
A BILL FOR AN ACT

RELATING TO BAIL.

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

1 PART I

2 SECTION 1. The legislature finds that house concurrent
3 resolution no. 134, house draft 1 (2017), requested the
4 judiciary to convene a criminal pretrial task force to:

5 (1) Examine and, as needed, recommend legislation and
6 revisions to criminal pretrial practices and
7 procedures to increase public safety while maximizing
8 pretrial release of those who do not pose a danger or
9 a flight risk; and

10 (2) Identify and define best practices metrics to measure
11 the relative effectiveness of the criminal pretrial
12 system, and establish ongoing procedures to take such
13 measurements at appropriate time intervals.

14 Accordingly, the judiciary convened a criminal pretrial
15 task force that consisted of twenty-nine members from various
16 agencies and organizations with a broad spectrum of knowledge
17 and experience. The task force membership included judges from



1 circuit and district courts; the chair of the senate committee
2 on public safety, intergovernmental, and military affairs; the
3 chair of the house of representatives committee on judiciary;
4 court administrator representatives from each circuit court; a
5 representative from the department of the attorney general; a
6 representative from the department of health; a representative
7 from the department of public safety; a representative of the
8 office of Hawaiian affairs; the police chiefs of the counties of
9 Hawaii, Kauai, Maui, and the city and county of Honolulu; the
10 prosecuting attorneys for the counties of Hawaii, Kauai, and
11 Maui; a representative of the prosecuting attorney for the city
12 and county of Honolulu; a representative of the office of the
13 public defender; representatives of the criminal defense bar
14 from each of the four counties; and a member of the public. Six
15 subcommittees were formed, and each subcommittee met or
16 otherwise exchanged information numerous times to facilitate the
17 work of the task force. The task force met in plenary session a
18 total of twelve times between August 11, 2017, and July 6, 2018.
19 The task force submitted its report to the Legislature on
20 December 14, 2018. The report contains twenty-five



1 recommendations, some of which were accompanied by proposed
2 legislation that was authored by the task force.

3 The purpose of this Act is to implement certain
4 recommendations of the task force.

5 PART II

6 SECTION 2. The purpose of this part is to improve clarity
7 and consistency in the criminal pretrial system by requiring
8 that intake service centers:

- 9 (1) Conduct pretrial risk assessments and prepare bail
10 reports within two working days of the offender's
11 admission to a community correctional center;
- 12 (2) Inquire and report on the offender's financial
13 circumstances;
- 14 (3) Evaluate the offender's risk of violence;
- 15 (4) Include the fully executed pretrial risk assessment as
16 part of the bail report; and
- 17 (5) Periodically review and further validate the pretrial
18 risk assessment tool at least every five years to
19 evaluate the effectiveness of the tool and the
20 procedures associated with its administration, and
21 publicly report the findings of periodic reviews.



1 SECTION 3. Section 353-10, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The centers shall:

4 (1) Provide orientation, guidance, and technical services;

5 (2) Provide social-medical-psychiatric-psychological
6 diagnostic evaluation;

7 (3) Conduct internal pretrial risk assessments on adult
8 offenders within [~~three~~] two working days of admission
9 to a community correctional center [~~which shall then~~
10 ~~be provided to the court for its consideration~~];

11 provided that this paragraph shall not apply to
12 persons subject to county or state detainers[~~7~~] or
13 holds, [~~or~~] persons detained without bail, persons
14 detained for probation violation, persons facing
15 revocation of bail or supervised release, and persons
16 who have had a pretrial risk assessment completed
17 prior to admission to a community correctional center.

