
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 The purpose of this Act is to support best practices for an
2 effective correctional system by:

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

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

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

14 "CHAPTER

15 HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

16 § -1 Hawaii correctional system oversight commission;
17 membership; appointment; chairperson; reimbursement of expenses.

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



- 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 salary of the director of human resources
21 development. The oversight coordinator shall be exempt from



1 chapters 76 and 89, but shall be a member of the state
 2 employees' retirement system and shall be eligible to receive
 3 benefits of any state or federal employee benefits program
 4 generally applicable to officers and employees of the State,
 5 including those under 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 § -4 **Powers and duties of the oversight coordinator.** In
7 addition to any other powers and duties authorized in this
8 chapter, the oversight coordinator shall:

- 9 (1) Supervise and administer the operation of the
10 commission in accordance with this chapter and the
11 rules adopted under this chapter, subject to the
12 continuous duty to take into account the particularly
13 sensitive and responsible nature of the commission's
14 functions;
- 15 (2) Enforce this chapter and the rules adopted under this
16 chapter. The oversight coordinator shall receive
17 allegations of any violations of the laws of this
18 State or rules pertaining to the correctional system
19 or conduct of the commission;
- 20 (3) Hire professional, clerical, technical, and
21 administrative personnel as may be necessary to carry



1 out this chapter. The oversight coordinator shall
2 hire staff necessary to accomplish the purpose of this
3 chapter, including a minimum of two researchers and
4 one clerical assistant. Employees of the coordinator
5 shall be exempt from chapter 76 and shall not be
6 considered civil service employees but shall be
7 entitled to any employee benefit plans normally
8 inuring to civil service employees;

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

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

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

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

20 (8) Within thirty days after receiving an allegation of a
21 violation of the laws of this State or rules



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

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

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

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



1 including any proposed legislation, that the commission deems
2 necessary or desirable.

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

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

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

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

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



1 the correctional system, and the reaction of residents to
2 existing and potential features of the correctional system in
3 order to recommend or effect changes that will tend to serve the
4 purposes of this chapter.

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

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

17 SECTION 3. Act 24, Special Session Laws of Hawaii 2009, as
18 amended by section 4 of Act 76, Session Laws of Hawaii 2012, as
19 amended by section 1 of Act 66, Session Laws of Hawaii 2013, as
20 amended by section 1 of Act 15, Session Laws of Hawaii 2015, is



1 amended by amending section 3, subsection (d) to read as
2 follows:

3 " (d) The commission shall cease to exist on [~~December 1,~~
4 ~~2019.~~] January 1, 2020."

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

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

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

17 Any employee who, prior to this Act, is exempt from civil
18 service and is transferred as a consequence of this Act may
19 retain the employee's exempt status, but shall not be appointed
20 to a civil service position as a consequence of this Act. An
21 exempt employee who is transferred by this Act shall not suffer



1 any loss of prior service credit, vacation or sick leave credits
2 previously earned, or other employee benefits or privileges as a
3 consequence of this Act; provided that the employees possess
4 legal and public employment requirements for the position to
5 which transferred or appointed, as applicable; provided further
6 that subsequent changes in status may be made pursuant to
7 applicable employment and compensation laws. The oversight
8 coordinator may prescribe the duties and qualifications of these
9 employees and fix their salaries without regard to chapter 76,
10 Hawaii Revised Statutes.

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

18 SECTION 8. All rights, powers, functions, and duties of
19 the corrections population management commission are transferred
20 to the Hawaii correctional system oversight commission.



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

15 Any employee who, prior to this Act, is exempt from civil
16 service and is transferred as a consequence of this Act may
17 retain the employee's exempt status, but shall not be appointed
18 to a civil service position as a consequence of this Act. An
19 exempt employee who is transferred by this Act shall not suffer
20 any loss of prior service credit, vacation or sick leave credits
21 previously earned, or other employee benefits or privileges as a



1 consequence of this Act; provided that the employees possess
2 legal and public employment requirements for the position to
3 which transferred or appointed, as applicable; provided further
4 that subsequent changes in status may be made pursuant to
5 applicable employment and compensation laws. The oversight
6 coordinator may prescribe the duties and qualifications of these
7 employees and fix their salaries without regard to chapter 76,
8 Hawaii Revised Statutes.

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

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

17 SECTION 10. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect on July 1, 2019;
20 provided that:

21 (1) Section 3 shall take effect on November 30, 2019; and



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

2



Report Title:

Hawaii Correctional System Oversight Commission; Oversight
Coordinator; Appropriation

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. (SD1)

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not legislation or evidence of legislative intent.*

