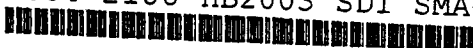

A BILL FOR AN ACT

RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES.

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

1 SECTION 1. The legislature finds that comprehensive
2 legislation is needed to ensure the safety of Hawaii residents
3 due to the use of and addiction to crystal methamphetamine
4 (especially in the form known as "ice"), which has reached
5 epidemic proportions and is currently considered a public health
6 crisis.

7 In the summer of 2003, the speaker of the house of
8 representatives and president of the senate appointed eighteen
9 legislators to the Joint House-Senate Task Force on Ice and Drug
10 Abatement (Task Force). The mission of the Task Force was to
11 find a solution to the ice epidemic and draft comprehensive
12 legislation to address the problems created by the ice epidemic.
13 After nearly eighty hours of informational briefings, public
14 hearings, and site visits, and the input of over four hundred
15 persons, the Task Force concluded that the solution to the ice
16 epidemic is to treat the present generation of ice abusers and
17 prevent future generations from becoming substance abusers. At
18 the request of the leaders of both houses, a report on the



Accordingly, the legislature adopts the findings and recommendations in the "Final Report of the Task Force" relating to the ice epidemic that:

(2) Hawaii has been experiencing a second wave of the disease in the last few years, as the longer term

1 effects of the early onset of the disease now manifest
2 themselves in the addicted population (Task Force
3 testimony of William Wood). For example, based on
4 information reported to the Task Force, most
5 recovering addicts report long-term use of ice in the
6 range of five to ten years or longer. Trends in adult
7 arrests for drug possession in Hawaii for the past ten
8 years reflect this second wave. Arrests for
9 possession of ice (reported as a "nonnarcotic" drug)
10 peaked in 1997, then declined for two years. Starting
11 in 2000, arrests for ice possession began to
12 dramatically increase. In 2002, ice possession
13 arrests had nearly tripled since 1999 and more than
14 doubled the peak in 1997 (Office of the Attorney
15 General of the State of Hawaii, Crime in Hawaii 2002,
16 p. 110). Similarly, although less dramatic, the drug
17 offenses in the manufacture and sale of ice over the
18 past ten years reflect the same peak in 1997 followed
19 by a one year decline, then a steady increase since
20 1999 to their highest levels in 2002 (Id.);
21 (3) Ice addiction is now the number one substance for
22 which publicly funded treatment is sought, surpassing

admissions for alcohol addiction. Between 1998 and 2002, admissions into treatment for ice increased by approximately eighty per cent (Task Force testimony by Elaine Wilson, DOH/ADAD). Nearly every adult in recovery who spoke to the Task Force reported ice as the primary drug of choice. Similarly, every agency testifying before the Task Force that provided adult drug treatment services reported ice as the primary drug of choice in its treatment population;

(4) Deaths associated with ice have dramatically risen over the years. Oahu deaths associated with ice usage rose from eleven in 1991, to twenty-seven in 1998, and to sixty-two in 2002 (Task Force testimony of William Wood). Similarly, on the neighbor islands, deaths associated with methamphetamine usage rose from one in 1998 to twenty in 2002 (Task Force testimony of Clifford Wong); and

(5) Hawaii's ice usage by those persons arrested is among the highest in the nation. Among adult men arrested who tested positive for drug use, 37.4 per cent tested positive for ice in 2001. The ice usage rate for arrested males is the highest in the nation. Among

The legislature further finds that Hawaii has a compelling state interest in enacting the following laws to control the use of ice and other illegal drugs:

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Nearly half of the adolescents in school report experimentation with illegal drugs by the twelfth grade, forty per cent by the tenth grade, and over twenty per cent by the eighth grade (See, "Final Report of the Task Force", pp. 39-40). Over five thousand adolescents in school need treatment for illegal drug use (See, "Final Report of the Task Force", p. 34). This means that distribution of illegal drugs to students in school remains a fertile ground for drug traffickers, using

1 minors as conduits for drug distribution. This practice must be
2 stopped.

3 The sale of ice is a lucrative illegal business in Hawaii.
4 The price for one-fourth gram of ice ranges from \$50 to \$250 and
5 one pound of ice goes for \$20,000 to \$45,000 (2004 Report of the
6 federal High Intensity Drug Trafficking Area program (HIDTA)).
7 The daily cost of ice addiction is estimated to range between
8 \$50 to \$170 per person (Task Force Testimony of Keith Kamita,
9 Edward Kubo). While no precise numbers are available, daily ice
10 usage is estimated at a street value of between \$1.5 to over \$5
11 million (Task Force Testimony of Peter Carlisle, Edward Kubo).
12 This large consumption of ice reinforces the need for treatment
13 for the addicted population to reduce the demand for this toxic
14 drug.

15 The purpose of this part is to:

16 (1) Add new laws that establish penalties for the
17 manufacture or distribution of crystal methamphetamine
18 similar to federal law, 21 United States Code Section
19 841, and permit the court to impose fines for clean up
20 of methamphetamine materials and pay restitution to
21 persons injured by the manufacture of methamphetamine;

- 1 (2) Create enhanced penalties for persons who place
2 children in danger while illegally manufacturing any
3 controlled substance;
- 4 (3) Create a new offense of promoting controlled
5 substances through the use of a minor with a higher
6 class of offense for drug trafficking in or near
7 schools and parks; and
- 8 (4) Amend drug paraphernalia laws to be more consistent
9 with the federal laws to more easily convict a person
10 for the sale of drug paraphernalia.

11 SECTION 3. Chapter 712, part IV, Hawaii Revised Statutes,
12 is amended by adding three new sections to be appropriately
13 designated and to read as follows:

14 **"§712-A Manufacturing a controlled substance with a child**

15 **present.** (1) Except as provided in subsection (2), any person
16 convicted of manufacturing a controlled substance in violation
17 of this chapter, who commits the offense knowing that a child
18 under the age of sixteen is present in the structure where the
19 offense occurs, shall be sentenced to a term of two years
20 imprisonment to run consecutively to the maximum indeterminate
21 term of imprisonment for the conviction of any offense involving
22 the manufacturing of a controlled substance.

1 (2) Any person convicted of manufacturing a controlled
2 substance in violation of this chapter, who commits the offense
3 knowing that a child under the age of eighteen is present in the
4 structure where the offense occurs and causes the child to
5 suffer serious or substantial bodily injury as defined in
6 section 707-700, shall be sentenced to a term of five years
7 imprisonment to run consecutively to the maximum indeterminate
8 term of imprisonment for the conviction of any offense involving
9 the manufacturing of a controlled substance.