18 For purposes of this [~~+~~]paragraph[~~+~~], "pretrial risk
19 assessment" means an objective, research-based,

20 validated assessment tool that measures [a

21 ~~defendant's~~] an offender's risk of flight, [~~and~~] risk



1 of criminal conduct, and risk of violence or harm to
2 any person or the general public while on pretrial
3 release pending adjudication[+]. The pretrial risk
4 assessment tool and procedures associated with its
5 administration shall be periodically reviewed and
6 subject to further validation at least every five
7 years to evaluate the effectiveness of the tool and
8 the procedures associated with its administration.
9 The findings of periodic reviews shall be publicly
10 reported;

- 11 (4) Provide correctional prescription program planning and
12 security classification;
- 13 (5) Provide other personal and correctional services as
14 needed for both detained and committed persons;
- 15 (6) Monitor and record the progress of persons assigned to
16 correctional facilities who undergo further treatment
17 or who participate in prescribed correctional
18 programs;
- 19 (7) Provide continuing supervision and control of persons
20 ordered to be placed on pretrial supervision by the
21 court and persons ordered by the director; [~~and~~]



1 (8) Make inquiry with the offender concerning the
2 offender's financial circumstances and include this
3 information in the bail report; provided that the
4 department of public safety's pretrial services
5 officers shall be provided limited access for the
6 purpose of viewing other state agencies' relevant data
7 related to an offender's employment wages and taxes;
8 ~~[(8)]~~ (9) Provide pretrial bail reports to the courts on
9 adult offenders, within two working days of admission
10 of the offender to a community correctional center,
11 that are ~~[consented to by the defendant or that are]~~
12 ordered by the court [-] or consented to by the
13 offender. A complete copy of the executed pretrial
14 risk assessment delineating the scored items, the
15 total score, any administrative scoring overrides
16 applied, and written explanations for administrative
17 scoring overrides, shall be included in the pretrial
18 bail report. The pretrial bail reports shall be
19 confidential and shall not be deemed to be public
20 records. A copy of a pretrial bail report shall be
21 provided only:



- 1 (A) To the [~~defendant~~] offender or [~~defendant's~~] the
- 2 offender's counsel;
- 3 (B) To the prosecuting attorney;
- 4 (C) To the department of public safety;
- 5 (D) To any psychiatrist, psychologist, or other
- 6 treatment practitioner who is treating the
- 7 [~~defendant~~] offender pursuant to a court order;
- 8 (E) Upon request, to the adult client services
- 9 branch; and
- 10 (F) In accordance with applicable laws, persons, or
- 11 entities doing research. The research entity must
- 12 be approved and contracted by the Department of
- 13 Public Safety to protect the confidentiality of
- 14 the information, insofar as the information is
- 15 not a public record."

PART III

17 SECTION 4. The purpose of this part is to amend chapter
18 804, Hawaii Revised Statutes, to:

- 19 (1) Authorize a defendant in custody to petition a court
- 20 for unsecured bail;



1 (2) Permit monetary bail to be posted with the police,
2 other law enforcement agency, or the county
3 correctional center where the defendant is held, on a
4 twenty-four hours a day, seven days a week basis;

5 (3) Create rebuttable presumptions regarding both release
6 and detention and to specify circumstances in which
7 these presumptions apply; and

8 (4) Require the release of a defendant under the least
9 restrictive conditions required to ensure:

10 (A) The defendant's appearance; and

11 (B) The protection of the public.

12 SECTION 5. Chapter 804, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§804- Unsecured bail. (a) After an amount of bail is
16 determined by a justice or judge pursuant to section 804-9, a
17 defendant in custody may petition the court for unsecured bail.

18 Upon a showing that:

19 (1) Securing the bail bond or obtaining a surety or
20 sureties to secure the bail bond pursuant to section



1 804-11.5 would result in significant financial
2 hardship; and

3 (2) The continued incarceration of the defendant would
4 jeopardize the defendant's ability to maintain
5 employment, remain enrolled in any educational or
6 training program, care for a dependent, continue
7 medical or therapeutic treatment, or maintain housing;
8 the court may order the defendant released upon the execution of
9 an unsecured financial bond for all or part of the bail amount
10 by the defendant and any additional obligors as may be required
11 by the court, upon the deposit of cash or other security as
12 described in section 804-11.5 for any remaining bail amount not
13 covered by the unsecured financial bond, and subject to any
14 other conditions of release that will reasonably assure the
15 appearance of the defendant in court as required and protect the
16 public.

17 (b) In the event that a defendant fails to appear in court
18 as required or breaches any other condition of release, the
19 court shall enter an order of forfeiture of the unsecured
20 financial bond.



