

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

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

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

11           The legislature further finds that the reentry commission  
12 and the correctional population management commission have  
13 overlapping responsibilities and consolidating the commissions  
14 into a single, independent oversight commission led by an  
15 oversight coordinator and guided by an experienced group of  
16 commission members will promote efficiency and provide greater  
17 opportunities for member participation.





- 1 (1) One member shall be appointed by the governor;
- 2 (2) One member shall be appointed by the president of the  
3 senate;
- 4 (3) One member shall be appointed by the speaker of the  
5 house of representatives;
- 6 (4) One member shall be appointed by the chief justice;  
7 and
- 8 (5) One member shall be appointed by the chairperson of  
9 the board of trustees of the Office of Hawaiian  
10 Affairs.

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

13 (b) Preferred qualifications for commission members shall  
14 be possessing knowledge in:

- 15 (1) Criminal justice or correctional systems;
- 16 (2) Native Hawaiian culture-based practices with an  
17 emphasis on healing and reducing recidivism; or
- 18 (3) Best practices for effective correctional systems.

19 (c) Any member of the commission may be removed from  
20 office by the governor for cause upon notice and opportunity to  
21 be heard at a public hearing.



1 (d) The members of the commission shall receive  
2 reimbursement for expenses, including travel expenses that are  
3 necessary for the performance of their duties. No member of the  
4 commission shall be made subject to the financial disclosure  
5 requirements of sections 84-13 and 84-17 solely because of that  
6 member's participation as a member of the commission. The terms  
7 of the commissioners shall be as provided in section 26-34.

8 § -2 Oversight coordinator; appointment; term. (a) The  
9 governor shall appoint an oversight coordinator from a list of  
10 three nominees submitted by the commission. The oversight  
11 coordinator shall be a person qualified by training and  
12 experience to administer the Hawaii correctional system  
13 oversight commission and shall be well-versed in criminal  
14 justice reform and maintain a firm commitment to the  
15 correctional system's transition from a punitive model to a  
16 rehabilitative and therapeutic model. The oversight coordinator  
17 shall serve a two-year term.

18 (b) Effective December 1, 2019, the oversight coordinator  
19 of the commission shall be paid a salary set at one hundred per  
20 cent of the director of human resources development. The  
21 oversight coordinator shall be exempt from chapters 76 and 89,



1 but shall be a member of the state employees' retirement system  
2 and shall be eligible to receive benefits of any state or  
3 federal employee benefits program generally applicable to  
4 officers and employees of the State, including those under  
5 chapter 87A.

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

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

13 § -3 Hawaii correctional system oversight commission;  
14 powers and duties. (a) The commission shall meet with the  
15 oversight coordinator not less than once each quarter to make  
16 recommendations and set policy, receive reports from the  
17 oversight coordinator, and transact other business properly  
18 brought before the commission.

19 (b) The commission shall:

20 (1) Oversee the State's correctional system and have  
21 jurisdiction over investigating complaints at



- 1           correctional facilities and facilitating a  
2           correctional system transition from a punitive model  
3           to a rehabilitative and therapeutic model;
- 4           (2) Establish maximum inmate population limits for each  
5           correctional facility and formulate policies and  
6           procedures to prevent the inmate population from  
7           exceeding the capacity of each correctional facility;
- 8           (3) Work with the department of public safety in  
9           monitoring and reviewing the comprehensive offender  
10          reentry program, including facility educational and  
11          treatment programs, rehabilitative services, work  
12          furloughs, and the Hawaii paroling authority's  
13          oversight of parolees. The commission may make  
14          recommendations to the department of public safety,  
15          the Hawaii paroling authority, and the legislature  
16          regarding reentry and parole services; and
- 17          (4) Ensure that the comprehensive offender reentry system  
18          under chapter 353H is working properly to provide  
19          programs and services that result in the timely  
20          release of inmates on parole when the maximum terms



1            have been served instead of delaying the release for  
2            lack of programs and services.

