A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

SECTION 1. The legislature finds that independent oversight of the State's correctional system ensures personnel and fiscal accountability, supports safe conditions for employees, inmates, and detainees, and provides positive reform to a rehabilitative and therapeutic correctional system.

The legislature further finds that an increasing number of states are calling for independent oversight of their correctional systems with at least eight states already having established independent oversight mechanisms to monitor and improve their correctional systems.

The legislature further finds that the reentry commission and the correctional population management commission have overlapping responsibilities and consolidating the commissions into a single, independent oversight commission led by an oversight coordinator and guided by an experienced group of commission members will promote efficiency and provide greater opportunities for member participation.
The purpose of this Act is to support best practices for an effective correctional system by:

(1) Establishing the Hawaii correctional system oversight commission; and

(2) Consolidating the reentry commission and corrections population management commission into the Hawaii correctional system oversight commission and transferring the rights, powers, functions, and duties of the consolidated commissions to the Hawaii correctional system oversight commission.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

§ 1-1 Hawaii correctional system oversight commission; membership; appointment; chairperson; reimbursement of expenses.

(a) There is established within the office of the governor for administrative purposes only a Hawaii correctional system oversight commission consisting of five members who shall be residents of this State and appointed as follows:
One member shall be appointed by the governor;

One member shall be appointed by the president of the senate;

One member shall be appointed by the speaker of the house of representatives;

One member shall be appointed by the chief justice;

and

One member shall be appointed by the chairperson of the board of trustees of the Office of Hawaiian Affairs.

The commission members shall annually elect one of the members to serve as chairperson of the commission.

Preferred qualifications for commission members shall be possessing knowledge in:

Criminal justice or correctional systems;

Native Hawaiian culture-based practices with an emphasis on healing and reducing recidivism; or

Best practices for effective correctional systems.

Any member of the commission may be removed from office by the governor for cause upon notice and opportunity to be heard at a public hearing.
(d) The members of the commission shall receive reimbursement for expenses, including travel expenses that are necessary for the performance of their duties. No member of the commission shall be made subject to the financial disclosure requirements of sections 84-13 and 84-17 solely because of that member's participation as a member of the commission. The terms of the commissioners shall be as provided in section 26-34.

§ -2 Oversight coordinator; appointment; term. (a) The governor shall appoint an oversight coordinator from a list of three nominees submitted by the commission. The oversight coordinator shall be a person qualified by training and experience to administer the Hawaii correctional system oversight commission and shall be well-versed in criminal justice reform and maintain a firm commitment to the correctional system's transition from a punitive model to a rehabilitative and therapeutic model. The oversight coordinator shall serve a two-year term.

(b) Effective December 1, 2019, the oversight coordinator of the commission shall be paid a salary set at one hundred percent of the director of human resources development. The oversight coordinator shall be exempt from chapters 76 and 89,
but shall be a member of the state employees' retirement system and shall be eligible to receive benefits of any state or federal employee benefits program generally applicable to officers and employees of the State, including those under chapter 87A.

(c) The oversight coordinator shall devote the oversight coordinator's entire time and attention to the administration of the Hawaii correctional system oversight commission and shall not be engaged in any other profession or occupation.

(d) The oversight coordinator may employ persons not subject to chapters 76 and 78 to perform and execute the functions of the commission.

§-3 Hawaii correctional system oversight commission; powers and duties. (a) The commission shall meet with the oversight coordinator not less than once each quarter to make recommendations and set policy, receive reports from the oversight coordinator, and transact other business properly brought before the commission.

(b) The commission shall:

(1) Oversee the State's correctional system and have jurisdiction over investigating complaints at
(2) Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility;

(3) Work with the department of public safety in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority's oversight of parolees. The commission may make recommendations to the department of public safety, the Hawaii paroling authority, and the legislature regarding reentry and parole services; and

(4) Ensure that the comprehensive offender reentry system under chapter 353H is working properly to provide programs and services that result in the timely release of inmates on parole when the maximum terms
have been served instead of delaying the release for lack of programs and services.

To achieve these ends, the commission shall authorize the oversight coordinator to adopt rules in accordance with chapter 91.

(c) The commission may hold public meetings it deems necessary and may exercise the exemptions in section 92-5.

§ 4 Powers and duties of the oversight coordinator. In addition to any other powers and duties authorized in this chapter, the oversight coordinator shall:

(1) Supervise and administer the operation of the commission in accordance with this chapter and the rules adopted under this chapter, subject to the continuous duty to take into account the particularly sensitive and responsible nature of the commission's functions;

(2) Enforce this chapter and the rules adopted under this chapter. The oversight coordinator shall receive allegations of any violations of the laws of this State or rules pertaining to the correctional system or conduct of the commission;
(3) Hire professional, clerical, technical, and administrative personnel as may be necessary to carry out this chapter. The oversight coordinator shall conduct background checks of prospective employees, and, in all employment decisions, shall take into account the particularly sensitive and responsible nature of the operation of the commission;

(4) Act as secretary and executive officer of the commission;

(5) Confer regularly as necessary or desirable and not less than once every quarter with the commission on the operation and administration of the commission;

(6) Make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the commission;

(7) Advise the commission and recommend matters as are necessary and advisable to improve the operation and administration of the commission; and

(8) Within thirty days after receiving an allegation of a violation of the laws of this State or rules pertaining to the correctional system or conduct of
the commission by a complainant and evidence substantiating the allegation, determine in proceedings in accordance with chapter 91, whether there has been a violation of the rules and whether referral for a criminal investigation is warranted.

