the department in relation to already existing reentry programs and services.

The department of public safety must take into consideration both resource availability and implementation feasibility in regard to various provisions of Act 8. In its current form, Act 8 requires the department of public safety to implement a series of services and programs with little flexibility or lead time. Particularly, the return of out-of-State prisoners one year prior to their parole date will not only increase the costs of providing bed space and services to inmates, it will also overtax an already over-capacity correctional system. When other services and programs required by Act 8 are also considered, which together will provide over thirty programs and services to offenders and their families; it becomes impossible for the department to be in compliance within the short time frame mandated by law as considerations need to be made for how these new programs will fit into already existing offender reentry efforts. Recidivism and offender reentry are long-term problems that require long-term solutions.

The legislature recognizes the need for creativity in dealing with Hawaii's offender reentry process. In order to adequately implement Act 8, it is crucial to provide more discretion, which will allow the department to prioritize

programs and resources for the most effective implementation of Act 8.

Finally, while the department of public safety understands the need to provide offenders with a smoother transition process, some of the programs and services mandated by Act 8 are not conducive to good governance at correctional facilities. In particular, a provision that mandates the department to allow ex-offenders to contact persons who are still imprisoned through the use of technology, such as video conferencing, can unintentionally allow criminal activity to continue under the guise of mentorship. The department emphasizes the need to ensure the safety of inmates, staff, and the public by making security considerations a priority.

The purpose of this part is to clarify the expectations and duties of the department of public safety, in collaboration with other state and private agencies in order to jointly plan, implement, and comply with the programs and requirements of the comprehensive offender reentry system.

SECTION 2. Section 353H-3, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§353H-3**[~~]~~] **Offender reentry system plan**[~~, creation~~].

(a) The department of public safety shall develop a comprehensive and effective offender reentry system plan for adult offenders exiting the prison system.

(b) The department of public safety shall coordinate with the Hawaii paroling authority, department of human services and the department of health, and other public and private agencies and individuals as necessary to develop and continuously update comprehensive reentry plans and curricula for individuals exiting correctional facilities in order to reduce recidivism and increase a person's successful reentry into the community. The reentry plans [~~shall~~] may include[~~, but not limited to~~]:

(1) Adopting an operational philosophy that considers that offender reentry begins on the day an offender enters the correctional system. Each offender entering the system [shall] should be assessed to determine the offender's needs in order to assist the individual offender with developing the skills necessary to be successful in the community;

(2) Providing appropriate programs, including, but not limited to, education, substance abuse treatment, cognitive skills development, vocational and employment

training, and other programs that help to meet the assessed needs of each individual;

(3) Developing a comprehensive network of transitional programs to address the needs of individuals exiting the correctional system;

(4) Ensuring that all reentry programs are gender-responsive;

(5) Issuing requests for proposals from community-based nonprofit programs with experience with offenders in the area of reentry; and

(6) Instituting model reentry programs for adult offenders."

SECTION 3. Section 353H-4, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§353H-4**[~~]~~] **Model programs; department of public safety.** Subject to funding by the legislature, the department of public safety shall enhance the State's comprehensive offender reentry system by developing model programs designed to reduce recidivism and promote successful reentry into the community. Components of the model programs [~~shall~~] may include [~~but are not limited to~~]:

(1) Highly skilled staff who are experienced in working with offender reentry programs;

(2) Individualized case management and a full continuum of care to ensure successful reentry;

(3) Life skills development workshops, including budgeting, money management, nutrition, and exercise; development of self-determination through education; employment training; special education for the learning disabled; social, cognitive, communication, and life skills training; and appropriate treatment programs, including substance abuse and mental health treatment;

(4) Parenting and relationship building classes. The department [~~shall~~] may institute policies that support family cohesion and family participation in offenders' transition to the community, and, where possible, provide geographical proximity of offenders to their children and families; and

(5) Ongoing attention to building support for offenders from communities, community agencies, and organizations."