10 (3) As used in this section, "structure" means any house,
11 apartment building, shop, warehouse, building, vessel, cargo
12 container, motor vehicle, tent, recreational vehicle, trailer,
13 or other enclosed space capable of holding a child and equipment
14 for the manufacture of a controlled substance.

15 **§712-B Unlawful methamphetamine trafficking; penalties.**

16 (1) A person commits the offense of unlawful methamphetamine
17 trafficking if the person knowingly manufactures, distributes,
18 dispenses, or possesses with intent to manufacture, distribute
19 or dispense, one or more preparations, compounds, mixtures, or
20 substances of methamphetamine, or any of its salts, isomers, and
21 salts of isomers.



1 (2) The manufacture, distribution, or dispensing of or
2 possession with intent to manufacture, distribute, or dispense
3 one or more preparations, compounds, mixtures, or substances of
4 an aggregate weight of one-eighth ounce or more of
5 methamphetamine, or any of its salts, isomers, and salts of
6 isomers is a class A felony with a mandatory minimum prison term
7 of five years; provided however:

8 (a) If death or serious bodily injury as defined in
9 section 707-700 to any person other than the
10 defendant, results from the manufacture, distribution,
11 or dispensing of or possession with intent to
12 manufacture, distribute, or dispense any
13 methamphetamine substance, conviction under this
14 section shall be treated as a class A felony, with a
15 mandatory minimum prison term of ten years and a fine
16 not to exceed \$4,000,000 if the defendant is an
17 individual, or a fine not to exceed \$10,000,000 if the
18 defendant is other than an individual; and

19 (b) If the defendant has been convicted of any felony drug
20 offense prior to conviction of the offense under this
21 section, conviction under this section shall be
22 punishable by a term of life imprisonment with the

1 possibility of parole, with a mandatory minimum prison
2 term of fifteen years and a fine not to exceed
3 \$8,000,000 if the defendant is an individual, or a
4 fine not to exceed \$20,000,000 if the defendant is
5 other than an individual.

6 (3) The manufacture, distribution, or dispensing of one or
7 more preparations, compounds, mixtures, or substances of an
8 aggregate weight of less than one-eighth ounce of
9 methamphetamine, or any of its salts, isomers, and salts of
10 isomers is a class B felony with a mandatory minimum prison term
11 of three years; provided however:

12 (a) If death or serious bodily injury as defined in
13 section 707-700 to any person other than the defendant
14 results from the manufacture, distribution or
15 dispensing of any methamphetamine substance,
16 conviction under this section shall be treated as a
17 class B felony, with a mandatory minimum prison term
18 of five years and a fine not to exceed \$2,000,000 if
19 the defendant is an individual, or a fine not to
20 exceed \$5,000,000 if the defendant is other than an
21 individual; and

1 **(b) If the defendant has been convicted of any felony drug**
2 **offense prior to conviction of the offense under this**
3 **section, conviction under this section shall be**
4 **treated as a class A felony, with a mandatory minimum**
5 **prison term of eight years and a fine not to exceed**
6 **\$4,000,000 if the defendant is an individual, or a**
7 **fine not to exceed \$10,000,000 if the defendant is**
8 **other than an individual.**

9 **(c) If the distribution or dispensing of any amount of a**
10 **methamphetamine substance is to a minor, then**
11 **conviction under this section shall be treated as a**
12 **class A felony, with a mandatory minimum prison term**
13 **of five years.**

14 **(4) A defendant convicted of the offense of unlawful**
15 **methamphetamine trafficking shall be sentenced in accordance**
16 **with this section, notwithstanding sections 706-620(2), 706-659,**
17 **706-640, and 706-641. When sentencing a defendant convicted of**
18 **the offense of unlawful methamphetamine trafficking, the court**
19 **may order restitution or reimbursement to:**

20 **(a) The state or county government for the cost incurred**
21 **for any cleanup associated with the manufacture,**
22 **distribution, or dispensing of methamphetamine, or any**

1 of its salts, isomers, and salts of isomers by the
2 defendant; and

3 (b) Any other person injured as a result of the
4 manufacture, distribution, or dispensing of
5 methamphetamine, or any of its salts, isomers, and
6 salts of isomers, by the defendant.

7 **§712-C Promoting a controlled substance through a minor.**

8 (1) A person age eighteen or over commits the offense of
9 promoting a controlled substance through a minor if the person
10 knowingly employs, hires, uses, persuades, induces, entices, or
11 coerces a minor to facilitate the illegal distribution of a
12 controlled substance.

13 (2) The offense of promoting a controlled substance
14 through a minor is a class B felony unless the offense occurs
15 in, on, or near the real property comprising a school, school
16 vehicles, or public parks as prohibited under section
17 712-1249.6, in which case it is a class A felony."

18 SECTION 4. Section 329-1, Hawaii Revised Statutes, is
19 amended by amending the definitions of "deliver" or "delivery"
20 and "drug paraphernalia" to read as follows:

21 ""Deliver" or "delivery" means the actual, constructive, or
22 attempted transfer or sale from one person to another of a

1 controlled substance[7] or drug paraphernalia, whether or not
2 there is an agency relationship.

3 "Drug paraphernalia" means all equipment, products, and
4 materials of any kind which are used, primarily intended for
5 use, or primarily designed for use, in planting, propagating,
6 cultivating, growing, harvesting, manufacturing, compounding,
7 converting, producing, processing, preparing, testing,
8 analyzing, packaging, repackaging, storing, containing,
9 concealing, injecting, ingesting, inhaling, or otherwise
10 introducing into the human body a controlled substance in
11 violation of this chapter. It includes[7] but is not limited
12 to:

13 (1) Kits used, primarily intended for use, or primarily
14 designed for use in planting, propagating,
15 cultivating, growing, or harvesting of any species of
16 plant which is a controlled substance or from which a
17 prohibited controlled substance can be derived;

18 (2) Kits used, primarily intended for use, or primarily
19 designed for use in manufacturing, compounding,
20 converting, producing, processing, or preparing
21 prohibited controlled substances;

