
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

PART I

SECTION 1. The legislature finds that:

- (1) Hawaii's pre-trial process in criminal cases is one of the longest in the nation. In Hawaii, the pre-trial assessment process takes several months on average, whereas it takes just days or a few weeks in other jurisdictions. State budget reductions have caused these already long processes to be delayed even further. The result has been millions of dollars spent needlessly on a growing pre-trial population;
- (2) Currently, inmate assessments are not used appropriately to put the right people in the right programs, based on research. As a result, offenders who are most likely to be successful upon release have been spending longer periods incarcerated because they are unable to get into rehabilitation and reintegration programs;



1 (3) Hawaii correctional facilities often release inmates
2 who have a high potential for recidivism without
3 providing them with the necessary supervision or
4 monitoring. Parolees lacking supervision lack
5 accountability for their actions; and

6 (4) Restitution for victims is inadequate.

7 In June 2011, the governor, chief justice, senate
8 president, speaker of the house of representatives, and director
9 of public safety joined together to begin developing a data-
10 driven justice reinvestment strategy to bring out-of-state
11 prisoners back to Hawaii, reduce spending on corrections, and
12 reinvest savings generated in strategies that would reduce
13 recidivism and crime, and increase public safety. To this end,
14 the State sought assistance from the Bureau of Justice
15 Assistance, a division of the United States Department of
16 Justice, and the Pew Center on the States. The state leaders
17 established a bipartisan, justice reinvestment working group
18 comprising leading state and county government officials to
19 receive intensive technical assistance from the Council of State
20 Governments Justice Center. The Council of State Governments
21 Justice Center assisted the working group in analyzing data from



1 every aspect of Hawaii's criminal justice and corrections
2 systems.

3 Overall, the analysis found that crime and victimization
4 rates have declined in the State, including arrests and felony
5 convictions for violent and property crime. However, the
6 population under probation supervision and incarceration has not
7 declined, and in some cases, has increased. From July 1, 1999,
8 to June 30, 2011, the State's prison and jail population grew
9 eighteen per cent, from 5,118 to 6,043. During the same period,
10 expenditures for the corrections division of the department of
11 public safety increased seventy per cent, from \$112,000,000 to
12 \$190,000,000. Approximately one-third of Hawaii's prison
13 population is incarcerated in out-of-state facilities on the
14 mainland. The cost of incarcerating these offenders out-of-
15 state was \$45,000,000 from July 1, 2010, to June 30, 2011.

16 According to information provided by the Justice Center,
17 this Act could gradually reduce the current prison and jail
18 population and generate savings of approximately five hundred
19 beds and \$9,000,000 by the end of fiscal year 2013, eight
20 hundred fifty beds and \$19,000,000 in fiscal year 2014, one
21 thousand fifty beds and \$26,000,000 in fiscal year 2015, one
22 thousand one hundred fifty beds and \$30,000,000 in fiscal year



1 2016, one thousand two hundred beds and \$32,000,000 in fiscal
2 year 2017, and one thousand two hundred beds and \$32,000,000 in
3 fiscal year 2018. These savings will require initial and
4 continued reinvestment in expanding and strengthening victim
5 services, notification, and restitution collection; reentry and
6 community-based treatment programs for pre-trial, probation, and
7 parole populations; pre-trial and risk assessments; probation
8 and parole officers; and research and planning staff at the
9 department of public safety.

10 It is anticipated that the savings would be applied to
11 increase funding for pre-trial services, probation and parole
12 supervision, inmate assessments and diagnostic services,
13 research and planning, community-based treatment programs,
14 additional parole officers and Hawaii paroling authority
15 members, victim notification of release of inmates, victim
16 safety, and parolee supervision.

17 The intent of this Act is to address areas for improvement
18 in the State's criminal justice system to reduce costly
19 inefficiencies, hold offenders accountable, and reinvest savings
20 in effective public safety strategies. Although this Act
21 establishes a statutory structure to improve the criminal
22 justice system, reaping the benefits of those improvements will



1 require the department of public safety, the Hawaii paroling
2 authority, and adult probation services to effectively implement
3 changes to policy and practice. Cost savings should be
4 reinvested into the corrections system to reduce recidivism,
5 decrease the prison population, and strengthen public safety.

6 The purpose of this Act is to enhance public safety by:

- 7 (1) Eliminating some of the inefficiencies that use
8 resources in ways that do not reduce crime and
9 reinvesting the savings in more efficient crime
10 reduction strategies;
- 11 (2) Focusing resources on supervision, incarceration, and
12 treatment of individuals who are most likely to
13 benefit from investments in recidivism reduction; and
- 14 (3) Increasing accountability in Hawaii's criminal justice
15 system by mandating a period of supervision and
16 increasing the amount of victim restitution collected.

