
A BILL FOR AN ACT

RELATING TO INCARCERATION ALTERNATIVES.

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

1 SECTION 1. The legislature finds that there is a need to
2 reduce prison overcrowding. With the exception of inmates
3 serving mandatory sentences, many persons could be released from
4 incarceration into the community, and many persons who do not
5 pose a threat to public safety could be sentenced to probation
6 if they are required to wear an electronic monitoring device to
7 determine their location at all times. Electronic monitoring
8 devices enable the department of public safety and the judiciary
9 to keep persons under surveillance while in the community,
10 rather than in a prison setting.

11 The legislature further finds that existing law permits the
12 use of an electronic monitoring device in intermediate
13 sentencing as an alternative to incarceration. However, the
14 legislature believes that the program should be expanded using
15 global positioning system monitoring devices. Expansion of the
16 number of persons required to wear an electronic monitoring
17 device or global position system monitoring device in the
18 intermediate sentencing program reduces the number of



1 incarcerated inmates, reduces expenses, reduces correctional
2 officers' overtime, enhances rehabilitation, keeps families
3 intact, reduces recidivism, and reduces the out-of-state inmate
4 population under the jurisdiction of the department of public
5 safety.

6 The legislature further finds that the average daily inmate
7 census in Hawaii is approximately six thousand, which includes
8 in-state and out-of-state inmates. The legislature believes
9 that a minimum of ten to fifteen per cent of those inmates are
10 eligible to be released into the community if they are required
11 to wear an electronic monitoring device or global positioning
12 system monitoring device while serving the remainder of their
13 sentences.

14 The purpose of this Act is to establish an alternative
15 incarceration pilot program, which will use global positioning
16 system monitoring for select persons to be released into the
17 community in lieu of incarceration.

18 SECTION 2. (a) No later than January 1, 2017, the
19 department of public safety shall establish an alternative
20 incarceration pilot program to release qualified parolees into



1 the community under certain conditions, in lieu of
2 incarceration.

3 (b) A parolee shall be eligible for the pilot program if
4 the parolee meets the following minimum criteria:

5 (1) The parolee's current sentence is for a non-violent
6 offense;

7 (2) There is no history of conviction for a violent
8 offense;

9 (3) There is no history of escape or attempt to escape
10 while incarcerated;

11 (4) The parolee has a place to reside while on parole;

12 (5) The parolee has employment or an offer for employment
13 with a minimum of thirty-two hours per week or, in the
14 alternative, is actively seeking employment and
15 secures employment within sixty days following the
16 granting of parole;

17 (6) In lieu of paragraph (5), the parolee is enrolled as a
18 full-time or part-time student in an institution of
19 higher education or a trade school program; provided
20 that an average grade is maintained;



(7) Criteria under paragraphs (5) and (6) may be combined to include part-time education and part-time work, in which case the minimum number of hours under paragraph (5) shall not be required;

(8) The prosecuting attorney has no objection to the parolee's admission into the pilot program;

(9) The parole officer has no objection to the parolee's admission into the pilot program;

(10) The parolee agrees to wear a global positioning system monitoring device at all times while participating in the pilot program; and

(11) The parolee agrees to abide by any other conditions of parole or the department of public safety.

(c) Applications to participate in the pilot program shall be submitted in accordance with rules adopted by the department of public safety.

(d) A parolee in the pilot program shall be retaken if the parolee:

(1) Is charged with a criminal offense while participating in the pilot program;



- 1 (2) Sets off the global positioning system monitoring
2 device more than three times for unauthorized absence;
3 (3) Has more than three unauthorized failures to report to
4 work or failure to attend a class, as applicable;
5 (4) Tampers with the global positioning system monitoring
6 device;
7 (5) Tests positive in a urinalysis showing any amount of a
8 controlled substance; or
9 (6) Violates any of the terms and conditions of the
10 parole.

11 A parolee in the pilot program shall be retaken and incarcerated
12 upon the parolee's request to be reincarcerated.

13 (e) The department of public safety shall adopt
14 administrative rules, pursuant to chapter 91, Hawaii Revised
15 Statutes, as necessary to effectuate the purposes of this Act.

