A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

PART I

SECTION 1. In June 2011, the governor, chief justice,
senate president, house speaker, and director of public safety
joined together to begin developing a data-driven justice
reinvestment strategy to bring out-of-state prisoners back to
Hawaii, reduce spending on corrections, and reinvest savings
generated in strategies that would reduce recidivism and crime
and increase public safety. To this end, they sought assistance
from the Bureau of Justice Assistance, a division of the United
States Department of Justice, and the Pew Center on the States.
The state leaders established a bipartisan, inter-branch justice
reinvestment working group comprising leading state and local
officials to receive intensive technical assistance from the
Council of State Governments Justice Center. The Council of
State Governments Justice Center assisted the working group in
analyzing data from every aspect of Hawaii's criminal justice
and corrections systems.
The analysis revealed that crime and victimization rates have declined, as have arrests and felony convictions for violent and property crimes. However, the population under probation supervision and incarceration has not declined, and in some cases has increased. From fiscal year 2000 to fiscal year 2011, the State's prison and jail population grew eighteen per cent, from 5,118 inmates to 6,043 inmates. Expenditures for the corrections division of the department of public safety increased seventy per cent from $112,000,000 in fiscal year 2000 to $190,000,000 in fiscal year 2011. Approximately one-third of Hawaii's incarcerated population is housed in out-of-state facilities. The cost of housing offenders out-of-state was $45,000,000 in fiscal year 2011.

The analysis of the data from Hawaii's criminal justice and corrections systems identified three areas for improvement: pretrial process, parole, and payment of restitution. This Act establishes a statutory structure to improve the criminal justice system, relying on the department of public safety, Hawaii paroling authority, and adult probation services to effectively implement changes to policies and practices.

The implementation of these changes to address the target areas is expected to gradually reduce the current incarcerated
population and generate savings of approximately five hundred beds and $9,000,000 by the end of fiscal year 2013, eight hundred fifty beds and $19,000,000 in fiscal year 2014, and one thousand fifty beds and $26,000,000 in fiscal year 2015. Realizing these savings will require initial and continued reinvestment in expanding and strengthening victim services, notification, and restitution collection; reentry and community-based treatment programs for pre-trial, probation, and parole populations; pretrial and risk assessments; probation and parole officers; and research and planning staff in the department of public safety.

This Act will improve the State's criminal justice system and increase public safety by focusing on incarceration, supervision, and treatment in a manner that most efficiently addresses the recidivism rate, thereby increasing public safety. The purpose of this Act is to address the areas of pretrial process, parole, and payment of restitution to reduce costly inefficiencies, hold offenders more accountable, and reinvest savings in more effective public safety strategies.

PART II

SECTION 2. The pretrial population has increased due to longer lengths of stay. The purpose of this part is to require
that an objective assessment be conducted within the first three working days of a person's commitment to a community correctional center to allow the courts to more quickly exercise discretion in determining whether to release a pre-trial offender.

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

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

(b) The centers shall:

(1) Provide orientation, guidance, and technical services;
(2) Provide social-medical-psychiatric-psychological diagnostic evaluation;

(3) Conduct internal pretrial risk assessments on adult offenders [for the courts and assist in the conduct of presentence assessments on adult offenders and the preparation of presentence reports when requested by the courts] within three working days of admission to a community correctional center which shall then be provided to the court for its consideration; provided that this paragraph shall not apply to persons subject to county or state detainers, holds, or persons detained without bail, persons detained for probation violation, persons facing revocation of bail or supervised release, and persons who have had a pretrial risk assessment completed prior to admission to a community correctional center.

For purposes of this paragraph, "pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of criminal conduct while on pretrial release pending adjudication;
(4) Assist in the conduct of presentence assessments on adult offenders and the preparation of presentence reports when requested by the courts;

(5) Provide correctional prescription program planning and security classification;

(6) Provide other personal and correctional services as needed for both detained and committed persons;

(7) Monitor and record the progress of persons assigned to correctional facilities who undergo further treatment or who participate in prescribed correctional programs;

(8) Ensure that the present and future reentry needs of persons committed to correctional facilities are being evaluated and met in an effective and appropriate manner;

(9) Provide additional reentry services to include working closely and collaborating with the furlough programs in each county that are currently managed by the department's institutions division;

(10) Work closely and collaborate with the Hawaii paroling authority; and
Work closely and collaborate with the corrections program services division."