17 **PART II**

18 SECTION 2. The pre-trial population has increased due to
19 longer lengths of stay. Under this part, an objective
20 assessment is required to be conducted within the first three
21 working days of a person's commitment to a community
22 correctional center to allow the courts to more quickly



1 determine who is appropriate for release on their own
2 recognizance, to supervision, or to release on bail. The
3 purpose of this part is to provide the court with a more timely
4 assessment of a person's risk to re-offend or likelihood of not
5 appearing for court.

6 SECTION 3. Section 353-10, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§353-10 Reentry intake service centers.** (a) There shall
9 be within the department of public safety, a reentry intake
10 service center for adults in each of the counties, to screen,
11 evaluate, and classify the admission of persons to community
12 correctional centers and to provide for the successful reentry
13 of persons back into the community. Each center shall be
14 directed and managed by a manager and shall be staffed by a team
15 of psychiatrists, social workers, technicians, and other
16 personnel as may be necessary. The director of public safety
17 may appoint full-time or part-time professional and clerical
18 staff or contract for professional services to carry out the
19 duties of the centers as identified in this section.

20 (b) The centers shall:

21 (1) Provide orientation, guidance, and technical services;



- 1 (2) Provide social-medical-psychiatric-psychological
2 diagnostic evaluation;
- 3 (3) Provide pretrial risk assessments on adult offenders
4 for the courts [~~and assist in the conduct of~~
5 ~~presentence assessments on adult offenders and the~~
6 ~~preparation of presentence reports when requested by~~
7 ~~the courts,]~~ within three working days of admission to
8 a community correctional center. This paragraph shall
9 not apply to persons with local, state, or federal
10 detainers or holds, persons detained without bail,
11 persons detained for probation violation, persons
12 facing revocation of bail or supervised release, and
13 persons who have had a pretrial risk assessment
14 completed prior to admission to a community
15 correctional center. For purposes of this paragraph,
16 "pretrial risk assessment" means an objective,
17 research based, validated assessment tool that
18 measures a defendant's risk of flight and risk of
19 anticipated criminal conduct while on pretrial release
20 pending adjudication;



1 (4) Assist in the conduct of presentence assessments and
2 the preparation of presentence reports on adult
3 offenders when requested by the courts;

4 [~~(4)~~] (5) Provide correctional prescription program
5 planning and security classification;

6 [~~(5)~~] (6) Provide [~~such~~] other personal and correctional
7 services as needed for both detained and committed
8 persons;

9 [~~(6)~~] (7) Monitor and record the progress of persons
10 assigned to correctional facilities who undergo
11 further treatment or who participate in prescribed
12 correctional programs;

13 [~~(7)~~] (8) Ensure that the present and future reentry needs
14 of persons committed to correctional facilities are
15 being evaluated and met in an effective and
16 appropriate manner;

17 [~~(8)~~] (9) Provide additional reentry services to include
18 working closely and collaborating with the furlough
19 programs in each county that are currently managed by
20 the department's institutions division;

21 [~~(9)~~] (10) Work closely and collaborate with the Hawaii
22 paroling authority; and



1 the terms and conditions of parole are properly enforced with
2 its existing staff.

3 The purpose of this part is to add two part-time members to
4 the Hawaii paroling authority and authorize the governor to set
5 the salary of the chair of the paroling authority.

6 SECTION 5. Section 353-61, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§353-61 Hawaii paroling authority; appointment; tenure;**
9 **qualifications.** (a) Members of the paroling authority shall be
10 nominated by a panel composed of the chief justice of the Hawaii
11 supreme court, the director, the president of the [~~bar~~
12 ~~association of~~] Hawaii[~~7~~] State Bar Association, a
13 representative designated by the head of the Interfaith Alliance
14 Hawaii, a [~~member from~~] representative of the general public to
15 be appointed by the governor, and the president of the Hawaii
16 chapter of the National Association of Social Workers. The
17 panel shall submit to the governor the names of not less than
18 three persons, designated as the nominees, for chairperson or as
19 a member, for each vacancy. The requirement for nomination by
20 the panel established under this section shall [~~only~~] apply only
21 to a nominee's nomination by the governor to an initial term on
22 the paroling authority and not to any subsequent consecutive



1 term of a sitting paroling authority member or chairperson whose
2 initial appointment to office was made pursuant to a nomination
3 by the panel.