3            To achieve these ends, the commission shall authorize the  
4 oversight coordinator to adopt rules in accordance with chapter  
5 91.

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

8            § -4 Powers and duties of the oversight coordinator. In  
9 addition to any other powers and duties authorized in this  
10 chapter, the oversight coordinator shall:

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

17           (2) Enforce this chapter and the rules adopted under this  
18 chapter. The oversight coordinator shall receive  
19 allegations of any violations of the laws of this  
20 State or rules pertaining to the correctional system  
21 or conduct of the commission;



- 1           (3) Hire professional, clerical, technical, and  
2           administrative personnel as may be necessary to carry  
3           out this chapter. The oversight coordinator shall  
4           conduct background checks of prospective employees,  
5           and, in all employment decisions, shall take into  
6           account the particularly sensitive and responsible  
7           nature of the operation of the commission;
- 8           (4) Act as secretary and executive officer of the  
9           commission;
- 10          (5) Confer regularly as necessary or desirable and not  
11          less than once every quarter with the commission on  
12          the operation and administration of the commission;
- 13          (6) Make available for inspection by the commission, upon  
14          request, all books, records, files, and other  
15          information and documents of the commission;
- 16          (7) Advise the commission and recommend matters as are  
17          necessary and advisable to improve the operation and  
18          administration of the commission; and
- 19          (8) Within thirty days after receiving an allegation of a  
20          violation of the laws of this State or rules  
21          pertaining to the correctional system or conduct of





1 the commission by a complainant and evidence  
2 substantiating the allegation, determine in  
3 proceedings in accordance with chapter 91, whether  
4 there has been a violation of the rules and whether  
5 referral for a criminal investigation is warranted.

6 § -5 Access to records by oversight coordinator and  
7 commission. The department of public safety shall provide full  
8 access to all information requested by the oversight coordinator  
9 and commission.

10 § -6 Monthly reports; annual reports. (a) The  
11 oversight coordinator shall submit a monthly report to the  
12 commission, the governor, and the legislature. The monthly  
13 report shall include actions taken by the commission and  
14 expenses for the preceding month.

15 (b) The commission shall submit an annual report to the  
16 governor and the legislature no less than twenty days before the  
17 convening of each regular session. The annual report shall  
18 include a full and complete statement of actions taken by the  
19 commission for the preceding years, and recommendations,  
20 including any proposed legislation, that the commission deems  
21 necessary or desirable.



1           §   -7   **Studies and investigations; procedures.**   (a)   The  
2 oversight coordinator shall conduct an ongoing study and  
3 investigation of the correctional system for the following  
4 purposes:

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

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

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

15          (b)   The oversight coordinator shall conduct an ongoing  
16 study and investigation of the operation and the administration  
17 of correctional system laws in effect in other states or  
18 countries, any literature on the subject that may be published  
19 or available, any federal laws that may affect the operation of  
20 the correctional system, and the reaction of residents to  
21 existing and potential features of the correctional system in



1 order to recommend or effect changes that will tend to serve the  
2 purposes of this chapter.

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

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

15 SECTION 3. Act 24, Special Session Laws of Hawaii 2009, as  
16 amended by section 4 of Act 76, Session Laws of Hawaii 2012, as  
17 amended by section 1 of Act 66, Session Laws of Hawaii 2013, as  
18 amended by section 1 of Act 15, Session Laws of Hawaii 2015, is  
19 amended by amending section 3, subsection (d) to read as  
20 follows:



1           "(d) The commission shall cease to exist on [~~December 1,~~  
2 ~~2019-~~] January 1, 2020."

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

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

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

15           All employees who occupy civil service positions and whose  
16 functions are transferred to the Hawaii correctional system  
17 oversight commission by this Act shall retain their civil  
18 service status, whether permanent or temporary. Employees shall  
19 be transferred without loss of salary, seniority (except as  
20 prescribed by applicable collective bargaining agreements),  
21 retention points, prior service credit, any vacation and sick



1 leave credits previously earned, and other rights, benefits, and  
2 privileges, in accordance with state personnel laws and this  
3 Act; provided that the employees possess the minimum  
4 qualifications and public employment requirements for the class  
5 or position to which transferred or appointed, as applicable;  
6 provided further that subsequent changes in status may be made  
7 pursuant to applicable civil service and compensation laws.