- 1 (3) Isomerization devices used, primarily intended for
2 use, or primarily designed for use in increasing the
3 potency of any species of plant which is a prohibited
4 controlled substance;
- 5 (4) Testing equipment used, primarily intended for use, or
6 primarily designed for use in identifying, or in
7 analyzing the strength, effectiveness, or purity of
8 prohibited controlled substances;
- 9 (5) Scales and balances used, primarily intended for use,
10 or primarily designed for use in weighing or measuring
11 prohibited controlled substances;
- 12 (6) Diluents and adulterants; such as quinine
13 hydrochloride, mannitol, mannite, dextrose, and
14 lactose, used, primarily intended for use, or
15 primarily designed for use in cutting prohibited
16 controlled substances;
- 17 (7) Separation gins and sifters used, primarily intended
18 for use, or primarily designed for use in removing
19 twigs and seeds from, or in otherwise cleaning or
20 refining, prohibited marijuana;
- 21 (8) Blenders, bowls, containers, spoons, and mixing
22 devices used, primarily intended for use, or primarily

1 designed for use in compounding prohibited controlled
2 substances;

3 (9) Capsules, balloons, envelopes, and other containers
4 used, primarily intended for use, or primarily
5 designed for use in packaging small quantities of
6 prohibited controlled substances;

7 (10) Containers and other objects used, primarily intended
8 for use, or primarily designed for use in storing or
9 concealing prohibited controlled substances;

10 (11) Hypodermic syringes, needles, and other objects used,
11 primarily intended for use, or primarily designed for
12 use in parenterally injecting prohibited controlled
13 substances into the human body;

14 (12) Objects used, primarily intended for use, or primarily
15 designed for use in ingesting, inhaling, or otherwise
16 introducing prohibited marijuana, cocaine, hashish,
17 [~~or~~] hashish oil, or methamphetamine into the human
18 body, such as:

19 (A) Metal, wooden, acrylic, glass, stone, plastic, or
20 ceramic pipes with or without screens, permanent
21 screens, hashish heads, or punctured metal bowls;

22 (B) Water pipes;

- 1 (C) Carburetion tubes and devices;
- 2 (D) Smoking and carburetion masks;
- 3 (E) Roach clips: meaning objects used to hold
- 4 burning materials, such as marijuana cigarettes,
- 5 that have become too small or too short to be
- 6 held in the hand;
- 7 (F) Miniature cocaine spoons, and cocaine vials;
- 8 (G) Chamber pipes;
- 9 (H) Carburetor pipes;
- 10 (I) Electric pipes;
- 11 (J) Air-driven pipes;
- 12 (K) Chillums;
- 13 (L) Bongs; and
- 14 (M) Ice pipes or chillers.

15 In determining whether an object is drug paraphernalia, a

16 court or other authority should consider, in addition to all

17 other logically relevant factors, the following:

- 18 (1) Statements by an owner or by anyone in control of the
- 19 object concerning its use;
- 20 (2) Prior convictions, if any, of an owner, or of anyone
- 21 in control of the object, under any state or federal
- 22 law relating to any controlled substance;



- 1 (3) The proximity of the object, in time and space, to a
- 2 direct violation of this chapter;
- 3 (4) The proximity of the object to controlled substances;
- 4 (5) The existence of any residue of controlled substances
- 5 on the object;
- 6 (6) Direct or circumstantial evidence of the intent of an
- 7 owner, or of anyone in control of the object, to
- 8 deliver it to a person or persons whom the owner or
- 9 person in control knows, or should reasonably know,
- 10 intend to use the object to facilitate a violation of
- 11 this chapter; the innocence of an owner, or of anyone
- 12 in control of the object, as to a direct violation of
- 13 this chapter shall not prevent a finding that the
- 14 object is intended for use, or designed for use as
- 15 drug paraphernalia;
- 16 (7) Instructions, oral or written, provided with the
- 17 object concerning its use;
- 18 (8) Descriptive materials accompanying the object which
- 19 explain or depict its use;
- 20 (9) National and local advertising concerning its use;
- 21 (10) The manner in which the object is displayed for sale;

1 (11) Whether the owner, or anyone in control of the object,
2 is a legitimate supplier of like or related items to
3 the community, such as a licensed distributor or
4 dealer of tobacco products;

5 (12) Direct or circumstantial evidence of the ratio of
6 sales of the object or objects to the total sales of
7 the business enterprise;

8 (13) The existence and scope of legitimate uses for the
9 object in the community; and

10 (14) Expert testimony concerning its use."

11 SECTION 5. Section 712-1241, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§712-1241 Promoting a dangerous drug in the first degree.**

14 (1) A person commits the offense of promoting a dangerous drug
15 in the first degree if the person knowingly:

16 (a) Possesses one or more preparations, compounds,
17 mixtures, or substances of an aggregate weight of:

18 (i) One ounce or more, containing methamphetamine,
19 heroin, morphine, or cocaine or any of their
20 respective salts, isomers, and salts of isomers;
21 or

- 1 (ii) One and one-half ounce or more, containing one or
2 more of any of the other dangerous drugs; or
3 (b) Distributes[+], except for methamphetamine as provided
4 in section 712-B:
5 (i) Twenty-five or more capsules, tablets, ampules,
6 dosage units, or syrettes containing one or more
7 dangerous drugs; or
8 (ii) One or more preparations, compounds, mixtures, or
9 substances of an aggregate weight of:
10 (A) One-eighth ounce or more, containing
11 [~~methamphetamine,~~] heroin, morphine, or
12 cocaine or any of their respective salts,
13 isomers, and salts of isomers; or
14 (B) Three-eighths ounce or more, containing any
15 other dangerous drug;
16 (c) Distributes any dangerous drug in any amount to a
17 minor[+] except for methamphetamine as provided in
18 section 712-B; or
19 (d) Manufactures a dangerous drug in any amount[+], except
20 for methamphetamine as provided in section 712-B;
21 provided that this subsection shall not apply to any
22 person registered under section 329-32.

1 (2) Promoting a dangerous drug in the first degree is a
2 class A felony.