4 (b) The governor shall appoint, in [+]the[+] manner
5 prescribed by section 26-34, a paroling authority to be known as
6 the Hawaii paroling authority, to consist of [~~three~~] five
7 members, one of whom shall be designated chairperson.
8 Appointments shall be made for terms of four years, commencing
9 from the date of expiration of the last preceding term. Any
10 vacancy in an unexpired term shall be filled by appointment for
11 the [+]remainder[+] of the unexpired term. Nominees to the
12 authority shall be selected on the basis of their qualifications
13 to make decisions that will be compatible with the welfare of
14 the community and of individual offenders, including their
15 background and ability for appraisal of offenders and the
16 circumstances under which offenses were committed."

17 SECTION 6. Section 353-63, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§353-63 Service of Hawaii paroling authority members;**
20 **compensation; expenses.** The chairperson of the Hawaii paroling
21 authority shall serve on a full-time basis. The other [~~two~~]
22 four members shall serve on a part-time basis. Effective



1 July 1, [~~2005,~~] 2012, the chairperson of the Hawaii paroling
2 authority shall be paid a salary [~~set at eighty seven per cent~~
3 ~~of the salary of the director of public safety.]~~ established by
4 the governor. The compensation of each of the part-time members
5 shall be eighty per cent of the hourly wage paid the
6 chairperson. For each hour engaged in the official duties of
7 the authority, each part-time member of the authority shall be
8 paid an hourly wage at the percentage rate specified in this
9 section based on the hourly wage paid the chairperson; provided
10 that compensation shall not exceed eighty per cent of the total
11 regular working hours in a month; provided further that part-
12 time members shall not be entitled to any vacation, sick leave,
13 or other benefits except as provided in this section. All
14 paroling authority members shall receive their necessary
15 expenses for travel and incidentals which shall be paid from
16 appropriations provided the authority for such purposes, on
17 vouchers approved by the director of public safety."

18 SECTION 7. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2012-2013 to
21 carry out the purposes of this part, including the purchase of



1 office equipment and other expenses related to the two
2 additional part-time paroling authority members.

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

5 **PART IV**

6 SECTION 8. The number of prisoners denied parole has
7 increased. The purpose of this part is to require the Hawaii
8 paroling authority to use an objective risk assessment to
9 determine which programs to require offenders to complete prior
10 to release, to focus resources on the offenders most likely to
11 benefit from programming and supervision, and to reduce
12 recidivism by using swift and certain, yet less costly and
13 severe responses to parole condition violations.

14 SECTION 9. Section 353-66, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) Any paroled prisoner retaken and reimprisoned as
17 provided in this chapter shall be confined according to the
18 paroled prisoner's sentence for that portion of the paroled
19 prisoner's term remaining unserved at time of parole, but
20 successive paroles [~~may~~], in the discretion of the paroling
21 authority, may be granted to the prisoner during the life and in
22 respect of the sentence. If the paroled prisoner is retaken and



1 reimprisoned for violating a condition of parole, but has not
2 been charged with a new felony offense, absconded or left the
3 State without permission from the paroling authority, violated
4 conditions applicable to sex offenders such as registering as a
5 sex offender or conditions related to proximity to specified
6 locations or persons, or been previously reimprisoned for
7 violating the conditions of parole on the current offense, the
8 paroled prisoner shall be confined for no more than six months
9 or for that portion of the paroled prisoner's term remaining
10 unserved at time of parole, whichever is shorter; provided that
11 a paroled prisoner may be reimprisoned for more than six months
12 if the Hawaii paroling authority determines that the paroled
13 prisoner poses a significant risk to the safety or property of
14 other persons that can be mitigated only by additional
15 incarceration. The six-month period of confinement shall not
16 start until the paroling authority has revoked the parole of the
17 prisoner. The prisoner shall be given credit for time served in
18 custody pending a hearing on revocation of parole."

19 SECTION 10. Section 706-670, Hawaii Revised Statutes, is
20 amended by amending subsection (1) to read as follows:

21 "(1) Parole hearing. A person sentenced to an
22 indeterminate term of imprisonment shall receive an initial



1 parole hearing at least one month before the expiration of the
2 minimum term of imprisonment determined by the Hawaii paroling
3 authority pursuant to section 706-669. If the person has been
4 sentenced to multiple terms of imprisonment, the initial parole
5 hearing shall not be required until at least one month before
6 the expiration of the minimum term of imprisonment that expires
7 last in time. A validated risk assessment shall be used to
8 determine the person's risk of re-offending and suitability for
9 community supervision. "Validated risk assessment" means an
10 actuarial tool scientifically proven to determine a person's
11 likelihood of future criminal behavior. The department of
12 public safety shall select a research based risk assessment tool
13 and shall validate the accuracy of the validated risk assessment
14 tool at least every three years.

