



GOV. MSG. NO. 800

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 10, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB358 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB358 HD1 SD1 CD1

A BILL FOR AN ACT
RELATING TO DRUG TREATMENT.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 358

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 358, entitled "A Bill for an Act Relating to Drug Treatment."

The purpose of this legislation is to permit the courts to require that an individual reside in a secure drug treatment facility as a condition of probation. The legislation defines this facility as a minimum-security detention center, including continuous direct supervision.

This bill is objectionable because it conflicts with nationally-accepted security protocols within the corrections profession and instructs the courts to direct offenders to facilities that do not exist within the State.

First, the terminology used in this bill is not in keeping with the security procedures and requirements that the Department of Public Safety must follow. Minimum-security detention centers do not require continuous direct supervision of each inmate, but this bill would establish a new standard that would require this security protocol. This requirement would create a new type of detention center with supervision, staffing ratios, and physical confinement requirements that are not recognized within the corrections professions and not in keeping with the requirements set by the U. S. Department of Justice.

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 358
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Second, this bill presents serious operational problems since it would instruct the courts to direct probationers to facilities that do not exist and where there are no immediate or foreseeable plans for these facilities to exist. Additionally, the concepts in this bill are based on questionable treatment principles that have been not been shown to provide the types of evidence-based drug rehabilitation outcomes that are considered effective, as noted by the Drug Policy Forum of Hawaii.

My Administration has been at the forefront of developing programs that address substance abuse and that provide appropriate treatment regimens and settings for those who require substance abuse treatment. This legislation fails to accomplish its intended purpose.

For the foregoing reasons, I am returning House Bill No. 358 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO DRUG TREATMENT.

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

1 SECTION 1. Section 706-600.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+] §706-600.5 [+] Definitions of terms in this chapter.

4 In this chapter, unless a different meaning plainly is required:

5 [~~1~~] "Day" means a twenty-four-hour period of time.

6 [~~2~~] "Month" means a thirty-day period of time.

7 "Secure drug treatment facility" means a facility employing
8 security protocols modeled after a minimum-security detention
9 center, including continuous direct supervision.

10 [~~3~~] "Year" means a three hundred sixty-five-day period of
11 time."

12 SECTION 2. Section 706-605.1, Hawaii Revised Statutes, is
13 amended by amending subsection (4) to read as follows:

14 "(4) As used in this section, "alternative programs" means
15 programs [~~which,~~] that, from time to time, are created and
16 funded by legislative appropriation or federal grant naming the
17 judiciary or one of its operating agencies as the expending



1 agency and [~~which~~] that are intended to provide an alternative
2 to incarceration. Alternative programs may include:

3 (a) House arrest, or curfew using electronic monitoring
4 and surveillance, or both;

5 (b) Drug court programs for defendants with assessed
6 alcohol or drug abuse problems, or both;

7 (c) Therapeutic residential and nonresidential
8 programs [~~+~~], including secure drug treatment
9 facilities;

10 (d) A program of regimental discipline pursuant to section
11 706-605.5; and

12 (e) Similar programs created and designated as alternative
13 programs by the legislature or the administrative
14 director of the courts for qualified defendants who do
15 not pose significant risks to the community."

16 SECTION 3. Section 706-622.5, Hawaii Revised Statutes, is
17 amended by amending subsection (2) to read as follows:

18 "(2) A person eligible under subsection (1) may be
19 sentenced to probation to undergo and complete a substance abuse
20 treatment program if the court determines that the person can
21 benefit from substance abuse treatment and, notwithstanding that
22 the person would be subject to sentencing as a repeat offender



1 under section 706-606.5, the person should not be incarcerated
2 [~~in order~~] to protect the public. If the person fails to
3 complete the substance abuse treatment program and the court
4 determines that the person cannot benefit from any other
5 suitable substance abuse treatment program, the person shall be
6 subject to sentencing under the applicable section under this
7 part. As a condition of probation under this subsection, the
8 court may direct the person to undergo and complete substance
9 abuse treatment under the supervision of the drug court if the
10 person has a history of relapse in treatment programs. The
11 court may require other terms and conditions of probation,
12 including requiring that the person contribute to the cost of
13 the substance abuse treatment program [~~and~~], comply with
14 deadlines for entering into the substance abuse treatment
15 program[-], and reside in a secure drug treatment facility."

16 SECTION 4. Section 706-622.9, Hawaii Revised Statutes, is
17 amended by amending subsection (2) to read as follows:

18 "(2) A person eligible under subsection (1) may be
19 sentenced to probation to undergo and complete a substance abuse
20 treatment program if the court determines that the person can
21 benefit from substance abuse treatment and, notwithstanding that
22 the person would be subject to sentencing as a repeat offender



1 under section 706-606.5, the person should not be incarcerated
2 to protect the public. If the person fails to complete the
3 substance abuse treatment program and the court determines that
4 the person cannot benefit from any other suitable substance
5 abuse treatment program, the person shall be sentenced as
6 provided in this part. As a condition of probation under this
7 subsection, the court may direct the person to undergo and
8 complete substance abuse treatment under the supervision of the
9 drug court if the person has a history or relapse in treatment
10 programs. The court may require other terms and conditions of
11 probation, including requiring that the person contribute to the
12 cost of the substance abuse treatment program [~~and~~], comply with
13 deadlines for entering into the substance abuse treatment
14 program[-], and reside in a secure drug treatment facility."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.