3 ~~[(3) Notwithstanding any law to the contrary, except for~~
4 ~~first-time offenders sentenced under section 706-622.5, if the~~
5 ~~commission of the offense of promoting a dangerous drug in the~~
6 ~~first degree under this section involved the possession,~~
7 ~~distribution, or manufacture of methamphetamine, or any of its~~
8 ~~salts, isomers, and salts of isomers, the person convicted shall~~
9 ~~be sentenced to an indeterminate term of imprisonment of twenty~~
10 ~~years with a mandatory minimum term of imprisonment, the length~~
11 ~~of which shall be not less than one year and not greater than~~
12 ~~ten years, at the discretion of the sentencing court for a~~
13 ~~conviction under subsection (1)(a), (1)(b), or (1)(c) and not~~
14 ~~less than ten years for a conviction under subsection (1)(d).~~
15 ~~The person convicted shall not be eligible for parole during the~~
16 ~~mandatory term of imprisonment.]"~~

17 SECTION 6. Section 712-1242, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§712-1242 Promoting a dangerous drug in the second
20 degree. (1) A person commits the offense of promoting a
21 dangerous drug in the second degree if the person knowingly:

- 1 (a) Possesses twenty-five or more capsules, tablets,
2 ampules, dosage units, or syrettes, containing one or
3 more dangerous drugs; or
- 4 (b) Possesses one or more preparations, compounds,
5 mixtures, or substances of an aggregate weight of:
- 6 (i) One-eighth ounce or more, containing
7 methamphetamine, heroin, morphine, or cocaine or
8 any of their respective salts, isomers, and salts
9 of isomers; or
- 10 (ii) One-fourth ounce or more, containing any
11 dangerous drug; or
- 12 (c) Distributes any dangerous drug in any amount[-],
13 except for methamphetamine as provided in section
14 712-B.

15 (2) Promoting a dangerous drug in the second degree is a
16 class B felony.

17 ~~[(3) Notwithstanding any law to the contrary, except for~~
18 ~~first time offenders sentenced under section 706-622.5, if the~~
19 ~~commission of the offense of promoting a dangerous drug in the~~
20 ~~second degree under this section involved the possession or~~
21 ~~distribution of methamphetamine, or any of its salts, isomers,~~
22 ~~and salts of isomers, the person convicted shall be sentenced to~~

1 ~~an indeterminate term of imprisonment of ten years with a~~
2 ~~mandatory minimum term of imprisonment, the length of which~~
3 ~~shall be not less than six months and not greater than five~~
4 ~~years, at the discretion of the sentencing court. The person~~
5 ~~convicted shall not be eligible for parole during the mandatory~~
6 ~~period of imprisonment.]"~~

7 SECTION 7. Section 712-1243, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§712-1243 Promoting a dangerous drug in the third degree.**

10 (1) A person commits the offense of promoting a dangerous drug
11 in the third degree if the person knowingly possesses any
12 dangerous drug in any amount.

13 (2) Promoting a dangerous drug in the third degree is a
14 class C felony.

15 ~~[(3) Notwithstanding any law to the contrary, except for~~
16 ~~first time offenders sentenced under section 706-622.5, if the~~
17 ~~commission of the offense of promoting a dangerous drug in the~~
18 ~~third degree under this section involved the possession or~~
19 ~~distribution of methamphetamine, the person convicted shall be~~
20 ~~sentenced to an indeterminate term of imprisonment of five years~~
21 ~~with a mandatory minimum term of imprisonment, the length of~~
22 ~~which shall be not less than thirty days and not greater than~~

1 ~~two and a half years, at the discretion of the sentencing court.~~
2 ~~The person convicted shall not be eligible for parole during the~~
3 ~~mandatory period of imprisonment.]"~~

4 SECTION 8. Section 712-1249.6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§712-1249.6 Promoting a controlled substance in, on, or
7 near schools, school vehicles, or public parks. (1) A person
8 commits the offense of promoting a controlled substance in, on,
9 or near schools, school vehicles, or public parks if the person
10 knowingly:

11 (a) Distributes or possesses with intent to distribute a
12 controlled substance in any amount in or on the real
13 property comprising a ~~[public or private elementary or~~
14 ~~secondary]~~ school or public park;

15 (b) Distributes or possesses with intent to distribute a
16 controlled substance in any amount within seven
17 hundred and fifty feet of the real property comprising
18 a ~~[public or private elementary or secondary]~~ school
19 or public park; ~~[or]~~

20 (c) Distributes or possesses with intent to distribute a
21 controlled substance in any amount while on any school
22 vehicle, or within ten feet of a parked school vehicle

1 during the time that the vehicle is in service for or
2 waiting to transport school children[-]; or

3 (d) Manufactures methamphetamine or any of its salts,
4 isomers, and salts of isomers, within seven hundred
5 and fifty feet of the real property comprising a
6 school or public park.

7 ~~(2) Promoting a controlled substance in, on, or near~~
8 ~~schools, school vehicles, or public parks is a class C felony.]~~
9 A person who violates subsection (1)(a), (b), or (c) is guilty
10 of a class C felony. A person who violates subsection (1)(d) is
11 guilty of a class A felony.

12 (3) Any person with prior conviction or convictions under
13 ~~[this]~~ subsection (1)(a), (b), or (c) is punishable by a term of
14 imprisonment of not less than two years and not more than ten
15 years.

16 (4) Any individual convicted under subsection (3) of this
17 section shall not be eligible for parole until the individual
18 has served the minimum sentence required by such subsection.

19 (5) For the purposes of this section, "school vehicle"
20 means every school vehicle as defined in section 286-181 and any
21 regulations adopted pursuant to that section.

1 (6) For purposes of this section, "school" means any
2 public or private preschool, kindergarten, elementary,
3 intermediate, middle secondary, or high school."

4 PART II. TREATMENT FOR FIRST TIME NONVIOLENT DRUG OFFENDER

5 SECTION 9. The legislature passed Act 161, Session Laws of
6 Hawaii 2002, (Act 161) intending to divert first-time nonviolent
7 drug offenders to drug treatment instead of prison. During the
8 past year, approximately two hundred fifty offenders were
9 identified as eligible for diversion to treatment. Fewer than
10 half of these offenders actually began treatment, with the
11 remaining offenders returning to prison, completing their
12 probation or parole terms, or being subject to other legal
13 action.