1 (c) In granting or denying a petition for unsecured bail,
2 the court may consider:

3 (1) The defendant's:

4 (A) Employment status and history;

5 (B) Family relationships, specifically the nature and
6 extent of those relationships;

7 (C) Past and present residences;

8 (D) Character and reputation;

9 (E) Ties to the community;

10 (F) Financial circumstances; and

11 (G) Prior criminal record, if any, and any prior
12 failures to appear in court;

13 (2) The agreement of any person to assist the defendant to
14 appear in court when required and to satisfy the
15 conditions of release;

16 (3) The results of an empirical and validated pretrial
17 risk assessment;

18 (4) The offense charged and any potential sentence; and

19 (5) Any other facts the court finds relevant to the
20 defendant's likelihood to appear in court and satisfy
21 the conditions of release."



1 SECTION 6. Section 804-3, Hawaii Revised Statutes, is
2 amended by amending subsections (a) through (c) to read as
3 follows:

4 "(a) For purposes of this section [~~,"serious crime"~~]:

5 "Serious crime" means murder or attempted murder in the
6 first degree, murder or attempted murder in the second degree,
7 [~~or~~] a class A [~~or B~~] felony, [~~except forgery in the first~~
8 ~~degree and failing to render aid under section 291C-12, and~~
9 ~~"bail"~~] or a class B or C felony involving violence or threat of
10 violence to any person.

11 "Bail" includes release on one's own recognizance,
12 supervised release, and conditional release.

13 (b) [~~Any person charged with a criminal offense shall be~~
14 ~~bailable by sufficient sureties; provided that bail may be~~
15 ~~denied where the charge is for a serious crime, and:] There
16 shall be a rebuttable presumption that a person charged with a
17 criminal offense, other than a serious crime, shall be released
18 or admitted to bail under the least restrictive conditions
19 required to ensure the person's appearance and to protect the
20 public, unless the prosecution demonstrates by clear and
21 convincing evidence that:~~



1 (1) There is a serious risk that the person will flee;

2 (2) There is a serious risk that the person will obstruct

3 or attempt to obstruct justice, or [~~therefore,~~]

4 injure[~~]~~ or intimidate, or attempt to thereafter[~~]~~

5 injure[~~]~~ or intimidate, a prospective witness or

6 juror;

7 (3) There is a serious risk that the person poses a danger

8 to any person or the community; or

9 (4) There is a serious risk that the person will engage in

10 illegal activity.

11 If the prosecution demonstrates by clear and convincing evidence

12 that one or more of the foregoing serious risks exists, the

13 person shall be detained if the court finds that no condition or

14 combination of conditions is sufficient to reasonably eliminate,

15 reduce, or mitigate the risks presented.

16 (c) Under subsection (b) (1) a rebuttable presumption

17 arises that there is a serious risk that the person will flee or

18 will not appear as directed by the court where the person is

19 charged with a criminal offense punishable by imprisonment for

20 life with or without possibility of parole. For purposes of

21 subsection (b) (3) and (4) a rebuttable presumption arises that



1 the person poses a serious danger to any person or community or
2 will engage in illegal activity where the court determines that:

3 (1) The [~~defendant~~] person has been previously convicted
4 of a serious crime involving violence or threat of
5 violence against a person within the ten-year period
6 preceding the date of the charge against the
7 defendant;

8 (2) The [~~defendant~~] person is [~~already on bail on~~] pending
9 trial or sentencing for a felony charge involving
10 violence or threat of violence against a person; or

11 (3) The [~~defendant~~] person is on probation or parole for a
12 serious crime involving violence or threat of violence
13 to a person."

14 SECTION 7. Section 804-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§804-4 When a matter of right.** (a) If the charge is for
17 an offense for which bail is allowable under section 804-3, the
18 defendant may be admitted to bail before conviction as a matter
19 of right[-] and under the least restrictive conditions required
20 to ensure the defendant's appearance and to protect the public.