SECTION 4. Section 353H-5, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§353H-5**[~~]~~] **Children of incarcerated parents; families.** The director of public safety shall[~~:~~] coordinate with department of human services, the Hawaii paroling authority, and the department of health as necessary to:

(1) Establish policies or rules that parent inmates be placed in correctional facilities, with consideration given to the safety of staff, inmates and the best interests of the inmates and their families[~~, in the best interest of the family, rather than on economic or administrative factors~~];

(2) Consider as a factor an offender's capacity to maintain parent-child contact when making prison placements of offenders;

(3) [~~Conduct, coordinate, or promote~~] Obtain support from the department of human services in any research that examines the impact of a parent's incarceration on the well-being of the offender's child that shall include both direct contact with an offender's child, as well as reports of caregivers, to the extent possible within existing resources; and

(4) [~~Conduct, coordinate, or promote~~] Obtain support from the department of human services in any research that

1 focuses on the relationship of incarcerated fathers
2 with their children and the long-term impact of
3 incarceration on fathers and their children to the
4 extent possible within existing resources."
5 SECTION 5. Section 353H-7, Hawaii Revised Statutes, is
6 amended to read as follows:
7 "[~~[~~]**§353H-7**[~~]~~] **Return of out-of-state inmates.** (a) The
8 director of public safety shall, when the department determines
9 it is practical and financially feasible, and the safety of
10 staff, inmates, and the public are not endangered, return Hawaii
11 inmates held in out-of-state prisons at least one year prior to
12 the inmate's parole or release date in order for these inmates to
13 participate in programs preparing them for reentry on the island
14 where they have the most support; provided that inmates
15 participating in reentry programs at the mainland facility in
16 which they are incarcerated consent to the return.
17 (b) The provisions of subsection (a) shall not prevent the
18 return of other Hawaii inmates held in out-of-state prisons with
19 less than one year left of their sentence from being returned in
20 preparation for reentry to the island where they have the most
21 support.

(c) The department of public safety shall provide a report to the legislature at the end of each calendar year on any inmates not returned pursuant to this section with an explanation of the reasoning and circumstances for noncompliance."

SECTION 6. Section 353H-31, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§353H-31**[~~]~~] **Adult offender reentry programs and services.** (a) The director of public safety may authorize purchase of service contracts, in accordance with chapter 103F, subject to legislative or other appropriate funding, for adult offender reentry programs and services that establish or improve the offender reentry system and in which each adult offender in state correctional custody is provided an individualized reentry plan.

(b) Subject to funding by the legislature or other appropriate sources, the department of public safety [~~shall~~] may authorize the purchase of service contracts for activities that:

(1) Coordinate the supervision and services provided to adult offenders in state custody with the supervision and services provided to offenders who have reentered the community;

(2) [~~Coordinate efforts of various public and private entities to provide~~] Support the Hawaii paroling authority, the department of human services, and other agencies in their effort to coordinate supervision and services to ex-offenders after reentry into the community with the offenders' family members;

(3) Provide offenders awaiting reentry into the community with documents, such as identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, information on obtaining public assistance, and other documents useful in achieving a successful transition from prison;

(4) Involve county agencies whose programs and initiatives strengthen offender reentry services for individuals who have been returned to the county of their jurisdiction;

[~~(5) Allow ex-offenders who have reentered the community to continue to contact mentors who remain incarcerated through the use of technology, such as videoconferencing, or encourage mentors in prison to support the ex-offenders' reentry process;~~]

[~~(6) Provide~~] (5) Coordinate with the Hawaii paroling authority, the department of human services, and the Hawaii public housing authority to provide structured programs, post-release housing, and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community;

[~~(7) Assist~~] (6) Coordinate with the Hawaii paroling authority, the department of human services, and the Hawaii public housing authority to assist offenders in securing permanent housing upon release or following a stay in transitional housing;

[~~(8) Continue~~] (7) Coordinate with the Hawaii paroling authority, the department of human services, and the department of health to link offenders with health resources and health services that were provided to them when they were in state custody, including mental health, substance abuse treatment, aftercare, and treatment services for contagious diseases;

[~~(9)~~] (8) Provide education, job training, English as a second language programs, work experience programs,

self-respect and life-skills training, and other skills needed to achieve self-sufficiency for a successful transition from prison;