14 Since its passage, local and state prosecutors have
15 complained about the law, claiming that it is a "get out of jail
16 free card" for offenders and that it has taken away discretion
17 ordinarily reserved to the court. (See, "Final Report of the
18 Task Force," pp. 75-78 for a complete discussion of the
19 controversy relating to Act 161.) The original language of Act
20 161 caused confusion over whether the mandatory requirement to
21 sentence a first-time drug offender to probation took precedence
22 over the repeat offender sentencing laws. Recently, the Hawaii

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1 "(f) ~~[Parole shall not be revoked for]~~ The Hawaii paroling
2 authority may require a paroled prisoner to undergo and complete
3 a substance abuse treatment program when the paroled prisoner
4 has committed a ~~[first]~~ violation of the terms and conditions of
5 parole involving possession or use, not including to distribute
6 or manufacture as defined in section 712-1240, of any dangerous
7 drug, detrimental drug, harmful drug, intoxicating compound,
8 marijuana, or marijuana concentrate, as defined in section
9 712-1240, unlawful methamphetamine trafficking as provided in
10 section 712-B, or involving possession or use of drug
11 paraphernalia under section 329-43.5~~[+ provided that the person~~
12 ~~shall be required to undergo and complete a drug treatment~~
13 ~~program as a condition of continued parole]~~. If the [person]
14 paroled prisoner fails to complete the [drug] substance abuse
15 treatment program ~~[and if no other suitable treatment is~~
16 ~~amenable to the offender,]~~ or the Hawaii paroling authority
17 determines that the paroled prisoner cannot benefit from any
18 substance abuse program, the [person] paroled prisoner shall be
19 subject to revocation of parole and return to incarceration.
20 ~~[The]~~ As a condition of parole, the Hawaii paroling authority
21 may require the ~~[person to contribute]~~ paroled prisoner to:

As used in this subsection [~~"drug abuse treatment program"~~], "substance abuse treatment program" means drug or substance abuse treatment services provided outside a correctional facility[, ~~but the services do not require the expenditure of state moneys beyond the limits of available appropriations.~~] by a public, private, or nonprofit entity that specializes in treating persons who are diagnosed with having substance abuse or dependency and preferably employs licensed professionals or certified substance abuse counselors.

1 Nothing in this subsection shall be construed to give rise
2 to a cause of action against the State, a state employee, or a
3 treatment provider."

4 SECTION 11. Section 706-622.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§706-622.5[+] **Sentencing for first-time drug**
7 **offenders; expungement.** (1) ~~[Notwithstanding any penalty or~~
8 ~~sentencing provision under part IV of chapter 712,~~
9 Notwithstanding section 706-620(3), a person convicted for the
10 first time for any offense under part IV of chapter 712
11 involving possession or use, not including to distribute or
12 manufacture as defined in section 712-1240, of any dangerous
13 drug, detrimental drug, harmful drug, intoxicating compound,
14 marijuana, or marijuana concentrate, as defined in section
15 712-1240, unlawful methamphetamine trafficking as provided in
16 section 712-B, or involving possession or use of drug
17 paraphernalia under section 329-43.5, ~~[who is nonviolent, as~~
18 ~~determined by the court after reviewing the:~~
19 (a) ~~Criminal history of the defendant;~~
20 (b) ~~Factual circumstances of the offense for which the~~
21 ~~defendant is being sentenced; and~~
22 (c) ~~Other information deemed relevant by the court;~~

7 (a) The court has determined that the person is nonviolent
8 after reviewing the person's criminal history, the
9 factual circumstances of the offense for which the
0 person is being sentenced, and any other relevant
1 information;

(c) Except for those persons directed to substance abuse treatment under the supervision of the drug court, the person presents a proposal to receive substance abuse treatment in accordance with the treatment plan prepared by a certified substance abuse counselor through a substance abuse treatment program that

1 includes an identified source of payment for the
2 treatment program.

3 (2) A person eligible under subsection (1) ~~[shall]~~ may be
4 sentenced to probation to undergo and complete a ~~[drug]~~

5 substance abuse treatment program[-] if the court determines
6 that the person can benefit from substance abuse treatment and,
7 notwithstanding that the person would be subject to sentencing
8 as a repeat offender under section 706-606.5, the person should
9 not be incarcerated in order to protect the public. If the

10 person fails to complete the ~~[drug]~~ substance abuse treatment
11 program and [if no other suitable treatment is amenable to the
12 offender,] the court determines that the person cannot benefit
13 from any other suitable substance abuse treatment program, the
14 person shall be [returned to court and] subject to sentencing
15 under the applicable section under this part. As a condition of
16 probation under this subsection, the court [shall require an
17 assessment as to the treatment needs of the defendant, conducted
18 by a person certified by the department of health to conduct the
19 assessments. The drug treatment program for the defendant shall
20 be based upon the assessment.] may direct the person to undergo
21 and complete substance abuse treatment under the supervision of
22 the drug court if the person has a history of relapse in

(3) For the purposes of this section, ~~["drug treatment program"]~~ "substance abuse treatment program" means drug or substance abuse treatment services provided outside a correctional facility~~[, but the services do not require the expenditure of state moneys beyond the limits of available appropriations.]~~ by a public, private, or nonprofit entity that specializes in treating persons who are diagnosed with having substance abuse or dependency and preferably employs licensed professionals or certified substance abuse counselors.

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1 (5) Nothing in this section shall be construed to give
2 rise to a cause of action against the State, a state employee,
3 or a treatment provider."

4 SECTION 12. Section 706-625, Hawaii Revised Statutes, is
5 amended by amending subsection (7) to read as follows:

6 "(7) [~~Probation shall not be revoked for a first~~] The
7 court may require a defendant to undergo and complete a
8 substance abuse treatment program when the defendant has
9 committed a violation of the terms and conditions of probation
10 involving possession or use, not including to distribute or
11 manufacture as defined in section 712-1240, of any dangerous
12 drug, detrimental drug, harmful drug, intoxicating compound,
13 marijuana, or marijuana concentrate, as defined in section
14 712-1240, unlawful methamphetamine trafficking as provided in
15 section 712-B, or involving possession or use of drug
16 paraphernalia under section 329-43.5 [~~provided that the person~~
17 ~~shall be required to undergo and complete a drug treatment~~
18 ~~program as a condition of continued probation~~]. If the [person]
19 defendant fails to complete the [drug] substance abuse treatment
20 program [and if no other suitable treatment is amenable to the
21 offender,] or the court determines that the defendant cannot
22 benefit from any other suitable substance abuse treatment

5 Nothing in this subsection shall be construed to give rise
6 to a cause of action against the State, a state employee, or a
7 treatment provider."

SECTION 13. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read

DRUG DEALER LIABILITY

"Illegal drug" means "dangerous drugs" or a "harmful drug" defined in section 712-1240.