21 Except for section 712-1207(7), bail shall be allowed for any



1 person charged under section 712-1207 only subject to the
2 mandatory condition that the person observe geographic
3 restrictions that prohibit the defendant from entering or
4 remaining on public property, in Waikiki and other areas in the
5 State designated by county ordinance during the hours from 6
6 p.m. to 6 a.m.; and provided further that nothing contained in
7 this subsection shall be construed as prohibiting the imposition
8 of stricter geographic restrictions under section 804-7.1. The
9 right to bail shall continue after conviction of a misdemeanor,
10 petty misdemeanor, or violation, and release on bail may
11 continue, in the discretion of the court, after conviction of a
12 felony until the final determination of any motion for a new
13 trial, appeal, habeas corpus, or other proceedings that are
14 made, taken, issued, or allowed for the purpose of securing a
15 review of the rulings, verdict, judgment, sentence, or other
16 proceedings of any court or jury in or by which the defendant
17 has been arraigned, tried, convicted, or sentenced; provided
18 that:

19 (1) No bail shall be allowed after conviction and prior to
20 sentencing in cases where bail was not available under



1 section 804-3, or where bail was denied or revoked
2 before conviction;

3 (2) No bail shall be allowed pending appeal of a felony
4 conviction where a sentence of imprisonment has been
5 imposed; and

6 (3) No bail shall be allowed pending appeal of a
7 conviction for a violation of section 712-1207, unless
8 the court finds, based on the defendant's record, that
9 the defendant may be admitted to bail subject to the
10 mandatory condition that the person observe geographic
11 restrictions that prohibit the defendant from entering
12 or walking along the public streets or sidewalks of
13 Waikiki or other areas in the State designated by
14 county ordinance pursuant to section 712-1207 during
15 the hours from 6 p.m. to 6 a.m.

16 Notwithstanding any other provision of law to the contrary, any
17 person who violates these bail restrictions shall have the
18 person's bail revoked after hearing and shall be imprisoned
19 forthwith.

20 (b) The court shall order that a person who has been found
21 guilty of an offense and sentenced to a term of imprisonment,



1 and who has filed an appeal or a petition for a writ of
2 certiorari, be detained, unless the court finds:

3 (1) By clear and convincing evidence that the person is
4 not likely to flee or pose a danger to the safety of
5 any other person or the community if released; and

6 (2) That the appeal is not for purpose of delay and raises
7 a substantial question of law or fact likely to result
8 in reversal or an order for a new trial.

9 If the court makes these findings, the court shall order the
10 release of the person in accordance with section 804-7.1[-]
11 under the least restrictive conditions required to ensure the
12 defendant's appearance and to protect the public. No defendant
13 entitled to bail, whether bailed or not, shall be subject,
14 without the defendant's written consent, to the operation of any
15 sentence passed upon the defendant, while any proceedings to
16 procure a review of any action of the trial court or jury in the
17 premises are pending and undetermined, except as provided in
18 section 641-14(a) or section 712-1207."

19 SECTION 8. Section 804-5, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§804-5 By whom allowed. In cases where the punishment
2 for the offense charged may be imprisonment for life not subject
3 to parole, or imprisonment for a term more than ten years with
4 or without fine, a judge or justice of a court of record,
5 including a district judge, shall be competent to admit the
6 accused to bail, in conformity with sections 804-3 to 804-6. In
7 all other cases, the accused may be so admitted to bail by any
8 judge or justice of a court of record, including a district
9 judge, and in cases, except under section 712-1207, where the
10 punishment for the offense charged may not exceed two years'
11 imprisonment with or without fine, the sheriff, the sheriff's
12 deputy, the chief of police or any person named by the chief of
13 police, or the sheriff of Kalawao, regardless of the circuit
14 within which the alleged offense was committed, may admit the
15 accused person to bail. The court shall impose conditions of
16 release or bail that are the least restrictive conditions
17 required to ensure the accused's appearance and to protect the
18 public."

