THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAI’I

S.B. NO. 2791
S.D. 1

A BILL FOR AN ACT

RELATING TO JUVENILE JUSTICE REFORM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI’I:

SECTION 1. In 2014, the legislature passed Act 201, Session Laws of Hawaii 2014, (Act 201), to reform Hawaii's juvenile justice system, commit to improve outcomes for Hawaii's youth in the juvenile justice system, and maximize the effective use of the Hawaii youth correctional facilities' appropriations and treatment options.

With incarceration costing over $200,000 annually per bed, diversion of youth away from the traditional incarceration model of the Hawaii youth correctional facilities to an alternative therapeutic and rehabilitative program has substantially reduced the facilities' population and expenses.

The legislature finds that critical services to reduce delinquency, including mental health, youth homelessness, vocational services, and substance abuse treatment, are still insufficiently resourced and inaccessible to Hawaii's at-risk youth population.
Hawaii's commitment to the prevention of juvenile
delinquency and support of Hawaii's youth must also include
services for homeless, drug addicted, mentally ill, and
trafficked youth. The 2017 Hawaii statewide point in time count
reported the increasing significance of unaccompanied youth and
youth who are parents who are experiencing homelessness. For
purposes of the point in time count, the United States
Department of Housing and Urban Development defines youth as
individuals twenty-four years or younger. Hawaii's 2017 point
in time count reported three hundred nineteen unaccompanied
youth, with two hundred sixty-three, or eighty-two per cent,
living unsheltered. Twenty-four individuals under the age of
eighteen were found living unsheltered without any accompanying
adults. The total unaccompanied youth count of three hundred
sixteen was similar to the three hundred nine unaccompanied
youth counted in 2016.

In accordance with Act 119, Session Laws of Hawaii 2015, as
amended by Act 124, Session Laws of Hawaii 2016, the department
of human services identified a gap in services for homeless
youth aged twenty-four and under. The department noted that the
population of unaccompanied youth is difficult to count as these
youth tend to be mobile and transient, some do not want to be found, and unaccompanied youth are generally not connected to the formal support service system.

The legislature further finds that, although overall juvenile arrests are down, recent news reports indicate an increase in juvenile arrests, particularly in Waikiki involving youth who may also be homeless.

Regarding substance use by youth, most recent reports show that while use of marijuana and cigarettes appear to be declining amongst youth aged twelve to seventeen, the Substance Abuse and Mental Health Services Administration published Behavioral Health Barometer: Hawaii, Volume 4: Indicators as measured through the 2015 National Survey on Drug Use and Health, the National Survey of Substance Abuse Treatment Services, and the Uniform Reporting System (SAMHSA report). The SAMHSA report states, "In Hawaii, an annual average of about 6,000 adolescents aged 12-17 (6.2% of all adolescents) in 2014-2015 used marijuana in the past month. The annual average percentage in 2014-2015 was lower than the annual average percentage in 2011-2012." With regard to cigarette use, the same report states, "In Hawaii, an annual average of about 3,000
adolescents aged 12-17 (3.1% of all adolescents) in 2014-2015 used cigarettes in the past month. The annual average percentage in 2014-2015 was lower than the annual average percentage in 2011-2012." As to alcohol use in the last month, the report states, "In Hawaii, an annual average of about 10,000 adolescents aged 12-17 (10.6% of all adolescents) in 2014-2015 used alcohol in the past month. The annual average percentage in 2014-2015 was not significantly different from the annual average percentage in 2011-2012."

Act 201 paved the way to improved working relationships between and among the judiciary, department of health, department of education, department of human services, and office of youth services. However, securing mental health treatment services for Hawaii's most troubled youth remains problematic. To avoid continued placement of Hawaii's youth in mainland facilities, a secured mental health treatment facility in Hawaii is preferred. In addition, the SAMHSA report states, "In Hawaii, an annual average of about 10,000 adolescents aged twelve to seventeen (9.9% of all adolescents) in 2014-2015 had experienced a [major depressive episode] in the past year. The annual average percentage in 2014-2015 was not significantly
different from the annual average percentage in 2011-2012." In addition, the SAMHSA report states, "In Hawaii, an annual average of about 3,000 adolescents aged 12-17 with past year [major depressive episode] (32.6% of all adolescents with past year [major depressive episode]) from 2009 to 2015 received treatment for their depression in the past year."