§ -5 Access to records by oversight coordinator and commission. The department of public safety shall provide full access to all information requested by the oversight coordinator and commission.

§ -6 Monthly reports; annual reports. (a) The oversight coordinator shall submit a monthly report to the commission, the governor, and the legislature. The monthly report shall include actions taken by the commission and expenses for the preceding month.

(b) The commission shall submit an annual report to the governor and the legislature no less than twenty days before the convening of each regular session. The annual report shall include a full and complete statement of actions taken by the commission for the preceding years, and recommendations, including any proposed legislation, that the commission deems necessary or desirable.
§  -7  Studies and investigations; procedures.  (a) The oversight coordinator shall conduct an ongoing study and investigation of the correctional system for the following purposes:

(1) To ascertain any provisions in this chapter or in its rules through which any abuses in the administration and operation of the correctional system or any evasion of this chapter or its rules may arise or be practiced;

(2) To formulate recommendations for changes to this chapter; and

(3) To ensure that this chapter and its rules are in a form and are administered to serve the true purposes of this chapter.

(b) The oversight coordinator shall conduct an ongoing study and investigation of the operation and the administration of correctional system laws in effect in other states or countries, any literature on the subject that may be published or available, any federal laws that may affect the operation of the correctional system, and the reaction of residents to existing and potential features of the correctional system in
order to recommend or effect changes that will tend to serve the purposes of this chapter.

(c) In an investigation, the oversight coordinator may make inquiries and obtain information as the oversight coordinator thinks fit, enter without notice to inspect the premises of an agency or correctional facility, and hold private hearings in accordance with chapter 91.

(d) The oversight coordinator shall be required to maintain confidentiality in respect to all matters and the identities of the complainants or witnesses coming before the oversight coordinator except so far as disclosures may be necessary to enable the oversight coordinator to carry out the oversight coordinator's duties and to support the oversight coordinator's recommendations."

SECTION 3. Act 24, Special Session Laws of Hawaii 2009, as amended by section 4 of Act 76, Session Laws of Hawaii 2012, as amended by section 1 of Act 66, Session Laws of Hawaii 2013, as amended by section 1 of Act 15, Session Laws of Hawaii 2015, is amended by amending section 3, subsection (d) to read as follows:
"(d) The commission shall cease to exist on [December 1, 2019–] January 1, 2020."

SECTION 4. Chapter 353F, Hawaii Revised Statutes, is repealed.

SECTION 5. The chairpersons of the reentry commission and corrections population management commission and the oversight coordinator shall create a plan to ensure a smooth transition for the consolidation of commissions and the transfer of all rights, powers, functions, and duties prior to the repeal of the reentry commission and corrections populations management commission on January 1, 2020.

SECTION 6. All rights, powers, functions, and duties of the reentry commission are transferred to the Hawaii correctional system oversight commission.

All employees who occupy civil service positions and whose functions are transferred to the Hawaii correctional system oversight commission by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick
leave credits previously earned, and other rights, benefits, and
privileges, in accordance with state personnel laws and this
Act; provided that the employees possess the minimum
qualifications and public employment requirements for the class
or position to which transferred or appointed, as applicable;
provided further that subsequent changes in status may be made
pursuant to applicable civil service and compensation laws.
Any employee who, prior to this Act, is exempt from civil
service and is transferred as a consequence of this Act may
retain the employee's exempt status, but shall not be appointed
to a civil service position as a consequence of this Act. An
exempt employee who is transferred by this Act shall not suffer
any loss of prior service credit, vacation or sick leave credits
previously earned, or other employee benefits or privileges as a
consequence of this Act; provided that the employees possess
legal and public employment requirements for the position to
which transferred or appointed, as applicable; provided further
that subsequent changes in status may be made pursuant to
applicable employment and compensation laws. The oversight
coordinator may prescribe the duties and qualifications of these
employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

SECTION 7. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the reentry commission relating to the functions transferred to the Hawaii correctional system oversight commission shall be transferred with the functions to which they relate.

SECTION 8. All rights, powers, functions, and duties of the corrections population management commission are transferred to the Hawaii correctional system oversight commission. All employees who occupy civil service positions and whose functions are transferred to the Hawaii correctional system oversight commission by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this
Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The oversight coordinator may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.
SECTION 9. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the corrections population management commission relating to the functions transferred to the Hawaii correctional system oversight commission shall be transferred with the functions to which they relate.

SECTION 10. 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 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for the operations of the Hawaii correctional system oversight commission.

The sums appropriated shall be expended by the office of the governor for the purposes of this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2019; provided that:
(1) Section 3 shall take effect on November 30, 2019; and

(2) Section 4 shall take effect on January 1, 2020.

INTRODUCED BY:

[Signatures]

[Names of Introducers]
Report Title:
Hawaii Correctional System Oversight Commission; Oversight Coordinator

Description:

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