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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 presently there are  
2 three major components that make up the department of public  
3 safety: administration, law enforcement, and corrections. The  
4 responsibility of corrections is to provide a safe and humane  
5 environment for those offenders that the courts commit to the  
6 department and to ensure the safety of the community by  
7 preventing escapes and preparing the inmates that one day may  
8 return to society.

9           Therefore, within corrections, there are programs such as  
10 supervised release, managed by the intake service centers, and  
11 work furlough, operated by the community correctional centers,  
12 to fulfill those objectives. Staff assigned to these programs  
13 conduct assessments to identify those inmates appropriate for  
14 these programs and provide supervision and monitoring upon their  
15 conditional release into the community.

16           The legislature further finds that the field service branch  
17 of the Hawaii paroling authority provides similar adult  
18 supervisory and counseling services to parolees and monitors



1 their compliance with their terms and conditions of release.  
2 The services supplied by the field service branch are similar to  
3 those provided by the intake service centers and the community  
4 correctional centers, although they are provided at different  
5 stages in the criminal justice process.

6 To be cost-efficient, be consistent in the delivery of  
7 services, and maintain a continuum of care, the supervisory and  
8 counseling functions of the field service branch should be  
9 transferred to the department of public safety. This transfer  
10 will not affect the Hawaii paroling authority and its functions  
11 that include:

- 12 (1) Selecting individuals for parole;
- 13 (2) Determining the time when parole shall be granted;
- 14 (3) Determining conditions of parole for any individual  
15 granted parole;
- 16 (4) Revoking and suspending parole; and
- 17 (5) Discharging an individual from parole when supervision  
18 is no longer needed.

19 The purpose of this Act is to transfer the supervisory and  
20 counseling functions, positions, and employees of the field  
21 service branch to the department of public safety.



1 SECTION 2. Section 353-62, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to any other responsibility or duty  
4 prescribed by law for the Hawaii paroling authority, the  
5 paroling authority shall:

6 (1) Serve as the central paroling authority for the State;

7 (2) In selecting individuals for parole, consider for  
8 parole all committed persons, except in cases where  
9 the penalty of life imprisonment not subject to parole  
10 has been imposed, regardless of the nature of the  
11 offense committed;

12 (3) Determine the time at which parole shall be granted to  
13 any eligible individual as that time at which maximum  
14 benefits of the correctional institutions to the  
15 individual have been reached and the element of risk  
16 to the community is minimal;

17 (4) Establish rules of operation to determine conditions  
18 of parole applicable to any individual granted parole;

19 ~~+(5) Provide continuing custody, control, and supervision~~  
20 ~~of paroled individuals;~~

21 ~~+(6)]~~ (5) Revoke or suspend parole and provide for the  
22 authorization of return to a correctional institution



1 for any individual who violates parole or any  
2 condition of parole when, [~~in the opinion of~~]  
3 following consultation with the department, the Hawaii  
4 paroling authority[~~7~~] finds the violation presents a  
5 risk to community safety or a significant deviation  
6 from any condition of parole;

7 [~~7~~] (6) Discharge an individual from parole when  
8 supervision is no longer needed;

9 [~~8~~] (7) Interpret the parole program to the public [~~in~~  
10 ~~order~~] to develop a broad base of public understanding  
11 and support; and

12 [~~9~~] (8) Recommend to the legislature sound parole  
13 legislation and recommend to the governor sound parole  
14 administration."

15 SECTION 3. Section 353-63.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) The [~~Hawaii paroling authority~~] department, in  
18 consultation with the Hawaii paroling authority, shall implement  
19 alternative programs that place, control, supervise, and treat  
20 selected parolees in lieu of incarceration."

21 SECTION 4. Section 353-65, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "**§353-65 Paroles; rules.** The Hawaii paroling authority  
2 may establish rules, with the approval of the governor and the  
3 director of public safety not inconsistent with this [~~part,~~  
4 chapter, under which any prisoner may be paroled but shall  
5 remain, while on parole, in the legal custody and under the  
6 control of the paroling authority, and be subject, at any time  
7 until the expiration of the term for which the prisoner was  
8 sentenced, in consultation with the department, to be taken back  
9 within the enclosure of the prison. The rules shall have the  
10 force and effect of law. Full power, subject to this part, to  
11 enforce the rules, to grant, and to revoke paroles is conferred  
12 upon the paroling authority. The power to retake and reimprison  
13 a paroled prisoner is conferred upon the administrative  
14 secretary or the administrative secretary's designee, who may  
15 issue a warrant authorizing all of the officers named therein to  
16 arrest and return to actual custody any paroled prisoner. The  
17 [~~superintendent of Hawaii state prison,~~ director of public  
18 safety or the director's designee, the chief of police of each  
19 county and all police officers of the State or of any county,  
20 and all prison officers shall execute any such order in [~~like~~  
21 the same manner as ordinary criminal process.



1           If any prisoner so paroled leaves the State without  
2 permission from the paroling authority, the prisoner shall be  
3 deemed to be an escaped prisoner[7] and may be arrested as  
4 such."