19 SECTION 9. Section 804-7, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§804-7 Release after bail. [~~When bail is offered and~~
2 ~~taken the prisoner shall be discharged from custody or~~
3 ~~imprisonment.] Any person for whom a monetary amount of bail
4 has been set by the police, other law enforcement agency, or the
5 court shall be permitted to post the bail amount at the police
6 department, law enforcement agency, or community correctional
7 center where the person is detained. The monetary bail shall be
8 payable on a twenty-four hours a day, seven days a week basis.
9 Upon posting or payment of bail, the person, the person's
10 representative, or the person's agent shall be provided a bail
11 receipt, and the person shall be released from custody
12 forthwith."~~

13 SECTION 10. Section 804-7.1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§804-7.1 Conditions of release on bail, recognizance, or
16 supervised release. Upon a showing that there exists a danger
17 that the defendant will commit a serious crime or will seek to
18 intimidate witnesses, or will otherwise unlawfully interfere
19 with the orderly administration of justice, the judicial officer
20 named in section 804-5 may deny the defendant's release on bail,
21 recognizance, or supervised release.



1 Upon the defendant's release on bail, recognizance, or
2 supervised release, however, the court may enter an order:

3 (1) Prohibiting the defendant from approaching or
4 communicating with particular persons or classes of
5 persons, except that no such order should be deemed to
6 prohibit any lawful and ethical activity of
7 defendant's counsel;

8 (2) Prohibiting the defendant from going to certain
9 described geographical areas or premises;

10 (3) Prohibiting the defendant from possessing any
11 dangerous weapon, engaging in certain described
12 activities, or indulging in intoxicating liquors or
13 certain drugs;

14 (4) Requiring the defendant to report regularly to and
15 remain under the supervision of an officer of the
16 court;

17 (5) Requiring the defendant to maintain employment, or, if
18 unemployed, to actively seek employment, or attend an
19 educational or vocational institution;

20 (6) Requiring the defendant to comply with a specified
21 curfew;



- 1 (7) Requiring the defendant to seek and maintain mental
2 health treatment or testing, including treatment for
3 drug or alcohol dependency, or to remain in a
4 specified institution for that purpose;
- 5 (8) Requiring the defendant to remain in the jurisdiction
6 of the judicial circuit in which the charges are
7 pending unless approval is obtained from a court of
8 competent jurisdiction to leave the jurisdiction of
9 the court;
- 10 (9) Requiring the defendant to satisfy any other condition
11 reasonably necessary to [~~assure~~] ensure the appearance
12 of the [~~person~~] defendant as required and to [~~assure~~]
13 ensure the safety of any other person or community; or
- 14 (10) Imposing any combination of conditions listed
15 above[-];

16 provided that the court shall impose the least restrictive non-
17 financial conditions required to ensure the defendant's
18 appearance and to protect the public.

19 The judicial officer may revoke a defendant's bail upon
20 proof that the defendant has breached any of the conditions
21 imposed."



1 SECTION 11. Section 804-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§804-9 Amount. The amount of bail rests in the
4 discretion of the justice or judge or the officers named in
5 section 804-5 [~~but~~] and shall be set in a reasonable amount
6 based upon all available information, including the offense
7 alleged, the possible punishment upon conviction, and the
8 offender's financial ability to afford bail. The bail amount
9 should be so determined as not to suffer the wealthy to escape
10 by the payment of a pecuniary penalty, nor to render the
11 privilege useless to the poor. [~~In all cases, the officer~~
12 ~~letting to bail should consider the punishment to be inflicted~~
13 ~~on conviction, and the pecuniary circumstances of the party~~
14 ~~accused.] "~~

15 PART IV

16 SECTION 12. The purpose of this part is to afford pretrial
17 detainees greater and continuing opportunities to be released
18 by:

19 (1) Requiring the relevant community correctional centers
20 to conduct regular reviews and surveys of the jail



1 population to identify pretrial defendants who may be
2 appropriate for pretrial release or supervision; and
3 (2) Providing the results of these reviews to the courts
4 who may then consider modifying the previously issued
5 bail order.

6 SECTION 13. Chapter 353, Hawaii Revised Statutes, is
7 amended by adding a new section to part I to be appropriately
8 designated and to read as follows:

9 "§353- Community correctional centers; periodic reviews
10 of pretrial detainees. (a) The relevant community correctional
11 centers, on a periodic basis but no less frequently than every
12 three months, shall conduct reviews of pretrial detainees to
13 reassess whether a detainee should remain in custody or whether
14 new information or a change in circumstances warrants
15 reconsideration of a detainee's pretrial release or supervision.