[~~(10) Facilitate~~] (9) Coordinate with the department of labor and industrial relations, the department of tax, the Hawaii paroling authority, the university of Hawaii and its community colleges, and trade unions to facilitate collaboration among corrections administrators, technical schools, community colleges, and the workforce development and employment service sectors to ensure efforts to:

(A) Promote, where appropriate, the employment of persons released from prison, through efforts such as educating employers about existing financial incentives, and facilitate the creation of job opportunities, including transitional jobs, for such persons that will also benefit communities;

(B) Connect offenders to employment, including supportive employment and employment services, before their release to the community; and

(C) Address barriers to employment, including obtaining a driver's license; or other acceptable government issued identification;

[~~(11)~~] (10) Assess the literacy and educational needs of offenders in custody and [~~provide~~] recommend appropriate services to meet those needs, including follow-up assessments and long-term services;

[~~(12) Address~~] (11) Work with other public and private agencies to address systems under which family members of offenders are involved with facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to establish and maintain a stable living situation during the reentry process where appropriate, and involving family members in the planning and implementation of the reentry process;

[~~(13)~~] (12) Include victims, on a voluntary basis, in the offender's reentry process;

[~~(14) Facilitate~~] (13) Promote visitation and maintenance of family relationships with respect to offenders in

1 custody by addressing obstacles such as travel,
2 telephone costs, mail restrictions, and restrictive
3 visitation policies[~~;~~], subject to security
4 requirements that ensure the safety of the public, the
5 staff, the inmate, and other inmates;
6 [~~(15) Identify and address barriers to collaborating with~~
7 ~~child welfare~~] (14) Coordinate with public and private
8 agencies [~~in the provision of~~] to jointly provide
9 services [~~jointly~~] to offenders in custody and to the
10 children of those offenders if determined necessary;
11 [~~(16)~~] (15) Collect information, to the best of the
12 department's ability, regarding dependent children of
13 incarcerated persons as part of intake procedures,
14 including the number of children, age, and location or
15 jurisdiction for the exclusive purpose of connecting
16 identified children of incarcerated parents with
17 appropriate services and compiling statistical
18 information;
19 [~~(17) Address~~] (16) Consider barriers to the visitation of
20 children with an incarcerated parent, and maintenance
21 of the parent-child relationship, such as the location
22 of facilities in remote areas, telephone costs, mail

1 restrictions, and visitation policies[~~;~~], subject to
2 security requirements;
3 [~~(18) Create, develop,~~] (17) Develop or enhance prisoner
4 and family assessments curricula, policies, procedures,
5 or programs, including mentoring programs, to help
6 prisoners with a history or identified risk of domestic
7 violence, dating violence, sexual assault, or stalking
8 reconnect with their families and communities, as
9 appropriate, and become mutually respectful;
10 [~~(19) Develop~~] (18) Obtain the assistance of the
11 department of human services and the department of
12 education in the development of voluntary programs and
13 activities that support parent-child relationships to
14 the extent possible within existing resources, such as:
15 (A) Using telephone conferencing to permit
16 incarcerated parents to participate in parent-
17 teacher conferences;
18 (B) Using videoconferencing to allow virtual
19 visitation when incarcerated persons are more than
20 one hundred miles from their families;

(C) Developing books on tape programs, through which incarcerated parents read a book into a tape to be sent to their children;

(D) The establishment of family days, which provide for longer visitation hours or family activities; or

(E) The creation of children's areas in visitation rooms with parent-child activities;

[~~(20) Expand~~] (19) Assist the department of human services and the Hawaii paroling authority in developing family-based treatment centers that offer family-based comprehensive treatment services for parents and their children as a complete family unit to the extent possible within existing resources;

[~~(21) Conduct~~] (20) Assist the university of Hawaii in conducting studies to determine who is returning to prison and which of those returning prisoners represent the greatest risk to community safety;

[~~(22) Develop~~] (21) Assist the Hawaii paroling authority to further develop or adopt procedures to ensure that dangerous felons are not released from prison prematurely;

[~~(23) Develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;~~]