"Illegal drug market" means the support system of illegal related operations, from production to retail sales, through which an illegal drug reaches the user.

"Illegal drug market target community" is the area described under section -5.

1 "Individual drug user" means the individual whose illegal
2 drug use is the basis of an action brought under this chapter.

3 "Level four offense" means the illegal possession of
4 sixteen ounces or more or the illegal distribution of four
5 ounces or more of an illegal drug.

6 "Level one offense" means the illegal possession of
7 one-fourth ounce or more, but less than four ounces, or the
8 illegal distribution of less than one ounce of an illegal drug.

9 "Level three offense" means the illegal possession of eight
10 ounces or more, but less than sixteen ounces, or the illegal
11 distribution of two ounces or more, but less than four ounces,
12 of an illegal drug.

13 "Level two offense" means the illegal possession of four
14 ounces or more, but less than eight ounces, or the illegal
15 distribution of one ounce or more, but less than two ounces, of
16 an illegal drug.

17 "Participate in the illegal drug market" means to
18 illegally:

- 19 (1) Distribute an illegal drug;
20 (2) Possess with an intent to distribute;
21 (3) Commit an act intended to facilitate the marketing or
22 distribution of an illegal drug;

"Place of participation" means, in relation to a defendant action brought under this chapter, the place at which the person participates in the illegal drug market or at which the person resides, attends school, or is employed during the period of the person's participation in the illegal drug market.

1 § -2 **Recovery of damages.** (a) One or more of the
2 following persons may bring an action to recover for damages
3 caused by an individual's use of an illegal drug:

- (1) A parent, legal guardian, child, spouse, or sibling of the individual drug user;
- (2) An individual who was exposed to an illegal drug in utero;
- (3) An employer of the individual drug user;
- (4) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or
- (5) A person injured as a result of the intentional, knowing, reckless, or negligent actions of an individual drug user.

17 (b) A person entitled to bring an action under this
18 section may seek damages from one or more of the following:

- (1) A person who knowingly distributed, or knowingly participated in the chain of distribution of, the illegal drug that was used by the individual drug user;

(2) Noneconomic damages, including but not limited to physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish,

1 disfigurement, loss of enjoyment, loss of
2 companionship, services, and consortium, and other
3 nonpecuniary losses associated with an individual's
4 use of an illegal drug;

5 (3) Exemplary damages;

6 (4) Reasonable attorney's fees; and

7 (5) Costs of suit, including but not limited to reasonable
8 expenses for expert testimony.

9 § -3 **Limitations for recovery of damages; state**

10 **recovery.** (a) An individual drug user may not bring an action
11 for damages caused by the use of an illegal drug, except as
12 otherwise provided in this section. An individual drug user may
13 bring an action for damages caused by that individual's use of
14 an illegal drug only if all of the following conditions are met:

15 (1) The individual has not used an illegal drug within the
16 six months before filing the action; and

17 (2) The individual continues to remain free of the use of
18 an illegal drug throughout the pendency of the action.

19 (b) A person entitled to bring an action under this
20 section may seek damages only from a person who distributed, or
21 is in the chain of distribution of, the illegal drug that was
22 used by the individual drug user.

1 (c) A person entitled to bring an action under this
2 section may recover only the following damages:

3 (1) Economic damages, including but not limited to the
4 cost of treatment, rehabilitation, and medical
5 expenses, loss of economic or educational potential,
6 loss of productivity, absenteeism, accidents or
7 injury, and any other pecuniary loss associated with
8 the person's illegal drug use;

9 (2) Reasonable attorney's fees; and

10 (3) Costs of suit including but not limited to reasonable
11 expenses for expert testimony.

12 (d) Twenty-five per cent of any actual recovery of damages
13 by the plaintiff under this section, whether by settlement,
14 execution on a judgment, or otherwise, shall be turned over to
15 the State for deposit into the general fund.

16 § -4 **Third party cases.** Notwithstanding any other law
17 to the contrary, no person shall be liable under this chapter
18 under civil principles of vicarious liability.

19 § -5 **Illegal drug market target community.** A person who
20 participates in the illegal drug market at a level one, two,
21 three, or four offense shall be considered to have participated
22 in the following illegal drug market target communities:

(4) For a level four offense, the entire State.

(c) A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more

17 § -10 **Defense.** It is a defense to any action brought
18 pursuant to this chapter that the person who possessed,
19 distributed, or facilitated the marketing or distribution of a
20 dangerous or harmful drug did so under authority of law as a
21 practitioner, as an ultimate user of the drug pursuant to a
22 lawful prescription, or as a person otherwise authorized by law.

SECTION 14. Section 302A-1134.6, Hawaii Revised Statutes, amended to read as follows:

(b) [Any] Except as provided in subsection (f), any child possesses, sells, consumes, or uses intoxicating liquor or ~~either~~ illegal drugs, while attending school or while attending department-supervised activities held on or off school property, may be excluded from attending school for up to twenty-two school days, as determined by the principal and approved by the superintendent or other individuals designated pursuant to rules adopted by the board.

(c) ~~[Any]~~ Except as provided in subsection (f), any child who reasonably appears to have consumed or used intoxicating liquor or ~~[illicit]~~ illegal drugs prior to attending school or

1 (1) Needs treatment for substance abuse or dependency and:

2 (A) If outpatient treatment is immediately available
3 or the child is placed into a residential
4 treatment facility, the child shall not be
5 excluded from school and all disciplinary action
6 shall be deferred; provided that the child:

7 (i) Enters into treatment;

8 (ii) Complies with the terms and conditions of
9 the treatment program; and

10 (iii) Remains in treatment until discharged from
11 treatment.

12 If the child completes the treatment program, no
13 disciplinary action based on the original offense
14 shall be taken and all records of disciplinary
15 action relating to the original offense shall be
16 expunged; or

17 (B) If no treatment program is immediately available,
18 the child shall not be excluded from attending
19 school, but may be transferred to an alternative
20 learning center, pending admission to a treatment
21 program. Disciplinary action shall be deferred
22 in accordance with paragraph (1) (A) during the

1 pendency of the child's treatment and all records
2 of disciplinary action relating to the original
3 offense shall be expunged upon completion of the
4 treatment program; or

5 (2) Does not need treatment for substance abuse or
6 dependency, disciplinary action of exclusion from
7 school may be taken in accordance with the
8 department's rules.