15 A person who is assessed as low risk for re-offending shall
16 be granted parole upon completing the person's minimum sentence,
17 unless the prisoner:

18 (a) Within two years prior to the expiration of the
19 minimum term of imprisonment, commits an act that is
20 equivalent to a misdemeanor or felony crime;

21 (b) Has any pending felony charges;



1 restitution is collected by the department of public safety and
2 ensuring all felony offenders are supervised for at least some
3 minimum period of time after release from incarceration.

4 SECTION 12. Section 353-22.6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§353-22.6 Victim restitution.** The director of public
7 safety shall enforce victim restitution orders against all
8 moneys earned by the prisoner or deposited or credited to the
9 prisoner's individual account while incarcerated. The amount
10 deducted and paid [~~once annually~~] to the victim shall be [~~ten~~]
11 twenty-five per cent of the [~~prisoner's annual earnings.~~] total
12 of all moneys earned, deposited, and credited to the prisoner's
13 individual account. The moneys paid to the victim shall be
14 deducted monthly after the amount in the prisoner's individual
15 account reaches \$25, or annually, whichever is sooner. This
16 section shall not apply to moneys earned on work furlough
17 pursuant to section 353-17."

18 SECTION 13. Section 353-69, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§353-69 Parole when.** [~~No~~] Except as provided in section
21 706-670, parole shall be granted unless it appears to the Hawaii
22 paroling authority that there is a reasonable probability that



1 the prisoner concerned will live and remain at liberty without
2 violating the law and that the prisoner's release is not
3 incompatible with the welfare and safety of society."

4 SECTION 14. Section 706-670, Hawaii Revised Statutes, is
5 amended by amending subsection (5) to read as follows:

6 "(5) [~~Release upon expiration of maximum term. If the~~
7 ~~authority fixes no earlier release date, a prisoner's release~~
8 ~~shall become mandatory at the expiration of the prisoner's~~
9 ~~maximum term of imprisonment.] Supervised parole release prior
10 to the expiration of the maximum term. Notwithstanding section
11 706-605(1) (c), if the Hawaii paroling authority fixes no earlier
12 release date or has not released a prisoner upon completion of a
13 set minimum term, a prisoner shall be released to parole based
14 on the longest term of imprisonment as follows:~~

- 15 (a) Class A felony - eighteen months prior to the
16 expiration of the maximum term;
- 17 (b) Class B felony - twelve months prior to the expiration
18 of the maximum term; and
- 19 (c) Class C felony - six months prior to the expiration of
20 the maximum term.

21 No prisoner shall be incarcerated beyond the expiration of the
22 prisoner's maximum term of imprisonment."



PART VI

SECTION 15. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2012-2013 for the:

- (1) Hiring of parole officers to supervise parolees, and reentry intake services personnel to perform pretrial risk assessments for purposes of implementing this Act; and
- (2) Funding of inmate pre-release and reentry programs through private providers of service to expedite the release of inmates to parole.

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

SECTION 16. The department of public safety shall report to the legislature, no later than twenty days prior to the convening of the 2013, 2014, 2015, 2016, and 2017 regular legislative sessions on the following:

- (1) The progress of implementing this Act;
- (2) The number of inmates who have been paroled as a result of this Act;



1 (3) The estimated savings in bed space of inmates paroled
2 as a result of this Act; and

3 (4) The number of Hawaii inmates returned from mainland
4 incarceration as a result of this Act.

5 SECTION 17. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 18. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 19. This Act shall take effect on July 1, 2012;
11 provided that:

12 (1) Sections 3 and 12 shall take effect on January 1,
13 2013;

14 (2) Section 9 shall apply to any individual on parole
15 supervision on or after July 1, 2012; and

16 (3) Sections 10 and 14 shall apply to any individual who
17 commits an offense on or after July 1, 2012.



Report Title:

Public Safety; Parole

Description:

Requires a pre-trial risk assessment to be conducted within three working days. Expands the membership on the Hawaii paroling authority. Requires the use of validated risk assessments to guide parole decisions. Limits length of re-incarceration for first-time parole violators. Increases victim restitution payments by inmates. Requires release on supervised parole prior to the maximum sentence date. Makes appropriations. (SD2)

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