To improve access by adolescents to mental health services, the legislature passed Act 181, Session Laws of Hawaii 2016, which reduced the age of consent for adolescent mental health services to fourteen years old. Conference committee report no. 11-16 states:

The purpose of this measure is to reduce barriers to accessing mental health services for minors by lowering the age of consent to receive treatment and services, other than prescription medication or out-of-home or residential treatment, from eighteen years of age to fourteen years.

Your Committee on Conference finds that requiring parental consent for minors to receive substance abuse treatment and family planning services may pose a barrier to health care. Minors may find desired
mental health services inaccessible due to the
discomfort and even opposition caused by obtaining
parental consent. By allowing access to mental health
services for consenting minors of a certain age,
individuals seeking improved emotional and mental
well-being may be served in a timely manner.
With regard to youth who may also be victims of human
trafficking, in 2017, the legislature passed Act 16, Session
Laws of Hawaii 2017 (Act 16), which brought the State into
compliance with the federal Justice for Victims of Trafficking
Act of 2015 and the federal Child Abuse Prevention and Treatment
Act of 2010. Act 16, among other things, amended the definition
of "child abuse or neglect" to include sex trafficking or severe
forms of trafficking in persons.
Hawaii is not isolated from human and sex trafficking.
Hawaii's location in the Pacific makes it a highly sought after
tourist destination and lucrative place for national and
international conferences, thereby creating a demand for
prostitution, which may include sex trafficking of minors.
Youth in foster care are at a higher risk of being victims
of sex trafficking because of the often continuing
vulnerabilities that stem from being maltreated or neglected as children. It is difficult to obtain an accurate picture of this issue due to the covert nature of sex trafficking and the fact that victims may not and do not identify themselves as victims. However, it is anticipated that with the change in mandated reporting requirements, the numbers of youth who are victims of human trafficking in the State will be better identified.

The purpose of this Act is to:

(1) Support ho'opono mamo, the new Hawaii youth diversion system, through the establishment of the Kawailoa youth and family wellness center, operated and maintained by the Hawaii youth correctional facilities;

(2) Improve and enhance Hawaii's juvenile justice system by strengthening services available to prevent juvenile delinquency and recidivism and to support rehabilitation; and

(3) Re-invest savings from the reduction of the number of youth in secure confinement at Hawaii youth correctional facility into the provision of services to prevent juvenile delinquency, specifically mental
health and substance abuse treatment and
rehabilitation, and to provide a more successful and
supportive community reentry transition.

SECTION 2. Chapter 352, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§352- Hawaii youth correctional facilities; Kawaiola
youth and family wellness center authority. (a) The office of
youth services shall designate the Hawaii youth correctional
facilities as the authority to establish, build, repair,
maintain, and operate the Kawaiola youth and family wellness
center, as set forth in section 352D- , from funds appropriated
or approved by the legislature for the purposes, facilities, and
programs necessary to implement this chapter and chapter 352D.
(b) Persons committed to the Hawaii youth correctional
facilities shall be kept segregated from the diverted and youth
at risk and young adults at risk admitted to the Kawaiola youth
and family wellness center."

SECTION 3. Chapter 352D, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:
S.B. NO. 2791
S.D. 1

§352D-7. Kawailoa youth and family wellness center; creation. (a) The office of youth services shall create and develop a central youth service center, to be called the Kawailoa youth and family wellness center, at the site of the Hawaii youth correctional facilities. The Hawaii youth correctional facilities shall operate and maintain the Kawailoa youth and family wellness center, within the scope of the authority granted to it by the office of youth services pursuant to section 352-__. (b) The primary objective of the Kawailoa youth and family wellness center is delinquency prevention as set forth in section 352D-7. (c) All youth in need of services and all young adults at risk shall be eligible for services at the Kawailoa youth and family wellness center. (d) The objectives of the Kawailoa youth and family wellness center shall be to: (1) Offer residential programs in delinquency prevention, including youth services, as defined in section 352D-3;
(2) Provide a wider range of informal dispositions, particularly alternatives to the juvenile justice system; and

(3) Develop an improved system of intake, assessment, and follow-up for youth and young adults at risk.

(e) The Kawailoa youth and family wellness center programs may include but shall not be limited to the establishment and operation of mental health services and programs, substance abuse treatment programs, crisis shelters for homeless youth, crisis shelters for victims of human and sex trafficking, vocational training, group homes, day treatment programs, aftercare, independent and family counseling services, educational services, and other services that may be required to meet the needs of youth or young adults."