16 (b) For each review conducted pursuant to subsection (a),
17 the relevant community correctional center shall transmit its
18 findings and recommendations to the appropriate court,
19 prosecuting attorney, and defense counsel.



1 (c) If a motion to modify bail is filed pursuant to a
2 recommendation made pursuant to subsection (b), a hearing shall
3 be scheduled at which the court shall consider the motion."

4 PART V

5 SECTION 14. The purpose of this part is to implement and
6 expand alternatives to pretrial detention by:

- 7 (1) Expressly including electronic monitoring and home
8 detention as alternatives to incarceration in chapter
9 804, Hawaii Revised Statutes;
- 10 (2) Requiring the judiciary, in consultation with the
11 department of public safety, to develop and adopt a
12 policy for courts to use when assessing whether a
13 defendant's risk of non-appearance or recidivism may
14 be mitigated by home detention or electronic
15 monitoring;
- 16 (3) Making appropriations to the department of public
17 safety to support pretrial defendants released from
18 detention on a supervised basis;
- 19 (4) Making appropriations to the department of public
20 safety for the electronic monitoring of pretrial



1 defendants, including the acquisition, operation, and
2 upkeep of electronic monitoring devices; and
3 (5) Requiring the department of public safety to submit a
4 report to the legislature prior to the convening of
5 the regular session of 2020 detailing the department's
6 expenditure plan for the funding appropriated pursuant
7 to this part.

8 SECTION 15. Section 804-7.1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§804-7.1 Conditions of release on bail, recognizance, or**
11 **supervised release.** Upon a showing that there exists a danger
12 that the defendant will commit a serious crime or will seek to
13 intimidate witnesses, or will otherwise unlawfully interfere
14 with the orderly administration of justice, the judicial officer
15 named in section 804-5 may deny the defendant's release on bail,
16 recognizance, or supervised release.

17 Upon the defendant's release on bail, recognizance, or
18 supervised release, however, the court may enter an order:

19 (1) Prohibiting the defendant from approaching or
20 communicating with particular persons or classes of
21 persons, except that no such order should be deemed to



- 1 prohibit any lawful and ethical activity of
2 defendant's counsel;
- 3 (2) Prohibiting the defendant from going to certain
4 described geographical areas or premises;
- 5 (3) Prohibiting the defendant from possessing any
6 dangerous weapon, engaging in certain described
7 activities, or indulging in intoxicating liquors or
8 certain drugs;
- 9 (4) Requiring the defendant to report regularly to and
10 remain under the supervision of an officer of the
11 court;
- 12 (5) Requiring the defendant to maintain employment, or, if
13 unemployed, to actively seek employment, or attend an
14 educational or vocational institution;
- 15 (6) Requiring the defendant to comply with a specified
16 curfew;
- 17 (7) Requiring the defendant to seek and maintain mental
18 health treatment or testing, including treatment for
19 drug or alcohol dependency, or to remain in a
20 specified institution for that purpose;



1 (8) Requiring the defendant to remain in the jurisdiction
2 of the judicial circuit in which the charges are
3 pending unless approval is obtained from a court of
4 competent jurisdiction to leave the jurisdiction of
5 the court;

6 (9) Requiring the defendant to submit to the use of
7 electronic monitoring and surveillance;

8 (10) Requiring the confinement of the defendant in the
9 defendant's residence;

10 [~~9~~] (11) Requiring the defendant to satisfy any other
11 condition reasonably necessary to assure the
12 appearance of the person as required and to assure the
13 safety of any other person or community; or

14 [~~10~~] (12) Imposing any combination of conditions listed
15 above.

16 The judicial officer may revoke a defendant's bail upon
17 proof that the defendant has breached any of the conditions
18 imposed."

19 SECTION 16. The judiciary, in consultation with the
20 department of public safety, shall develop and adopt a policy
21 for courts to use when assessing as a condition for release on



1 bail whether a defendant's risk of non-appearance or recidivism
2 may be mitigated by home detention or electronic monitoring.