[~~(24)~~] (22) Utilize validated assessment tools to assess the risk factors of returning offenders to the community and prioritizing services based on risk;

[~~(25)~~] (23) Facilitate and encourage timely and complete payment of restitution and fines by ex-offenders to victims and the community; and

[~~(26) Consider establishing the use of reentry courts to:~~

~~(A) Monitor offenders returning to the community;~~

~~(B) Provide returning offenders with:~~

~~(i) Drug and alcohol testing and treatment; and~~

~~(ii) Mental and medical health assessment services;~~

~~(C) Facilitate restorative justice practices and convene family or community impact panels, family impact educational classes, victim impact panels, or victim impact educational classes;~~

~~(D) Provide and coordinate the delivery of other community services to offenders, including:~~

~~(i) Housing assistance;~~

~~(ii) Education;~~

~~(iii) Employment training;~~

~~(iv) Children and family support;~~

~~(v) Conflict resolution skills training;~~

~~(vi) Family violence intervention programs; and~~

~~(vii) Other appropriate social services; and~~

~~(E) Establish and implement graduated sanctions and incentives; and~~]

[~~(27) Provide~~] (24) Assist the Hawaii paroling authority by providing technology and other tools necessary to [~~advance~~] enhance post-release supervision."

PART II. OFFENDER REENTRY LEGISLATIVE OVERSIGHT COMMITTEE

SECTION 7. Prior to the establishment of the offender reentry legislative oversight committee, the legislature already had the ability to analyze, evaluate, and review operations at the department of public safety; as well as conduct site visits and meet publicly to receive input regarding the department.

The purpose of this part is to repeal the offender reentry legislative oversight committee as it does not add to the duties and functions of the legislature.

SECTION 8. Chapter 353H, part II, Hawaii Revised Statutes, is repealed.

"[~~**[§353H-21] Legislative oversight committee; established.** There is established a legislative oversight committee to ensure transparency in the operations of the department, analyze the effectiveness of the department's governance, operations, and administration of its programs and services, evaluate the department's purchase of community-based programs and services, and review any other issues impacting the department. The legislative oversight committee shall conduct site visits and have access to all areas in correctional facilities, within the constraints of safety and security. The legislative oversight committee shall meet publicly for input and recommendations for the department. The legislative oversight committee shall be composed of members of the standing committees of both houses of the legislature whose purview is to oversee the department. The legislative oversight committee shall be jointly chaired by the legislative standing committees' respective chairs.~~]"

PART III. PILOT DAY REPORTING CENTER

SECTION 9. The department of public safety will encounter much difficulty in implementing a pilot day reporting center if

provided with only one year of funding. One year is not an adequate amount of time for the department to locate, open, staff, and operate a pilot day reporting center. Moreover, it is also not an adequate amount of time to collect accurate and representative data regarding the effectiveness of the center. In order to properly develop a day reporting center that successfully responds to the needs of offenders, more than one year is needed for planning and operation. It would be a disservice to the offenders the department is attempting to assist if the established center disappears one year later.

The purpose of this part is to repeal the establishment of a pilot day reporting center and to instead re-appropriate associated funding to develop and implement an enhanced offender monitoring and supervision system.

SECTION 10. Act 8, Special Session Laws of Hawaii 2007, is amended by repealing sections 6 and 7.

"[~~SECTION 6. The department of public safety, through its intake service centers and education divisions, shall establish a one year pilot day reporting center that will be available to two hundred offenders who have six months to one year left to serve on their sentence. The center shall offer a continuum of services to prepare offenders for transition and reintegration~~

~~into the community. The center staff shall consist of a program director, counselors, social workers, and other professional and clerical staff. The ideal ratio of counselors to offenders shall be one counselor for every twenty-five offenders. The ideal ratio of social workers to offenders shall be one social worker for every fifteen offenders. The department of public safety may contract with a private or not-for-profit agency for the necessary services to carry out the purposes of this part.~~

~~SECTION 7. The department of public safety shall submit, no later than twenty days prior to the start of the 2008 and 2009 regular sessions of the legislature, a written report on:~~

