
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that individuals with
2 mental health or substance abuse challenges are particularly
3 vulnerable to becoming homeless. According to the 2017 Hawaii
4 Statewide Homeless Point-in-Time count, twenty-three per cent of
5 the homeless population reported suffering from serious mental
6 illness, while nineteen per cent of the homeless population
7 reported suffering from chronic substance abuse.

8 The purpose of this Act is to establish a pre-arrest
9 diversion pilot project for individuals with mental health or
10 substance abuse challenges. The pilot project shall apply to
11 individuals who commit certain nonviolent, non-felony offenses
12 on state property and are referred by deputy sheriffs to the
13 services of the department of health. The legislature is
14 establishing the pilot project under state auspices to avoid
15 intruding into the jurisdiction of any county.

16 SECTION 2. Pre-arrest diversion pilot project for
17 individuals with mental health or substance abuse challenges;



1 establishment. There is established a pre-arrest diversion
2 pilot project for individuals with mental health or substance
3 abuse challenges.

4 The purpose of the pilot project shall be to refer
5 individuals with mental health or substance abuse challenges who
6 commit nonviolent, non-felony offenses on state property to
7 appropriate community mental health services instead of
8 arresting or citing them. The pilot project shall be operated
9 in a county having a population of not less than six hundred
10 thousand.

11 SECTION 3. Definitions. For the purposes of this Act:

12 "Individual with mental health or substance abuse
13 challenges" means a "mentally ill person" or "person suffering
14 from substance abuse" as defined in section 334-1, Hawaii
15 Revised Statutes.

16 "Nonviolent, non-felony offense" means an offense that:

- 17 (1) Is not a felony; and
18 (2) Does not involve physical harm to a person's self or
19 another person.



1 "Pilot project" means the pre-arrest diversion pilot
2 project for individuals with mental health or substance abuse
3 challenges established by this Act.

4 "Responsible state officer" means the state executive
5 branch officer who is assigned by the governor to coordinate and
6 have overall responsibility for the pilot project.

7 SECTION 4. Responsible state officer; assignment by
8 governor; coordination and overall responsibility for pilot
9 project. (a) No later than September 1, 2017, the governor
10 shall assign a state executive branch officer to serve as the
11 responsible state officer for the pilot project.

12 (b) The responsible state officer shall coordinate and
13 have overall responsibility for the pilot project.

14 The responsible state officer shall work with the
15 department of public safety, department of health, department of
16 human services, and governor's homelessness coordinator to
17 establish the protocols and processes for operation of the pilot
18 project.

19 SECTION 5. Pilot project basic principles. (a) The pilot
20 project shall be operated in accordance with the following basic
21 principles:



1 (1) When observing or responding to an incident that the
2 deputy sheriff reasonably believes may constitute a
3 nonviolent, non-felony offense on state property, a
4 deputy sheriff who is appropriately trained under the
5 pilot project shall preliminarily determine, based on
6 the deputy sheriff's reasonable belief, whether the
7 alleged violator may be a potential participant in the
8 pilot project;

9 (2) If the deputy sheriff reasonably believes that the
10 alleged violator is a potential participant in the
11 pilot project, the deputy sheriff shall determine
12 whether the alleged violator has been convicted within
13 the past three years of an offense involving violence
14 against another person;

15 (3) If the deputy sheriff determines that the alleged
16 violator has not been convicted within the past three
17 years of an offense involving violence against another
18 person, the deputy sheriff shall:

19 (A) Refer the alleged violator to the department of
20 health for assessment; and

21 (B) Not arrest or cite the alleged violator.