PART III

SECTION 4. The number of prisoners denied parole has increased. The purpose of this part is to: increase the number of members of the Hawaii paroling authority; require the Hawaii paroling authority to use an objective risk assessment to determine the programs that offenders shall be required to complete prior to release in order to focus resources on the offenders most likely to benefit from programming and supervision; and reduce recidivism by using swift and certain, yet less costly and severe, responses to parole condition violations.

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

"§353-61 Hawaii paroling authority; appointment; tenure; qualifications. (a) Members of the paroling authority shall be nominated by a panel composed of the chief justice of the Hawaii supreme court, the director, the president of the Hawaii State Bar Association, a representative designated by the head of the Interfaith Alliance Hawaii, a member from the general public to be appointed by the
governor, and the president of the Hawaii chapter of the
National Association of Social Workers. The panel shall submit
to the governor the names of not less than three persons,
designated as the nominees, for chairperson or as a member, for
each vacancy. The requirement for nomination by the panel
established under this section shall only apply to a nominee's
nomination by the governor to an initial term on the paroling
authority and not to any subsequent consecutive term of a
sitting paroling authority member or chairperson whose initial
appointment to office was made pursuant to a nomination by the
panel.

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

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

"§353-63 Service of Hawaii paroling authority members;
compensation; expenses. The chairperson of the Hawaii paroling
authority shall serve on a full-time basis. The other four members shall serve on a part-time basis. Effective July 1, 2012, the chairperson of the Hawaii paroling
authority shall be paid a salary set at eighty-seven per cent of
the salary of the director of public safety. The compensation
of each of the part-time members shall be eighty per cent of the
hourly wage paid the chairperson. For each hour engaged in the
official duties of the authority, each part-time member of the
authority shall be paid an hourly wage at the percentage rate
specified in this section based on the hourly wage paid the
chairperson; provided that compensation shall not exceed eighty
per cent of the total regular working hours in a month; provided
further that part-time members shall not be entitled to any
vacation, sick leave, or other benefits except as provided in
this section. All paroling authority members shall receive
their necessary expenses for travel and incidentals [which] that
shall be paid from appropriations provided the authority for
such purposes, on vouchers approved by the director of public
safety."

SECTION 7. Section 353-66, Hawaii Revised Statutes, is
amended by amending subsection (e) to read as follows:
"(e) Any paroled prisoner retaken and reimprisoned as
provided in this chapter shall be confined according to the
paroled prisoner's sentence for that portion of the paroled
prisoner's term remaining unserved at time of parole, but
successive paroles may, in the discretion of the paroling
authority, be granted to the prisoner during the life and in
respect of the sentence. If the paroled prisoner is retaken and
reimprisoned for violating a condition of parole but has not:

(1) Been charged with a new felony offense or a new
misdemeanor offense under chapter 707 or section 709-
906;

(2) Absconded or left the State without permission from
the paroling authority;

(3) Violated conditions applicable to sex offenders, such
as registering as a sex offender or conditions related
to proximity to specified locations or persons; or
(4) Been previously reimprisoned for violating the conditions of parole on the current offense, the paroled prisoner shall be confined for no more than six months or for that portion of the paroled prisoner's term remaining unserved at the time of parole, whichever is shorter, so long as the paroling authority has approved a parole plan as set forth under section 706-670(3) and (4). The minimum term of imprisonment shall be as determined by the court or the paroling authority, as the case may be. The prisoner shall be given credit for time served in custody pending a hearing on revocation of parole as it relates to the six-month parole revocation. No prisoner shall be incarcerated beyond the expiration of the prisoner's maximum term of imprisonment."

SECTION 8. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Parole hearing. A person sentenced to an indeterminate term of imprisonment shall receive an initial parole hearing at least one month before the expiration of the minimum term of imprisonment determined by the Hawaii paroling authority pursuant to section 706-669. If the person has been sentenced to multiple terms of imprisonment, the parole hearing shall not be required until at least one month before the
expiration of the minimum term that expires last in time. A validated risk assessment shall be used to determine the person's risk of re-offense and suitability for community supervision. For purposes of this subsection, "validated risk assessment" means an actuarial tool to determine a person's likelihood of engaging in future criminal behavior. The department of public safety shall select a research-based risk assessment tool and shall validate the accuracy of the risk assessment tool at least every five years in consultation with the paroling authority. Assessments shall be performed by department of public safety staff who are trained in the use of the risk assessment tool. Except for good cause shown to the paroling authority, a person who is assessed as low risk for re-offending shall be granted parole upon completing the minimum sentence, unless the person:

(a) Is found to have an extensive criminal history record that is indicative of a likelihood of future criminal behavior in spite of the finding by the risk assessment by the paroling authority;

(b) Is found to have committed misconduct while in prison that is equivalent to a misdemeanor or felony crime
within thirty-six months of the expiration of the
minimum term of imprisonment;

(c) Has any pending felony charges in the State;

(d) Is incarcerated for a sexual offense under part V of
chapter 707 or child abuse under part VI of chapter
707; or

(e) Does not have a parole plan as set forth under section
706-670(3) and (4), as approved by, and at the
discretion of, the paroling authority.