SECTION 4. Section 352-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§352-2.1 Purpose. (a) This chapter creates within the department of human services, and to be placed within the office of youth services under the supervision of the director and such other subordinates as the director shall designate, the Hawaii youth correctional facilities, to provide for the custody,
rehabilitation, and institutional care and services to prepare
for reentry into their communities and families, youth committed
by the courts of the State.

(b) This chapter further creates within the department of
human services, and to be placed within the office of youth
services under the supervision of the director and such other
subordinates as the director shall designate, and under the
supervision of the Hawaii youth correctional facilities, a
youth services center called the Kawailoa youth and family
wellness center, to provide services and programs for youth at
risk in the State and young adults at risk between the ages of
eighteen and twenty-four, to prevent delinquency and reduce the
incidence of recidivism among youth and young adults between the
ages of eighteen and twenty-four through the provision of
prevention, rehabilitation, and treatment services.

(c) The policy and purpose of this chapter is to
harmonize the sometimes conflicting requirements of public
safety, secure placement, and individualized services for law
violators in the custody and care of the director. To that end,
the director shall provide the opportunity for intelligence and
aptitude evaluation, psychological testing and counseling,
prevocational and vocational training, and employment counseling
to all persons committed to the Hawaii youth correctional
facilities[.] and to all youth and young adults between the ages
of eighteen and twenty-four admitted to the Kawailoa youth and
family wellness center. Counseling services shall be available
to the committed or admitted person's or young adult's family
during the term of commitment[.] or admission to the Kawailoa
youth and family wellness center. The director shall coordinate
services provided to the facilities by other departments and
agencies, to realize these policies and purposes."

SECTION 5. Section 352D-3, Hawaii Revised Statutes, is
amended by adding a new definition to be appropriately inserted
and to read as follows:

"'Young adult at risk" or "young adult" means any adult
between the ages of eighteen and twenty-four who has been
arrested, who has had contact with the police, who is
experiencing social, emotional, psychological, educational,
physical problems, or who is no longer eligible for child
protective services provided by the State due to the adult's
age."
SECTION 6. Section 352D-7, Hawaii Revised Statutes, is amended to read as follows:

"352D-7 Youth services centers; creation. (a) Beginning July 1, 1991, the office of youth services shall create, develop, and operate youth service centers throughout the State, including one or more in each county[[-]] and including the Kawailia youth and family wellness center pursuant to section 352D-[-]. This may be done either directly or by contract with private parties. Delinquency prevention shall be a primary objective of these centers. The population eligible for services at the centers shall be all youths in need of services[[-]] and all young adults at risk. All referrals and admissions to a youth services center shall be voluntary. Centers shall also develop individualized intake capabilities, program plans, delivery of services, and a comprehensive referral network. The objectives of the youth service centers shall be to:

(1) Develop and implement programs in delinquency prevention;
(2) Provide a wider range of informal dispositions, particularly alternatives to the juvenile justice system;

(3) Develop an improved system of intake, assessment, and follow-up for youths, including youth at risk and young adults at risk; and

(4) Provide better coordination of juvenile justice and nonjuvenile justice services in order to reduce overlaps and gaps in services.

(b) Each center shall:

(1) Be responsible for coordinating all services, justice system or non-justice system, both public and private, to the youth and young adults at risk referred to it; and

(2) Be responsive to the needs of its immediate community and offer an array of services that are tailored to the needs of its constituents.

(c) Every youth and young adult at risk referred to a youth services center shall, as soon as possible, be appropriately placed with a service provider and provided services. The center shall develop procedures [which] that will
ensure that appropriate service providers are available on a twenty-four hour basis for each youth[—] and young adult at risk. The center may contract with such service providers for such services.

(d) Each youth service center shall maintain a registry of every youth and young adult at risk referred to it and shall monitor and supervise the follow-up services that are provided to the youth[—] and young adult at risk. Each center shall be primarily responsible to ensure that [the] each youth is fully diverted from the juvenile justice system."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.
Report Title:
Department of Human Services; Office of Youth Services; Juvenile Justice Reform; Kawailoa Youth and Family Wellness Center

Description:
Establishes the Kawailoa Youth and Family Wellness Center and changes the approach of juvenile justice to a therapeutic model. (SD1)

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