16 SECTION 3. (a) No later than January 1, 2017, the
17 judiciary shall establish an alternative incarceration pilot
18 program to release qualified inmates into the community on
19 probation under certain conditions, in lieu of incarceration.



1 (b) A probationer shall be eligible to participate in the
2 pilot program if the probationer meets the following minimum
3 criteria:

4 (1) The probationer's current sentence is for a non-
5 violent offense;

6 (2) There is no history of conviction for a violent
7 offense;

8 (3) There is no history of escape or attempt to escape
9 while incarcerated;

10 (4) The probationer has a place to reside while on
11 probation;

12 (5) The probationer has employment or an offer for
13 employment with a minimum of thirty-two hours per week
14 or, in the alternative, is actively seeking employment
15 and secures that employment within sixty days
16 following the granting of probation or court-ordered
17 sentencing;

18 (6) In lieu of paragraph (5), the probationer is enrolled
19 as a full-time or part-time student in an institution
20 of higher education or a trade school program;
21 provided that an average grade is maintained;



(7) Criteria under paragraphs (5) and (6) may be combined to include part-time education and part-time work, in which case the minimum number of hours under paragraph (5) shall not be required;

(8) The prosecuting attorney has no objection to the probationer's admission into the pilot program;

(9) The probation office has no objection to the probationer's admission into the pilot program;

(10) The probationer agrees to wear a global positioning system monitoring device at all times while participating in the pilot program; and

(11) The probationer agrees to abide by any other conditions of probation or the judiciary.

(c) Applications to participate in the pilot program shall be submitted in accordance with rules adopted by the judiciary. The selection of participants in the pilot program shall include but not be limited to a review of pretrial detainee records and daily intake records.

(d) A probationer in the pilot program shall be retaken if the probationer:



- (1) Is charged with a criminal offense while participating in the pilot program;
- (2) Sets off the global positioning system monitoring device more than three times for unauthorized absence;
- (3) Has more than three unauthorized failures to report to work or failure to attend a class, as applicable;
- (4) Tampers with the global positioning system monitoring device;
- (5) Tests positive in a urinalysis showing any amount of a controlled substance; or
- (6) Violates any of the terms and conditions of the probation.

A probationer in the pilot program shall be retaken and resentenced to incarceration upon the probationer's request to be incarcerated.

(e) The judiciary shall adopt rules as necessary to effectuate the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the alternative incarceration pilot program.



1 The sum appropriated shall be expended by the department of
2 public safety for the purposes of this Act.

3 SECTION 5. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2016-2017 for
6 the alternative incarceration pilot program.

7 The sum appropriated shall be expended by the judiciary for
8 the purposes of this Act.

9 SECTION 6. The department of public safety with regards to
10 parolees and the judiciary with regards to probationers shall
11 report to the legislature no later than twenty days prior to the
12 convening of the regular sessions of 2017, 2018, and 2019 on the
13 following:

- 14 (1) The status of implementation of their respective
15 alternative incarceration pilot program;
- 16 (2) The number of inmates or probationers, as applicable,
17 admitted into the pilot program in the year preceding
18 the report;
- 19 (3) The number of inmates or probationers, as applicable,
20 retaken in the year preceding the report; and



1 (4) Any other relevant information on the pilot program,
2 including recommendations for statutory amendments.

3 SECTION 7. This Act is not intended to supplant or change
4 the procedures of existing intermediate sanctions using
5 electronic monitoring devices that are not in conflict with this
6 Act.

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

10 SECTION 9. This Act shall take effect upon its approval;
11 provided that:

12 (1) Sections 4 and 5 shall take effect on July 1, 2016;
13 and

14 (2) This Act shall be repealed on December 31, 2019.
15



Report Title:

Intermediate Sanctions; Global Positioning System Monitoring;
Alternative Incarceration Pilot Program; Appropriation

Description:

Establishes an alternative incarceration pilot program with mandatory global positioning system monitoring under the department of public safety for parolees and the judiciary for probationers. Establishes criteria for eligibility, conditions, and retake. Makes appropriations. Repeals on 12/31/2019.
(SD1)

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