If parole is not granted at [that time,] the initial parole
hearing, additional hearings shall be held at twelve-month
intervals or less until parole is granted or the maximum period
of imprisonment expires. The State shall have the right to be
represented at the initial parole hearing and all subsequent
parole hearings by the prosecuting attorney, who may present
written testimony and make oral comments[.] The
authority shall consider the testimony and comments in reaching
its decision. The authority shall notify the appropriate
prosecuting attorney of the hearing at the time the prisoner is
given notice of the hearing."

PART IV
SECTION 9. The purpose of this part is to ensure accountability for victims and offenders by improving the collection of restitution by the department of public safety and ensuring that all felony offenders are supervised for a minimum period of time after their release from incarceration.

SECTION 10. Section 353-22.6, Hawaii Revised Statutes, is amended to read as follows:

"§353-22.6 Victim restitution. The director of public safety shall enforce victim restitution orders against all moneys earned by the [prisoner] inmate or deposited or credited to the inmate's individual account while incarcerated. The amount deducted [and paid once annually to the victim] shall be [ten] twenty-five per cent of the [prisoner's annual earnings.] total of all moneys earned, new deposits, and credits to the inmate's individual account. The moneys intended for victim restitution shall be deducted monthly and paid to the victim once the amount reaches $25, or annually, whichever is sooner. This section shall not apply to moneys earned on work furlough pursuant to section 353-17."

SECTION 11. Section 353-69, Hawaii Revised Statutes, is amended to read as follows:
"§353-69 Parole when. Except as provided in section 706-670, no parole shall be granted unless it appears to the Hawaii paroling authority that there is a reasonable probability that the prisoner concerned will live and remain at liberty without violating the law and that the prisoner's release is not incompatible with the welfare and safety of society."

SECTION 12. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) Prisoner's plan and participation. Each prisoner shall be given reasonable notice of the prisoner's parole hearing and shall prepare a parole plan, setting forth the manner of life the prisoner intends to lead if released on parole, including specific information as to where and with whom the prisoner will reside [and], a phone contact where the prisoner can be reached, and what occupation or employment the prisoner will follow[[]], if any. The prisoner shall be paroled in the county where the prisoner had a permanent residence or occupation or employment prior to the prisoner's incarceration, unless the prisoner will: reside in a county in which the population exceeds eight-hundred thousand persons; reside in a county in the State in which the committed person has the greatest family or community support, opportunities for..."
employment, job training, education, treatment, and other social
services, as determined by the Hawaii paroling authority; or be
released for immediate departure from the State. The
institutional parole staff shall render reasonable aid to the
prisoner in the preparation of the prisoner's plan and in
securing information for submission to the authority. In
addition, the prisoner shall:

(a) Be permitted to consult with any persons whose
assistance the prisoner reasonably desires, including
the prisoner's own legal counsel, in preparing for a
hearing before the authority;

(b) Be permitted to be represented and assisted by counsel
at the hearing;

(c) Have counsel appointed to represent and assist the
prisoner if the prisoner so requests and cannot afford
to retain counsel; and

(d) Be informed of the prisoner's rights as set forth in
this subsection."

PART V
SECTION 13. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 14. This Act shall take effect on July 1, 2012; provided that:

(1) Section 3 shall take effect on January 1, 2013;

(2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012;

(3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and

(4) Sections 3, 7, 8, 10, and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), 353-22.6, and 353-69, Hawaii Revised Statutes, shall be reenacted in the form on which it read on June 30, 2018.
Report Title:
Public Safety; Parole; Pre-trial Risk Assessment

Description:
Requires a pre-trial risk assessment to be conducted within three working days of commitment to a community correctional center. Increases the membership of the Hawaii Paroling Authority. Requires the use of validated risk assessments. Limits length of incarceration for first-time parole violators. Increases the percentage deducted from inmates' earnings for restitution payments. Effective July 1, 2012; section 3 effective 1/1/2013; section 7 effective 7/1/2012; sections 3, 7, 8, 10, and 11 repealed on 7/1/2018. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.