8 Any employee who, prior to this Act, is exempt from civil  
9 service and is transferred as a consequence of this Act may  
10 retain the employee's exempt status, but shall not be appointed  
11 to a civil service position as a consequence of this Act. An  
12 exempt employee who is transferred by this Act shall not suffer  
13 any loss of prior service credit, vacation or sick leave credits  
14 previously earned, or other employee benefits or privileges as a  
15 consequence of this Act; provided that the employees possess  
16 legal and public employment requirements for the position to  
17 which transferred or appointed, as applicable; provided further  
18 that subsequent changes in status may be made pursuant to  
19 applicable employment and compensation laws. The oversight  
20 coordinator may prescribe the duties and qualifications of these



1 employees and fix their salaries without regard to chapter 76,  
2 Hawaii Revised Statutes.

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

10 SECTION 8. All rights, powers, functions, and duties of  
11 the corrections population management commission are transferred  
12 to the Hawaii correctional system oversight commission.

13 All employees who occupy civil service positions and whose  
14 functions are transferred to the Hawaii correctional system  
15 oversight commission by this Act shall retain their civil  
16 service status, whether permanent or temporary. Employees shall  
17 be transferred without loss of salary, seniority (except as  
18 prescribed by applicable collective bargaining agreements),  
19 retention points, prior service credit, any vacation and sick  
20 leave credits previously earned, and other rights, benefits, and  
21 privileges, in accordance with state personnel laws and this



1 Act; provided that the employees possess the minimum  
2 qualifications and public employment requirements for the class  
3 or position to which transferred or appointed, as applicable;  
4 provided further that subsequent changes in status may be made  
5 pursuant to applicable civil service and compensation laws.

6 Any employee who, prior to this Act, is exempt from civil  
7 service and is transferred as a consequence of this Act may  
8 retain the employee's exempt status, but shall not be appointed  
9 to a civil service position as a consequence of this Act. An  
10 exempt employee who is transferred by this Act shall not suffer  
11 any loss of prior service credit, vacation or sick leave credits  
12 previously earned, or other employee benefits or privileges as a  
13 consequence of this Act; provided that the employees possess  
14 legal and public employment requirements for the position to  
15 which transferred or appointed, as applicable; provided further  
16 that subsequent changes in status may be made pursuant to  
17 applicable employment and compensation laws. The oversight  
18 coordinator may prescribe the duties and qualifications of these  
19 employees and fix their salaries without regard to chapter 76,  
20 Hawaii Revised Statutes.



1 SECTION 9. All appropriations, records, equipment,  
2 machines, files, supplies, contracts, books, papers, documents,  
3 maps, and other personal property heretofore made, used,  
4 acquired, or held by the corrections population management  
5 commission relating to the functions transferred to the Hawaii  
6 correctional system oversight commission shall be transferred  
7 with the functions to which they relate.

8 SECTION 10. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so much  
10 thereof as may be necessary for fiscal year 2019-2020 and the  
11 same sum or so much thereof as may be necessary for fiscal year  
12 2020-2021 for the operations of the Hawaii correctional system  
13 oversight commission.

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

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

18 SECTION 12. This Act shall take effect on July 1, 2019;  
19 provided that:





# S.B. NO. 1424

- 1 (1) Section 3 shall take effect on November 30, 2019; and  
2 (2) Section 4 shall take effect on January 1, 2020.

3

INTRODUCED BY: Clarence K. Rushikera



# S.B. NO. 1424

**Report Title:**

Hawaii Correctional System Oversight Commission; Oversight Coordinator

**Description:**

Establishes the Hawaii Correctional System Oversight Commission and transfers all rights, powers, functions, and duties of the Reentry Commission and Corrections Population Management Commission to the Hawaii Correctional System Oversight Commission.

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