9 Nothing in this subsection prohibits the principal from
10 suspending the child pursuant to the crisis suspension rules of
11 the department for a period not to exceed ten days, provided the
12 principal commences the referral and assessment process required
13 under this section during the crisis suspension period.

14 ~~[(f)]~~ (g) For purposes of this section:

15 ~~[(1)]~~ "Dangerous weapon" means a dirk, dagger, butterfly
16 knife, blackjack, slug shot, billy, metal knuckles, or other
17 instrument whose sole design and purpose is to inflict bodily
18 injury or death; provided that firearms are excluded from this
19 definition~~[(f)]~~.

20 ~~[(2)]~~ ~~"Illicit drugs"]~~ "Illegal drugs" means ~~[substances,~~
21 the possession, distribution, ingestion, manufacture, sale, or

4 ~~[(g)]~~ (h) The board of education shall adopt rules in
5 accordance with chapter 91 to implement~~[(t)]~~this section~~[(t)]~~."

PART V. INSURANCE COVERAGE FOR SUBSTANCE ABUSE

7 SECTION 15. The legislature finds that persons addicted to
8 crystal methamphetamine may pose a threat to public safety.
9 Chronic ice addicts may become dangerous, engage in violent
10 conduct, or exhibit psychotic and paranoid behavior. Ice
11 addicts also may be driven to steal property in order to
12 generate revenue to support their addiction. Law enforcement
13 estimates that ninety per cent of property crimes are committed
14 in Hawaii due to ice addicts trying to find a revenue source to
15 support their addiction. (See, "Final Report of the Task Force,"
16 p. 49).

17 Treatment for ice addiction is essential if the ice
18 epidemic is to be stopped. Treatment for ice addiction must be
19 sufficient in terms of duration and type of treatment in order
20 for it to be successful.

21 Current health plans offer limited substance abuse
22 treatment benefits. These benefits are insufficient to treat

Treatment for persons addicted to ice and other substances must be on parity with treatment for any other physical disease or illness as such treatment will not be a significant burden on private insurance plan members. Private insurance plans report low utilization for substance abuse treatment and less than one per cent of benefits paid are attributable to substance abuse treatment. (See, "Final Report of Task Force," pp. 84-89 for a complete discussion of health insurance benefits for substance abuse treatment.)

SECTION 16. Chapter 431M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

s greater benefits are required by this chapter for alcohol
substance services and benefits, services and benefits
ded by health insurance plans subject to section 431M-2 for
and alcohol dependency shall be equal to and co-extensive
health insurance coverage for physical disease and
sses. Nothing in this section shall require the health
ance plan to provide residential treatment benefits except
may provide for physical disease and illnesses and in
dance with an approved treatment plan by the health plan
der."

SECTION 17. Section 16 shall be exempt from the impact assessment report by the auditor under section 23-51, Hawaii Revised Statutes. The legislature finds that an emergency situation exists in the state that demands an immediate legislative response, and that the slight financial impact of a rise in premiums is likely to be incalculable (Auditor Report No. 88-6).

SECTION 18. The treatment of drug and alcohol dependency provided under medical plans participating in QUEST and the fee for services program administered by the department of human services shall be equal to and co-extensive with QUEST and fee

1 for services program coverage for physical disease and
2 illnesses. Nothing in this section shall require QUEST and the
3 fee for services program to provide residential treatment
4 benefits except as it may provide for physical disease and
5 illnesses.

6 PART VI. CIVIL COMMITMENT FOR SUBSTANCE ABUSE

7 SECTION 19. The Task Force received testimony from many
8 families about their efforts to obtain help for a family member
9 addicted to drugs. These families reported that they were

10 forced to have the addicted family member arrested as a wake-up
11 call for the ice addict to recognize that the addict needed
12 treatment. The legislature finds that families should not have
13 to resort to using the criminal justice system to obtain help
14 for an addicted family member. The purpose of this part is to
15 enact an expedited process that permits family members to obtain
16 a court order to send an addicted family member to involuntary
17 outpatient treatment.

18 SECTION 20. Chapter 334, Hawaii Revised Statutes, is
19 amended by adding a new part to be appropriately designated and
20 to read as follows:



1 **"PART . CIVIL COMMITMENT FOR SUBSTANCE ABUSE**

2 **OUTPATIENT TREATMENT**

3 **§334-A Definitions.** As used in this part:

4 "Family member" means any individual who is a member of the
5 immediate family of the person who is the subject of the
6 petition, including spouse, child, parent, grandparent, or any
7 related individual who resides in the same household as the
8 individual who is the subject of the petition.

9 "Outpatient treatment" includes any substance abuse
10 treatment provided through individual or group therapy, day or
11 partial day programs, and intensive day treatment and which does
12 not require the individual to reside on a twenty-four-hour basis
13 in the facility for more than three days to benefit from the
14 treatment program.

15 "Petitioner" means the family member who applies to the
16 court for an order to require an individual to enter into an
17 outpatient treatment program.

18 "Respondent" means the individual who is eighteen years of
19 age or older who is the subject of the petition for a court
20 order to require the individual to enter into an outpatient
21 treatment program.

1 **§334-B Petition.** Any family member may petition the
2 family court for an order requiring a respondent to enter into
3 an outpatient treatment program for substance abuse. The
4 petition shall be in writing under penalty of perjury and
5 include facts relating to:

- 6 (1) The conduct of the respondent that indicates substance
7 abuse or addiction;
- 8 (2) The respondent's history of substance abuse,
9 treatment, and relapse;
- 10 (3) The effects of the respondent's conduct on the family;
- 11 (4) The petitioner's good faith belief that the respondent
12 poses an imminent danger to self or to others if the
13 respondent does not receive treatment;
- 14 (5) The availability of treatment and financial resources
15 to pay for treatment; and
- 16 (6) Any other reason for seeking court intervention.

17 **§334-C Notice of hearing and service of petition on**

18 **respondent.** The court shall set a time and date for hearing on
19 the petition, within ten days of the filing of the petition.
20 The notice of hearing and petition shall be served on the
21 respondent.

1 **§334-D Hearing and court order.** (a) The court shall
2 conduct a hearing to consider all facts relating to the
3 petition. The court may postpone the hearing and order the
4 respondent to be assessed for substance abuse or addiction by a
5 certified substance abuse counselor, at the petitioner's
6 expense.