~~(1) The outcome of the pilot project;~~

~~(2) Cost analysis and an accounting of expenses;~~

~~(3) Relevant data on program participants;~~

~~(4) Program and management evaluations; and~~

~~(5) Any other pertinent information, recommendations, or proposed legislation, if any, to determine whether the program should be continued.~~]"

SECTION 11. Act 8, Special Session Laws of Hawaii 2007, is amended by amending section 8 to read as follows:

"SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of $1,820,000 or so much

thereof as may be necessary for fiscal year [~~2007-2008~~] 2008-2009 for the [~~establishment of a one year pilot day reporting center~~] development and implementation of an enhanced offender monitoring and supervision system.

The sum appropriated shall be expended by the department of public safety, who may contract with a private or nonprofit agency to operate [~~the day reporting center for the purposes of this part.~~] and maintain the system."

PART IV. COGNITIVE RESTRUCTURING PILOT PROGRAM

SECTION 12. The department of public safety supports the establishment of cognitive restructuring programs. However, it is in the best interest of the offenders if program sites are not pre-selected without consideration for the needs of individual offender populations at various correctional sites. The department of public safety should be authorized to designate location of programs as a means of ensuring that programs and services are allocated to offenders who are in the best position to take advantage of them and benefit the most from them.

The purpose of this part is to amend the appropriation provision to allow the department to establish cognitive

restructuring pilot programs at any correctional site it deems most appropriate.

SECTION 13. Act 8, Special Session Laws of Hawaii 2007, is amended by amending sections 19 and 20 to read as follows:

"SECTION 19. The cognitive restructuring pilot program shall be established by the department of public safety at a location or locations determined by the department and teach specific skills that include problem solving, social skills training, anger management, and empathy training. [~~The cognitive restructuring pilot program shall be established in the county of Hawaii at Kulani correctional facility, Hawaii community correctional center, and Hale Nani reintegration center.~~]

SECTION 20. There is appropriated out of the general revenues of the State of Hawaii the sum of $33,000 or so much thereof as may be necessary for fiscal year [~~2007-2008~~] 2008-2009 for a cognitive restructuring pilot program [~~to be established in the county of Hawaii at Kulani correctional facility, Hawaii community correctional center, and Hale Nani reintegration center~~]."

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3188

Report Title:
Comprehensive offender reentry

Description:
Amends the parameters of the comprehensive offender reentry system program (Act 8 of 2007) to ensure its provisions are in compliance with good governance of correctional facilities. Eliminates provisions allowing contact between former inmates and those still in prison, requires return of out-of-state prisoners only when safety of staff and inmates is not endangered, and involves relevant State agencies in helping with family, education, and housing needs of inmates.

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JUSTIFICATION SHEET

DEPARTMENT: PUBLIC SAFETY

TITLE: A BILL FOR AN ACT RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM.

PURPOSE: To clarify the parameters of the offender reentry program.

MEANS: Amend sections 353H-3, 353H-4, 353H-5, 353H-7, and 353H-31, Hawaii Revised Status, and sections 8, 17, 19, and 20 of Act 8, Special Session Laws of Hawaii 2007, and repeal part II of chapter 353H, Hawaii Revised Statutes, and sections 6 and 7 of Act 8, Special Session Laws of Hawaii 2007.

JUSTIFICATION: In order to comply with the requirements of this act, clarification is needed to identify the different departments required to work jointly to plan, implement, and evaluate the comprehensive offender reentry system.

Amendments and repeals of provisions are made for the purposes of improving the implementation process and allowing the department to prioritize programs and services in relation to resource availability and implementation feasibility.

Impact on the public: There should be a positive impact on the public as this measure should enhance effective government operations and eliminate duplicative functions.

Impact on the department and other agencies: This act clarifies the responsibilities in the joint effort between agencies to implement the programs required by this statute.

GENERAL FUND: Reappropriates $1,853,000 for clarified purposes.

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OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Hawaii Paroling Authority, Department of Human Services, Department of Health, Department of Labor and Industrial Relations, Department of Tax, Hawaii Public Housing Authority and the University of Hawaii.

EFFECTIVE DATE: Upon approval.