5           SECTION 5. Section 353-66, Hawaii Revised Statutes, is  
6 amended by amending subsection (f) to read as follows:

7           "(f) The Hawaii paroling authority may require a paroled  
8 prisoner to undergo and complete a substance abuse treatment  
9 program administered by the department when the paroled prisoner  
10 has committed a violation of the terms and conditions of parole  
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 712-1240.6, or involving possession or use of drug  
17 paraphernalia under section 329-43.5. If the paroled prisoner  
18 fails to complete the substance abuse treatment program or the  
19 Hawaii paroling authority, in consultation with the department,  
20 determines that the paroled prisoner cannot benefit from any  
21 substance abuse treatment program, the paroled prisoner shall be  
22 subject to revocation of parole and return to incarceration. As



1 a condition of parole, the Hawaii paroling authority may require  
2 the paroled prisoner to:

3 (1) Be assessed by a certified substance abuse counselor  
4 for substance abuse dependency or abuse under the  
5 applicable Diagnostic and Statistical Manual and  
6 Addiction Severity Index;

7 (2) Present a proposal to receive substance abuse  
8 treatment in accordance with the treatment plan  
9 prepared by a certified substance abuse counselor  
10 through a substance abuse treatment program that  
11 includes an identified source of payment for the  
12 treatment program;

13 (3) Contribute to the cost of the substance abuse  
14 treatment program; and

15 (4) Comply with any other terms and conditions for parole.

16 As used in this subsection, "substance abuse treatment  
17 program" means drug or substance abuse treatment services  
18 provided outside a correctional facility by a public, private,  
19 or nonprofit entity that specializes in treating persons who are  
20 diagnosed with having substance abuse or dependency and  
21 preferably employs licensed professionals or certified substance  
22 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 6. All rights, powers, functions, and duties of  
5 the Hawaii paroling authority relating to the continuing  
6 supervision and counseling of paroled individuals are  
7 transferred to the department of public safety.

8           All officers and employees whose functions are transferred  
9 by this Act shall be transferred with their functions and shall  
10 continue to perform their regular duties upon their transfer,  
11 subject to the state personnel laws and this Act.

12           No officer or employee of the State having tenure shall  
13 suffer any loss of salary, seniority, prior service credit,  
14 vacation, sick leave, or other employee benefit or privilege as  
15 a consequence of this Act, and such officer or employee may be  
16 transferred or appointed to a civil service position without the  
17 necessity of examination; provided that the officer or employee  
18 possesses the minimum qualifications for the position to which  
19 transferred or appointed; and provided that subsequent changes  
20 in status may be made pursuant to applicable civil service and  
21 compensation laws.



1           An officer or employee of the State who does not have  
2 tenure and who may be transferred or appointed to a civil  
3 service position as a consequence of this Act shall become a  
4 civil service employee without the loss of salary, seniority,  
5 prior service credit, vacation, sick leave, or other employee  
6 benefits or privileges and without the necessity of examination;  
7 provided that such officer or employee possesses the minimum  
8 qualifications for the position to which transferred or  
9 appointed.

10           If an office or position held by an officer or employee  
11 having tenure is abolished, the officer or employee shall not  
12 thereby be separated from public employment, but shall remain in  
13 the employment of the State with the same pay and classification  
14 and shall be transferred to some other office or position for  
15 which the officer or employee is eligible under the personnel  
16 laws of the State as determined by the head of the department or  
17 the governor.

18           SECTION 7. All appropriations, records, equipment,  
19 machines, files, supplies, contracts, books, papers, documents,  
20 maps, and other personal property heretofore made, used,  
21 acquired, or held by the Hawaii paroling authority relating to  
22 the functions transferred by this Act to the department of



1 public safety shall be transferred with the functions to which  
2 they relate.

3 SECTION 8. All rules, policies, procedures, guidelines,  
4 and other material adopted or developed by the Hawaii paroling  
5 authority to implement provisions of the Hawaii Revised Statutes  
6 which are reenacted or made applicable to the department of  
7 public safety by this Act, shall remain in full force and effect  
8 until amended or repealed by the department of public safety  
9 pursuant to chapter 91, Hawaii Revised Statutes. In the  
10 interim, every reference to the Hawaii paroling authority or the  
11 chair of the Hawaii paroling authority in those rules, policies,  
12 procedures, guidelines, and other material is amended to refer  
13 to the department of public safety or the director of public  
14 safety as appropriate.

15 SECTION 9. The Hawaii paroling authority and the  
16 department of public safety shall meet to discuss the transfer  
17 of the authority's supervisory and counseling functions of  
18 paroled individuals to the department to provide for an orderly  
19 and effective transfer on July 1, 2008.

20 SECTION 10. It is the intent of this Act not to jeopardize  
21 the receipt of any federal aid nor to impair the obligation of  
22 the State or any agency thereof to the holders of any bond



1 issued by the State or by any such agency, and to the extent,  
2 and only to the extent, necessary to effectuate this intent, the  
3 governor may modify the strict provisions of this Act, but shall  
4 promptly report any such modification with reasons therefor to  
5 the legislature at its next session thereafter for review by the  
6 legislature.

7 SECTION 11. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2008.

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INTRODUCED BY:

Cindy Adams (BR)

JAN 24 2007



**Report Title:**

Department of Public Safety; Hawaii Paroling Authority

**Description:**

Transfers continuing supervisory and counseling functions of paroled individuals from Hawaii paroling authority to department of public safety.