3 The policy shall include:

- 4 (1) Specific criteria for the court to consider when
5 making this decision; and
- 6 (2) A requirement for a court to provide specific findings
7 explaining the court's determination that home
8 detention or electronic monitoring is not appropriate
9 for a defendant.

10 SECTION 17. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2019-2020 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2020-2021 for the intake service centers to support pretrial
15 defendants released from detention on a supervised basis through
16 the establishment or expansion of any of the following support
17 services:

- 18 (1) Residential and outpatient treatment programs for
19 substance abuse and mental health disorders;
- 20 (2) Housing with support services for homeless defendants;



1 (3) Day-reporting centers for defendants who may have
2 difficulty complying with regular supervised release;

3 (4) Electronic monitoring, including the acquisition,
4 operation, and upkeep of electronic monitoring
5 devices; and

6 (5) Any other alternative programs implemented by the
7 department of public safety pursuant to section
8 353-10.5, Hawaii Revised Statutes;

9 provided that the department of public safety may contract with
10 private service providers for the foregoing services.

11 The sums appropriated shall be expended by the department
12 of public safety for the purposes of this part.

13 SECTION 18. The department of public safety shall submit a
14 report to the legislature, no later than twenty days prior to
15 the convening of the regular session of 2020, detailing the
16 department's expenditure plan for the funding appropriated
17 pursuant to this part.

18 PART VI

19 SECTION 19. The purpose of this part is to integrate
20 victims' rights into the criminal pretrial system by requiring



1 that intake service centers consider victims' concerns when
2 making pretrial release recommendations.

3 SECTION 20. (a) No later than December 31, 2020, the
4 department of public safety shall revise the pretrial risk
5 assessment processes currently used by its intake service
6 centers with respect to offenses committed against persons,
7 including offenses involving domestic violence and violation of
8 restraining orders and protective orders, to ensure integration
9 of victims' rights into the criminal pretrial system by
10 requiring consideration of the following factors in making
11 pretrial release recommendations:

- 12 (1) Whether the defendant has a history of involvement
13 with the victim of the offense, including any prior
14 police contact that involved both the victim and the
15 defendant, and the status of the relationship between
16 the victim and the defendant, if any;
- 17 (2) Whether the defendant has any prior criminal history;
- 18 (3) Whether there is a risk that the defendant will re-
19 victimize, stalk, or otherwise harm the victim; and
- 20 (4) Any concerns raised by the victim with respect to the
21 defendant's potential release from custody.



1 (b) The department shall submit a report to the
2 legislature, no later than twenty days prior to the convening of
3 the regular session of 2021, on the progress made in revising
4 the pretrial risk assessment processes, as required by
5 subsection (a).

6 PART VII

7 SECTION 21. The purpose of this part is to appropriate
8 moneys to the department of public safety to provide intake
9 service centers with necessary funding, personnel, training,
10 facilities, access, information, and technical support to meet
11 current and projected future responsibilities in conducting
12 timely risk assessments, efficiently disseminating bail reports,
13 and supervising pretrial defendants.

14 SECTION 22. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so much
16 thereof as may be necessary for fiscal year 2019-2020 and the
17 same sum or so much thereof as may be necessary for fiscal year
18 2020-2021 for necessary personnel, training, facilities, access,
19 information, and technical support for intake service centers to
20 meet current and projected responsibilities in conducting timely



1 risk assessments, efficiently disseminating bail reports, and
2 supervising pretrial defendants.

3 The sums appropriated shall be expended by the department
4 of public safety for the purposes of this part.

5 PART VIII

6 SECTION 23. This Act does not affect rights and duties
7 that matured, penalties that were incurred, and proceedings that
8 were begun before its effective date.

9 SECTION 24. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 25. This Act shall take effect on July 1, 2050.



Report Title:

Criminal Pretrial Reform; Criminal Pretrial Practices and Procedures; Criminal Pretrial Task Force; Courts; Unsecured Bail

Description:

Implements recommendations of the Criminal Pretrial Task Force convened pursuant to House Concurrent Resolution No. 134, House Draft 1, Regular Session of 2017. Authorizes a defendant in custody to petition a court for unsecured bail. (SB192 HD2)

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

