
A BILL FOR AN ACT

RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

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

1 SECTION 1. The legislature finds that the community court
2 outreach project established by Act 55, Session Laws of Hawaii
3 2017, has been successful in establishing a mobile court to hold
4 hearings at community sites to dispose of cases for which the
5 prosecuting attorney and public defender have negotiated and
6 reached plea agreements on the disposition of defendants charged
7 with nonviolent, nonfelony offenses. The legislature further
8 finds that there is a need to amend the project to ensure that
9 persons experiencing homelessness or who have recently
10 experienced homelessness have access to the project at community
11 sites in the judicial districts where those persons currently
12 live or receive mental health services, substance abuse
13 treatment, sustenance, shelter, or other social services.

14 Accordingly, the purpose of this Act is to make the
15 community court outreach project permanent and:



- 1 (1) Amend the project to specifically address defendants
- 2 experiencing homelessness or who have recently
- 3 experienced homelessness;
- 4 (2) Expand the opportunities for eligible defendants to
- 5 participate in the project; and
- 6 (3) Appropriate funds for additional personnel and
- 7 enhanced security services.

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

11 "CHAPTER

12 COMMUNITY COURT OUTREACH PROJECT

13 § -1 Definitions. For the purposes of this chapter:

14 "Community court outreach project" or "project" means the
15 community court outreach project established by this chapter.

16 "Experiencing homelessness" means a person who:

- 17 (1) Lacks a fixed, regular, and adequate night-time
- 18 residence; or
- 19 (2) Has a primary night-time residence that is:



- 1 (A) A supervised publicly or privately operated
- 2 shelter designed to provide temporary living
- 3 accommodations;
- 4 (B) An institution that provides temporary residence
- 5 for individuals intended to be institutionalized;
- 6 or
- 7 (C) A public or private place not designed for or
- 8 ordinarily used as sleeping accommodations for
- 9 human beings.

10 "Prosecuting attorney" means the prosecuting attorney of
11 the city and county of Honolulu.

12 "Public defender" means the public defender of the State.

13 "Recently experienced homelessness" means a person who has
14 experienced homelessness during the past six months.

15 **§ -2 Community court outreach project; establishment;**

16 **purpose.** (a) There is established the community court outreach
17 project to help nonviolent offenders who are currently
18 experiencing homelessness or have recently experienced
19 homelessness, and who may face problems such as drug abuse and
20 mental health challenges, to obtain basic services and
21 necessities, like food and shelter. The program shall be



1 administered and operated by the judiciary in the city and
2 county of Honolulu.

3 (b) The purpose of the project shall be to operate a
4 mobile court that:

5 (1) Travels to communities where defendants who are
6 currently experiencing homelessness or have recently
7 experienced homelessness:

8 (A) Have been cited or arrested for certain
9 nonviolent offenses; and

10 (B) Do not pose a threat to the public; and

11 (2) Disposes of the cases of defendants who enter plea
12 agreements after negotiations between the prosecuting
13 attorney and defense counsel.

14 § -3 **Project process.** (a) Under the project, the court
15 shall hold hearings at community sites to dispose of cases for
16 which the prosecuting attorney and defense counsel have
17 negotiated and reached plea agreements on the disposition of the
18 defendants.

19 (b) Only cases involving defendants who are currently
20 experiencing homelessness or have recently experienced
21 homelessness and charged with nonviolent, nonfelony offenses



1 under state law and city ordinance may be heard and disposed of
2 under the project.

3 (c) The public defender shall engage a social service or
4 health care professional to provide outreach services to
5 defendants charged with the identified offenses who:

- 6 (1) Are willing to participate in the project;
- 7 (2) Are willing to be represented by the public defender;
- 8 and
- 9 (3) May benefit from participation in the project.

10 After consulting with the social service or health care
11 professional, the public defender shall develop a list of the
12 defendants who are potential participants in the project and
13 transmit the list to the prosecuting attorney.

14 (d) The prosecuting attorney shall review the list and may
15 select from the list those defendants who the prosecuting
16 attorney determines may be appropriate for participation in the
17 project. The prosecuting attorney shall enter into plea
18 agreement negotiations with the public defender for disposition
19 of all active cases pending against the defendants. The
20 prosecuting attorney and the public defender may enter into



1 negotiations regarding resentencing in cases where judgments
2 were previously entered, to the extent permitted by law.

3 (e) The prosecuting attorney shall make the list of
4 potential project participants available for the court's review.
5 The list shall include any reason the prosecuting attorney
6 declined to recommend the defendant for participation in the
7 project.