1 If the deputy sheriff determines otherwise, the deputy
2 sheriff shall arrest, cite, or take other action with
3 respect to the alleged violator as deemed appropriate
4 by the deputy sheriff;

5 (4) Upon receiving a referral from a deputy sheriff of an
6 alleged violator, the department of health shall
7 assess whether the alleged violator is an individual
8 with mental health or substance abuse challenges;

9 (5) If the assessment is in the affirmative, and the
10 alleged violator voluntarily agrees to participate in
11 the pilot project, the department of health shall:

12 (A) Accept the individual with mental health or
13 substance abuse challenges into the pilot
14 project; and

15 (B) Refer the individual with mental health or
16 substance abuse challenges to appropriate
17 community mental health services;

18 (6) Upon the acceptance by the department of health of an
19 individual with mental health or substance abuse
20 challenges into the pilot project, the department of
21 public safety shall have no further responsibility



1 regarding the individual or the disposition of the
2 alleged violation; and

3 (7) If the department of health does not accept an alleged
4 violator into the pilot project, the department of
5 health shall inform the department of public safety.
6 Upon being so informed, the department of public
7 safety shall arrest, cite, or take other action with
8 respect to the alleged violator, as deemed appropriate
9 by the department.

10 (b) The department of health may limit the number of
11 individuals with mental health or substance abuse challenges who
12 are accepted into the pilot project, based on the availability
13 of funds for the project.

14 SECTION 6. Community mental health services of department
15 of health. The department of health shall provide the community
16 mental health services of the pilot project under the authority
17 of chapter 334, Hawaii Revised Statutes, and any other
18 applicable law. The department of health may contract with any
19 qualified person to provide the community mental health
20 services.



1 SECTION 7. Services of the department of human services.
2 The responsible state officer or department of health may enter
3 into an agreement with the department of human services for the
4 provision of transitional housing, housing first, or other
5 services to individuals accepted into the pilot project.

6 SECTION 8. Nonviolent, non-felony offense; identification.

7 (a) The responsible state officer, in consultation with the
8 department of public safety, shall identify the nonviolent, non-
9 felony offenses under the Hawaii Penal Code, other state law, or
10 administrative rule, the commission of which on state property
11 may qualify the alleged violator to participate in the pilot
12 project. In identifying the nonviolent, non-felony offenses,
13 the responsible state officer shall consider the following
14 offenses, at minimum: offenses against drinking liquor in
15 public or on a public place; being in a state park after hours
16 of closure; camping on a sidewalk, beach, or other restricted
17 public place; trespassing; obstruction; prostitution; and
18 possession of an illegal drug.

19 (b) To identify the offenses, the responsible state
20 officer may seek the advice of the judiciary, police department,



1 and department of the prosecuting attorney of the county in
2 which the pilot project is implemented.

3 SECTION 9. Timeline for pilot project. (a) During fiscal
4 year 2018-2019, the responsible state officer and relevant state
5 departments shall prepare for the commencement of the pilot
6 project on July 1, 2019.

7 (b) The pilot project shall be operated from July 1, 2019,
8 until June 30, 2020.

9 SECTION 10. Interim report, final report. (a) The
10 responsible state officer shall submit an interim report on the
11 status of the pilot project to the legislature no later than
12 January 1, 2019.

13 (b) The responsible state officer shall submit a final
14 report on the pilot project to the legislature no later than
15 twenty days prior to the convening of the regular session of
16 2020. The final report shall include an evaluation of the pilot
17 project, findings on problems and issues pertaining to the pilot
18 project, and a recommendation on whether or not a pre-arrest
19 diversion program for individuals with mental health or
20 substance abuse challenges should be made permanent.



1 SECTION 11. (a) There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2018-2019 for the
4 pre-arrest diversion pilot project.

5 The sum appropriated shall be expended by the office of the
6 governor for the purposes of this Act.

7 (b) Notwithstanding any other law to the contrary, the
8 governor may transfer all or a portion of the appropriation in
9 this section to the responsible state officer, the department of
10 public safety, or the department of health for expenditure to
11 implement the pilot project.

12 The responsible state officer, the department of public
13 safety, or the department of health may expend any transferred
14 appropriation for the performance of its duties under the pilot
15 project.

16 SECTION 12. This Act shall take effect on July 1, 3000.



Report Title:

Mental Health; Substance Abuse; Pilot Program; Appropriation

Description:

Establishes a pre-arrest diversion pilot project for individuals with mental health or substance abuse challenges who allegedly commit nonviolent, non-felony offenses on state property. Appropriates funds. (HB2147 HD1)

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