

JAN 20 2017

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 hundreds of Honolulu
2 residents are cited or arrested for nonviolent offenses and do
3 not pose a threat to the public. The offenses include drinking
4 liquor in public, being in public parks after hours of closure,
5 and camping on sidewalks, beaches, and other restricted public
6 places. Most of those cited do not come to court, which leads
7 to the issuance of bench warrants for their arrest. Much time
8 and resources are then expended to bring these individuals to
9 court.

10 The legislature also finds that once these minor,
11 nonviolent offenders are brought into court, the sentences
12 imposed are often monetary fines, as the offenses are not
13 serious enough to warrant incarceration. Most of those fined,
14 however, have low or no income and are unable to pay the fines.
15 This noncompliance leads to another bench warrant, which repeats
16 the cycle and keeps the offenders in the system without offering
17 any rehabilitative measures. In addition, the prosecution of



1 these cases burdens and congests the court system without
2 producing a meaningful resolution that will prevent recurrence
3 of the offenses.

4 The legislature further finds that the prosecuting attorney
5 of the city and county of Honolulu has worked with the judiciary
6 and the public defender on a community court outreach project.
7 The project is described as the criminal justice system's
8 response to the many minor nonviolent offenses that overburden
9 the courts and law enforcement. The goal of the project is to
10 provide judges with more sentencing options for nonviolent
11 offenses and to help nonviolent offenders who face a myriad of
12 problems, such as drug abuse and mental health challenges,
13 obtain basic necessities, such as food and shelter.

14 The community court is intended to function as a mobile
15 justice system that travels to neighborhoods and resolves cases
16 against offenders who are unable to attend a traditional court
17 setting or pay fines imposed against them. The community court
18 is also intended to impose alternative sentences such as
19 community service and mandatory participation in programs deemed
20 appropriate for individual offenders based on their need for



1 specific mental health services, substance abuse treatment,
2 sustenance, and shelter.

3 The legislature envisions the community court to be one of
4 a variety of programs with the purpose of diverting low risk
5 offenders, with or without mental health or substance abuse
6 challenges, from incarceration. Another program is the pre-
7 arrest diversion program based on the law enforcement assisted
8 diversion (LEAD) projects of other jurisdictions. The
9 legislature intends that the community court program and the
10 pre-arrest diversion program operate in a coordinated manner.

11 The purpose of this Act is to establish a community court
12 outreach project in the city and county of Honolulu to offer
13 combined accountability and treatment options to offenders that
14 will reduce crime and recidivism. The legislature intends to
15 evaluate the community court outreach project during its
16 operational period and determine whether the project should be
17 expanded to other counties of the State.

18 SECTION 2. Community court outreach project;
19 establishment; purpose. (a) There is established the community
20 court outreach project to be administered and operated by the



1 judiciary in the city and county of Honolulu from July 1, 2017,
2 until June 30, 2020, subject to section 5 of this Act.

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

5 (1) Travels to communities where defendants who have been
6 cited or arrested for certain nonviolent offenses and
7 do not pose a threat to the public live or congregate;
8 and

9 (2) Disposes of the cases of defendants who enter plea
10 agreements after negotiations between the prosecuting
11 attorney and public defender.

12 SECTION 3. Definitions. For the purpose of this Act:

13 "Community court outreach project" or "project" means the
14 community court outreach project established by this Act.

15 "Prosecuting attorney" means the prosecuting attorney of
16 the city and county of Honolulu.

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

18 SECTION 4. Community court outreach project process. (a)
19 Under the community court outreach project, the court shall hold
20 hearings at community sites to dispose of cases for which the



1 prosecuting attorney and public defender have negotiated and
2 reached plea agreements on the disposition of the defendants.

3 (b) Only cases involving nonviolent, non-felony offenses
4 under state law and city ordinance may be heard and disposed of
5 under the community court outreach project.

6 (c) The public defender shall engage a social service or
7 health care professional to provide outreach services to
8 defendants charged with the offenses identified under subsection
9 (b) and who:

10 (1) Are willing to participate in the community court
11 outreach project;

12 (2) Are eligible and willing to be represented by the
13 public defender; and

14 (3) May benefit from participation in the project.

15 After consulting with the social service or health care
16 professional, the public defender shall develop a list of the
17 defendants who are potential participants in the project and
18 transmit the list to the prosecuting attorney.

19 (d) The prosecuting attorney shall review the list
20 developed under subsection (c) and may select from the list
21 those defendants who the prosecuting attorney determines may be



1 appropriate for participation in the project. The prosecuting
2 attorney shall enter into plea agreement negotiations with the
3 public defender for disposition of those defendants.

4 (e) The plea agreement for a defendant may include a
5 proposed fine, community service, court-ordered treatment, or
6 other court-ordered condition, but shall not include
7 imprisonment.

8 The court shall not hear or dispose of a case in which the
9 plea agreement for the defendant proposes any imprisonment.

10 (f) At the hearing, the court may finalize the plea
11 agreement by court order or judgment; provided that the court
12 shall not be bound by the proposed disposition in the plea
13 agreement, except that the court shall not order imprisonment.