8 (f) In addition to the project participant selection
9 process set forth in subsections (c) and (d):

10 (1) Any trial judge of this State may refer a defendant
11 whose case the judge is currently presiding over;

12 (2) Any probation officer of this State may refer a
13 defendant who is currently placed on probation under
14 the officer's supervision; and

15 (3) Any court-appointed attorney may refer a defendant who
16 is currently represented by the court-appointed
17 attorney,

18 for voluntary participation in the project. The public defender
19 shall engage a social service or health care professional to
20 provide outreach services to defendants referred to the project
21 pursuant to this subsection. The prosecuting attorney shall



1 enter into plea agreement negotiations with defense counsel for
2 disposition of all active cases pending against the defendants.
3 The prosecuting attorney and defense counsel may enter into
4 negotiations regarding resentencing in cases where judgments
5 were previously entered, to the extent permitted by law.

6 (g) The plea agreement for a defendant may include a
7 proposed fine, community service, court-ordered treatment, other
8 court-ordered condition, or any other action that the court has
9 the authority to take.

10 (h) Before a defendant's admission into the project, the
11 prosecuting attorney and defense counsel, in consultation with
12 the social service or health care professional providing
13 outreach services to the defendant pursuant to subsection (c) or
14 (f), shall jointly provide the court with an assessment
15 regarding:

16 (1) The specific mental health, substance abuse treatment,
17 sustenance, shelter, and other social services needed
18 by the defendant;

19 (2) A list of all active criminal and traffic cases
20 currently pending against the defendant;



1 (3) A list of criminal and traffic cases in which
2 judgments have been entered against the defendant but
3 the defendant has not completed the terms and
4 conditions of those judgments; and

5 (4) Whether the defendant presents any threat to the
6 public.

7 (i) At the hearing, the court may finalize the plea
8 agreement by court order or judgment; provided that the court
9 shall not be bound by the proposed disposition in the plea
10 agreement.

11 (j) The inability of the prosecuting attorney and defense
12 counsel to reach a plea agreement shall not preclude a defendant
13 from petitioning the court for continued participation in the
14 project to maintain the defendant's access to services or to
15 seek further resolution of the defendant's case.

16 (k) Following a defendant's admission into the project,
17 the court shall monitor the defendant's progress for at least
18 six months. Upon the defendant's successful completion of all
19 terms and conditions ordered by the court, the court may dismiss
20 the cases with or without prejudice in the interest of justice.



1 **§ -4 Subject to the availability of funds.** Subject to
2 the availability of sufficient funds through a specific
3 appropriation, transfer of an appropriation from another state
4 agency, or a federal or other grant:

5 (1) The judiciary shall administer and operate the
6 project; and

7 (2) The prosecuting attorney and public defender shall
8 participate in the project.

9 **§ -5 Biennial report.** The chief justice shall submit a
10 biennial report on the project to the legislature and the
11 governor at least twenty days prior to the convening of the
12 regular session held in every odd-numbered year. The report
13 shall include a quantification and discussion of program
14 measures and outcomes. In any report, the chief justice may
15 recommend that this chapter be amended, expanded to other
16 counties, or terminated. The report shall also include the
17 comments and recommendations of the prosecuting attorney and
18 public defender."

19 SECTION 3. Act 55, Session Laws of Hawaii 2017, is
20 repealed.



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2023-2024 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2024-2025 for the establishment of four permanent positions
6 as follows:

- 7 (1) One full-time equivalent (1.0 FTE) court clerk
8 position (\$);
- 9 (2) One full-time equivalent (1.0 FTE) court bailiff
10 position (\$); and
- 11 (3) Two full-time equivalent (2.0 FTE) judicial clerk
12 positions (\$),

13 for the community court outreach project.

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

16 SECTION 5. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2023-2024 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2024-2025 for security services for the community court
21 outreach project.



1 The sums appropriated shall be expended by the judiciary
2 for the purposes of this Act.

3 SECTION 6. This Act shall take effect on July 1, 2023;
4 provided that section 3 shall take effect on June 30, 2023.

5

INTRODUCED BY:

Doug Bernas

JAN 25 2023



H.B. NO. 1404

Report Title:

Community Court Outreach Project; Judiciary; Honolulu
Prosecutor; Public Defender; Appropriation

Description:

Makes the community court outreach project permanent. Amends the project to address homeless defendants and expand the opportunities for eligible defendants to participate. Appropriates funds for additional personnel and enhanced security services.

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