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# A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

1           SECTION 1. (a) The attorney general shall coordinate a  
2 review of the impact that diversion of minor drug possession  
3 offenders into drug treatment would have on the criminal justice  
4 system, drug treatment program resources, and public safety.

5 For purposes of this review:

6           (1) "Diversion" means placement of the offender into drug  
7 treatment either in lieu of charging the offender or  
8 allowing the offender to plead to a misdemeanor and be  
9 placed in treatment in lieu of imprisonment; and

10           (2) "Minor drug possession offenders" means those accused  
11 of felony marijuana possession offenses of any grade  
12 and class B or C felony possession offenses involving  
13 other drugs.

14           (b) The review required by subsection (a) shall address  
15 the following issues:

16           (1) The number of offenders that could be diverted if  
17 diversion occurred before charging and the number that  
18 could be deferred post-charging;

- 1           (2) The affect of diversion on law enforcement,
- 2                   prosecution, judicial, and correctional resources;
- 3           (3) The type, cost, and availability of treatment services
- 4                   that would be needed under a diversion program; and
- 5           (4) The impact on public safety of diverting minor drug
- 6                   possession offenders and whether the impact could be
- 7                   reduced by, for example, excluding offenders with a
- 8                   history of violent offenses.

9           (c) The attorney general shall conduct the review required  
10 by subsection (a) in consultation with and using the problem-  
11 solving abilities of a broad range of public and private  
12 stakeholders including:

- 13           (1) Police;
- 14           (2) Prosecutors;
- 15           (3) Judges and other court officials;
- 16           (4) Corrections administrators;
- 17           (5) Public health experts;
- 18           (6) Drug treatment providers;
- 19           (7) Legal service providers;
- 20           (8) A representative of the Office of the Public Defender;
- 21           (9) A representative of the American Civil Liberties Union
- 22                   of Hawaii;

1 (10) A representative of a community advocacy group with at  
2 least fifteen years of experience, research, and  
3 statistical data to provide to the attorney general;  
4 and

5 (11) A criminologist or researcher that can analyze the  
6 most current statistical data.

7 SECTION 2. The attorney general shall submit a report of  
8 the findings and recommendations of the review required by this  
9 Act no later than twenty days prior to the convening of the  
10 regular session of 2010.

11 SECTION 3. This Act shall take effect on July 1, 2050.

**Report Title:**

Controlled Substances; Diversion; Treatment

**Description:**

Directs the attorney general to coordinate a review of the impact of diverting marijuana and low-level felony drug offenders out of the criminal justice system into treatment.  
(SD2)