14 SECTION 5. Community court outreach project; subject to
15 the availability of funds and memoranda of agreement with the
16 prosecuting attorney and public defender. (a) The judiciary
17 shall administer and operate the community court outreach
18 project during a fiscal year if:

19 (1) The chief justice determines that sufficient funds are
20 available to administer and operate the project,
21 either through a specific appropriation for the



1 project, another appropriation in the judiciary budget
2 act, or a federal or other grant;

3 (2) The chief justice and prosecuting attorney enter into
4 a memorandum of agreement specifying the terms and
5 conditions of the prosecuting attorney's participation
6 in the project and the funding to be provided by the
7 judiciary to the prosecuting attorney for the project;
8 and

9 (3) The chief justice and public defender enter into a
10 memorandum of agreement specifying the terms and
11 conditions of the public defender's participation in
12 the project and the funding to be provided by the
13 judiciary to the public defender for the project.

14 If all of the conditions under paragraphs (1) to (3) are
15 not met for a fiscal year, the chief justice shall not
16 administer or operate the project during that fiscal year.

17 (b) The chief justice shall transfer the entire amount of
18 funds for a fiscal year specified in the memoranda of agreement
19 with the prosecuting attorney and the public defender to each of
20 them by September 1 of that fiscal year.



1 If the entire amount of funds for a fiscal year is not
2 transferred to the prosecuting attorney or public defender by
3 the deadline set under this subsection, the prosecuting attorney
4 or public defender, as applicable, may choose to decline
5 participation in the project.

6 If, despite not receiving the entire amount of funds by the
7 deadline, the prosecuting attorney or public defender
8 participates or continues to participate in the project, the
9 prosecuting attorney or public defender may collect the amount
10 in accordance with any remedies set forth in the applicable
11 memorandum of agreement.

12 (c) If the project is not operated during a fiscal year,
13 any specific appropriation to the judiciary for the project for
14 that fiscal year shall not be expended, and the entirety of the
15 specific appropriation shall lapse on June 30 of that fiscal
16 year.

17 SECTION 6. Annual report. The chief justice shall submit
18 a report on the community court outreach project to the
19 legislature and the governor at least twenty days prior to the
20 convening of the regular sessions of 2018, 2019, and 2020. The
21 report shall include a quantification and discussion of program



1 measures and outcomes. In any report, the chief justice may
2 recommend that this Act be amended, expanded to other counties
3 through June 30, 2020, or made permanent with expansion to other
4 counties. The report shall also include separate chapters or
5 sections containing the comments and recommendations of the
6 prosecuting attorney and public defender.

7 SECTION 7. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$612,610 or so much
9 thereof as may be necessary for fiscal year 2017-2018 and the
10 same sum or so much thereof as may be necessary for fiscal year
11 2018-2019 for the establishment, administration, and operation
12 of the community court outreach project.

13 The sums appropriated shall be expended by the judiciary
14 for the purposes of this Act; provided that, of the
15 appropriation for each fiscal year, the chief justice shall
16 transfer:

- 17 (1) \$170,000 to the prosecuting attorney for the
18 participation of the prosecuting attorney in the
19 project; and
20 (2) \$200,000 to the public defender for the participation
21 of the public defender in the project.



1 Notwithstanding section 5(b) of this Act, for each fiscal
2 year, the chief justice shall transfer the funds to the
3 prosecuting attorney and public defender within thirty days of
4 entering into the latter dated of the memoranda of agreement
5 with each of them.

6 SECTION 8. (a) There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$130,000 or so much
8 thereof as may be necessary for fiscal year 2017-2018 and the
9 same sum or so much thereof as may be necessary for fiscal year
10 2018-2019 to provide security for the community court outreach
11 project.

12 The sums appropriated shall be expended by the department
13 of public safety for the purposes of this Act.

14 (b) The department of public safety may establish 2.00
15 full-time equivalent deputy sheriff positions for the community
16 court outreach project and use the appropriation under
17 subsection (a) to fund the positions.

18 In the alternative, the department of public safety may
19 assign 2.00 existing full-time equivalent deputy sheriff
20 positions for the community court outreach project and use the
21 appropriation under subsection (a) to establish 2.00 new or fill



1 2.00 vacant full-time equivalent deputy sheriff positions to
2 replace those assigned to the outreach project.

3 SECTION 9. This Act shall take effect on July 1, 2017, and
4 shall be repealed on June 30, 2020.

5

INTRODUCED BY: _____

Jim
Paul Blund
N.W.V.



S.B. NO. 718

Report Title:

Community Court Outreach Project; Nonviolent Criminal Offenders

Description:

Establishes a community court outreach project in the City and County of Honolulu from July 1, 2017, to June 30, 2020.

Requires, under the project, the Judiciary to operate a mobile court that travels to community sites where defendants cited or arrested for nonviolent offenses live or congregate and disposes of the cases after plea agreements have been reached by the Honolulu prosecuting attorney and public defender. Appropriates general funds.

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