7 (b) The court may grant the petition if it finds clear and
8 convincing evidence that:

9 (1) The respondent has a history of substance abuse and
10 refuses to enter treatment voluntarily;

11 (2) The respondent has a family support system that will
12 encourage and participate in the respondent's
13 treatment program;

14 (3) The respondent can benefit from outpatient treatment
15 and is capable of surviving safely in the community
16 with the family support system and if outpatient
17 treatment is received;

18 (4) The respondent or the petitioner has financial
19 resources to pay for the outpatient treatment program;

20 (5) The respondent poses an imminent danger to self or to
21 others if treatment is not received; and

1 (6) The respondent understands the nature of the
2 proceeding and the effect of the court order to enter
3 into outpatient treatment.

4 (c) The court order shall be limited to ninety days of
5 outpatient treatment. Upon renewal of the petition, the court
6 may extend the petition for an additional ninety days.

7 **§334-E Treatment costs, fees, and costs for petition**
8 **process.** The petitioner shall bear all fees and costs related
9 to bringing the petition. The petitioner or respondent shall
10 bear all costs of private treatment. Nothing in this part
11 authorizes publicly funded substance abuse treatment. However,
12 if the respondent is eligible to receive publicly funded
13 treatment and such a program is available for the respondent,
14 the court may order the treatment in such a program.

15 **§334-F Discharge.** If the respondent successfully
16 completes the outpatient treatment program and is discharged
17 from the program prior to the end of the court-ordered treatment
18 period, the court order shall automatically lapse.

19 **§334-G Failure to comply with court order.** The court may
20 impose sanctions for violation of the court order.

21 **§334-H Application.** Notwithstanding any other law to the
22 contrary, this part shall apply to all petitions filed by family

PART VII. DRUG REHABILITATION HOMES

SECTION 22. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

(c) For purposes of this section, "drug rehabilitation home" means any facility that accommodates no more than ten unrelated persons and is operated by a community-based nonprofit agency licensed by the department of health, whose purpose is to facilitate the development of residential supportive living homes for persons in recovery from substance abuse. Drug rehabilitation homes include "clean and sober homes" that provide a structured environment of clean and sober living conditions to sustain recovery and "transitional living homes" that provide a supervised structured environment of clean and sober living conditions to sustain recovery."

1 PART VIII. DRUG NUISANCE REMOVAL

2 SECTION 23. Section 322-1, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§322-1 Removal, prevention. The department of health and
5 its agents shall examine into all nuisances, foul or noxious
6 odors, gases or vapors, water in which mosquito larvae exist,
7 sources of filth, and all causes of sickness or disease, on
8 shore, and in any vessel, which may be known to them or brought
9 to their attention, which in their opinion are dangerous or
10 injurious to health, and into any and all conditions created or
11 existing which cause or tend to cause sickness or disease or to
12 be dangerous or injurious to health, and shall cause the same to
13 be abated, destroyed, removed, or prevented.

14 For purposes of this section, a nuisance shall include
15 toxic materials that are used in or by-products of the
16 manufacture or conversion of methamphetamine, and clandestine
17 drug labs that manufacture methamphetamine."

18 PART IX. CITIZEN EMPOWERMENT

19 SECTION 24. The legislature sympathizes with the many
20 citizens who complained about the perceptions that law
21 enforcement was not being responsive to drug activities within
22 their communities. While the drug interdiction activities of

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S.D. 1

The legislature further finds that the drug abatement activities undertaken by many community organizations, private organizations, and state and local government offices require a centralized coordinating agency to facilitate information sharing and technical support. The momentum started by community mobilization efforts to create public awareness of the ice epidemic is crucial to solving this public health crisis as well as to assist law enforcement in drug interdiction. The

7 SECTION 25. Chapter 712, part V, Hawaii Revised Statutes,
8 is amended by adding a new section to be appropriately
9 designated and to read as follows:

18 SECTION 26. Section 26-14.6, Hawaii Revised Statutes, is
19 amended to read as follows:

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14 (1) The department of corrections relating to adult
15 corrections and the intake service centers;
16 (2) The judiciary relating to the sheriff's office and
17 judiciary security personnel; and
18 (3) The department of the attorney general relating to
19 state law enforcement officers and narcotics
20 enforcement investigators with the narcotics
21 enforcement division,
22 shall be transferred to the department of public safety.

(g) Effective January 1, 1993, the functions and authority heretofore exercised by the attorney general and the department

1 of the attorney general relating to the executive security
2 officers shall be transferred to the department of public
3 safety.

4 (h) Effective July 1, 1999, the functions and authority
5 heretofore exercised by the director of public safety and the
6 department of public safety relating to after hours security
7 contracts at department of education facilities, except for the
8 security functions being performed by employees of the public
9 library system as well as the contractual security services for
10 the libraries, shall be transferred to the department of
11 education.

12 (i) Effective January 1, 1993, the functions and authority
13 heretofore exercised by the director of health and the
14 department of health relating to uniformed security employees
15 and security contracts at various state hospitals throughout the
16 State shall be transferred to the department of public safety.

17 (j) Effective January 1, 1993, the functions and authority
18 heretofore exercised by the director of human services and the
19 department of human services relating to contractual security
20 guard services shall be transferred to the department of public
21 safety.



The department shall submit an annual report to the
plature twenty days before the convening of each regular
on, on the activities of the department relating to this
te."

"§712-1276 **Costs and expenses.** For any attorneys' fees,
or expenses incurred in the closing of the building,
ses, or place and keeping it closed, or incurred in
cing the injunction prohibiting the person or persons
ng the nuisance from residing or entering into the
ing, premises, or place in or upon which the nuisance
s, as well as the attorneys' fees, costs, and expenses
red by the party bringing the action, a reasonable sum
be allowed by the court."

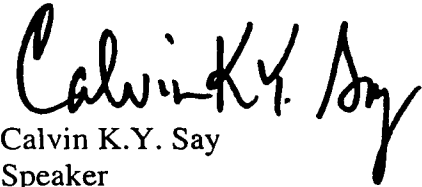
"§712-1278 Fine, costs, lien on place. Any attorneys'
fees, costs, expenses, and fines imposed against any owner of a

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THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 15, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Calvin K.Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

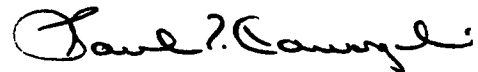
THE SENATE OF THE STATE OF HAWAII

Date: April 2, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Third Reading in the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate