

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO CORRECTIONS.

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

1           SECTION 1. The legislature finds that House Concurrent  
2 Resolution No. 134, H.D. 1 (2017), established a task force to  
3 examine and make recommendations regarding criminal pretrial  
4 practices and procedures. The legislature further finds that  
5 generally, court determinations as to whether a defendant is  
6 detained or released are made at or about the time of the  
7 initial arraignment hearing. Thereafter, a defendant's bail or  
8 release is rarely addressed. In order to afford the pretrial  
9 detainee greater and continuing opportunities to be released,  
10 intake service centers should conduct periodic reviews of each  
11 pretrial detainee's status.

12           Based on the findings of the task force, the legislature  
13 finds that pretrial risk assessments and bail reports should be  
14 completed within two, instead of three, working days to address  
15 bail at the earliest phase of the pretrial process.

16           The purpose of this Act is to require periodic reviews and  
17 public reporting of the pretrial intake screening process of



1 defendants for potential pretrial release and to improve clarity  
2 and consistency in the intake process.

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

5 "(b) The centers shall:

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

7 (2) Provide social-medical-psychiatric-psychological  
8 diagnostic evaluation;

9 (3) Conduct internal pretrial risk assessments and prepare  
10 and provide a bail report to the court on adult  
11 offenders within [three] two working days of admission  
12 to a community correctional center [~~which shall then~~  
13 ~~be provided to the court for its consideration]~~;  
14 provided that this paragraph shall not apply to  
15 persons subject to county or state detainers, holds,  
16 or persons detained without bail, persons detained for  
17 probation violation, persons facing revocation of bail  
18 or supervised release, and persons who have had a  
19 pretrial risk assessment completed prior to admission  
20 to a community correctional center. For purposes of  
21 this [+]paragraph[+], "pretrial risk assessment" means



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1 an objective, research-based, validated assessment  
2 tool that measures a defendant's risk of flight [and],  
3 risk of criminal conduct, and risk of violence or harm  
4 to any person or the general public while on pretrial  
5 release pending adjudication[+]. The pretrial risk  
6 assessment tool and procedures associated with its  
7 administration shall be periodically reviewed and  
8 subject to further validation at least every five  
9 years to evaluate the effectiveness of the tool and  
10 the procedures associated with its administration.  
11 The findings of any such review shall be publicly  
12 reported;

- 13 (4) Provide correctional prescription program planning and  
14 security classification;
- 15 (5) Provide other personal and correctional services as  
16 needed for both detained and committed persons;
- 17 (6) Monitor and record the progress of persons assigned to  
18 correctional facilities who undergo further treatment  
19 or who participate in prescribed correctional  
20 programs;



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1 (7) Provide continuing supervision and control of persons  
2 ordered to be placed on pretrial supervision by the  
3 court and persons ordered by the director; ~~and~~

4 (8) Make inquiry with the defendant concerning their  
5 financial circumstances and report any information in  
6 the bail report; and

7 ~~(8)~~ (9) Provide pretrial bail reports within two working  
8 days to the courts on adult offenders that are  
9 consented to by the defendant or that are ordered by  
10 the court. A complete copy of the executed pretrial  
11 risk assessment delineating the scored items, the  
12 total score, any administrative scoring overrides  
13 applied, and written explanations for administrative  
14 scoring overrides shall be included in the report.

15 The pretrial bail reports shall be confidential and  
16 shall not be deemed to be public records. A copy of a  
17 pretrial bail report shall be provided only:

- 18 (A) To the defendant or defendant's counsel;
- 19 (B) To the prosecuting attorney;
- 20 (C) To the department of public safety;



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- 1 (D) To any psychiatrist, psychologist, or other
- 2 treatment practitioner who is treating the
- 3 defendant pursuant to a court order;
- 4 (E) Upon request, to the adult client services
- 5 branch; and
- 6 (F) In accordance with applicable laws, persons, or
- 7 entities doing research."

8 SECTION 3. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2019.

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INTRODUCED BY: Clarence Washburn  
Randy H. Bell  
D. K. ...  
Frederic ...  
Paul ...



# S.B. NO. 1540

**Report Title:**

Corrections; Department of Public Safety; Intake Service Centers; Pretrial Risk Assessments

**Description:**

Requires intake service centers to conduct pretrial risk assessments and prepare bail reports within two, instead of three, working days. Requires bail reports to include a complete copy of the pretrial risk assessment, including, among other requirements, a written explanation of administrative scoring overrides. Requires the pretrial risk assessment to include the defendant's financial circumstances and risk of violence or harm to any person and the general public. Requires the pretrial risk assessment tool and procedures to be reviewed every five years and the review findings publicly reported.

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

