

S.B. NO. 2191

JAN 24 2018

A BILL FOR AN ACT

RELATING TO JUVENILE JUSTICE REFORM.

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

1 SECTION 1. In 2014, the legislature passed Act 201, to
2 reform Hawaii's juvenile justice system, commit to improve
3 outcomes for Hawaii's youth in the juvenile justice system, and
4 maximize the effective use of the Hawaii youth correctional
5 facility's appropriations and treatment options.

6 With incarceration costing over \$200,000 annually per bed,
7 diversion of youth away from the traditional incarceration model
8 of the Hawaii youth correctional facility to an alternative
9 therapeutic and rehabilitative program has substantially reduced
10 the facility's population and expenses.

11 The legislature finds that critical services to reduce
12 delinquency, including mental health, youth homelessness,
13 vocational services and substance abuse treatment, are still
14 insufficiently resourced and insufficiently accessible to
15 Hawaii's at-risk youth population.

16 Hawaii's commitment to the prevention of juvenile
17 delinquency and support of Hawaii's youth must also include
18 services for the homeless, drug addicted, mentally ill, and
19 trafficked youth. The 2017 Hawaii statewide point in time count

1 reported the increasing significance of unaccompanied youth and
2 youth who are parents who are experiencing homelessness. For
3 purposes of the point in time count, the United States
4 Department of Housing and Urban Development defines youth as
5 individuals twenty-four years or younger. In 2017, Hawaii's
6 point in time count reported three hundred nineteen
7 unaccompanied youth, with two hundred sixty-three or eighty-two
8 per cent, living unsheltered. Twenty-four individuals under the
9 age of eighteen were found living unsheltered without any
10 accompanying adults. The 2017 total unaccompanied youth count
11 of three hundred sixteen was similar to the three hundred nine
12 unaccompanied youth counted in 2016.

13 In accordance with section 20.1 of Act 119, Session Laws of
14 Hawaii 2015, as added by section 4(17) of Act 124, Session Laws
15 of Hawaii 2016, the department of human services identified a
16 gap in services for homeless youth aged twenty-four and under.
17 The report stated that the population of unaccompanied youth is
18 difficult to count as these youth tend to be mobile and
19 transient, that some do not want to be found, and that
20 unaccompanied youth are generally not connected to the formal
21 support service system.

22 Further, although overall juvenile arrests are down, recent
23 news reports indicate an increase in juvenile arrests,

1 particularly in Waikiki involving youth who may also be
2 homeless.

3 Regarding substance use by youth, most recent reports show
4 that while use of marijuana and cigarettes appear to be
5 declining amongst youth aged twelve to seventeen, the Substance
6 Abuse and Mental Health Services Administration published
7 *Behavioral Health Barometer: Hawaii, Volume 4: Indicators as*
8 *measured through the 2015 National Survey on Drug Use and*
9 *Health, the National Survey of Substance Abuse Treatment*
10 *Services, and the Uniform Reporting System (SAMHSA report),*
11 reporting that "[i]n Hawaii, an annual average of about 6,000
12 adolescents aged 12-17 (6.2% of all adolescents) in 2014-2015
13 used marijuana in the past month. The annual average percentage
14 in 2014-2015 was lower than the annual average percentage in
15 2011-2012." With regard to cigarette use, the same report
16 states that "[i]n Hawaii, an annual average of about 3,000
17 adolescents aged 12-17 (3.1% of all adolescents) in 2014-2015
18 used cigarettes in the past month. The annual average percentage
19 in 2014-2015 was lower than the annual average percentage in
20 2011-2012." As to alcohol use in the last month, the report
21 states "[i]n Hawaii, an annual average of about 10,000
22 adolescents aged 12-17 (10.6% of all adolescents) in 2014-2015
23 used alcohol in the past month. The annual average percentage in

1 2014-2015 was not significantly different from the annual
2 average percentage in 2011-2012."

3 Act 201 (2014) paved the way to improved working
4 relationships between and among the judiciary, the departments
5 of health, of education and of human services, and the office of
6 youth services. However, securing mental health treatment
7 services for Hawaii's most troubled youth remains problematic.
8 To avoid continued placement of Hawaii's youth in mainland
9 facilities, a secured mental health treatment facility in Hawaii
10 is preferred. In the general population, the SAMHSA report
11 stated, "[i]n Hawaii, an annual average of about 10,000
12 adolescents aged twelve to seventeen (9.9% of all adolescents)
13 in 2014-2015 had experienced a MDE [major depressive episode] in
14 the past year. The annual average percentage in 2014-2015 was
15 not significantly different from the annual average percentage
16 in 2011-2012." Also, the SAMHSA report stated, "[i]n Hawaii, an
17 annual average of about 3,000 adolescents aged 12-17 with past
18 year MDE (32.6% of all adolescents with past year MDE) from 2009
19 to 2015 received treatment for their depression in the past
20 year."

21 To improve access by adolescents to mental health services,
22 in 2016 the legislature passed Act 181, which reduced the age of
23 consent for adolescent mental health services to fourteen years

1 old. The conference committee report no. 11-16 stated "[t]he
2 purpose of this measure is to reduce barriers to accessing
3 mental health services for minors by lowering the age of consent
4 to receive treatment and services, other than prescription
5 medication or out-of-home or residential treatment, from
6 eighteen years of age to fourteen years.

7 Your Committee on Conference finds that requiring parental
8 consent for minors to receive substance abuse treatment and
9 family planning services may pose a barrier to health care.
10 Minors may find desired mental health services inaccessible due
11 to the discomfort and even opposition caused by obtaining
12 parental consent. By allowing access to mental health services
13 for consenting minors of a certain age, individuals seeking
14 improved emotional and mental well-being may be served in a
15 timely manner."

16 With regard to youth who may be also be victims of human
17 trafficking, in 2017 the legislature passed Act 16, which
18 brought the State into compliance with the federal Justice for
19 Victims of Trafficking Act of 2015 and the federal Child Abuse
20 Prevention and Treatment Act of 2010. Act 16, among other
21 things, amended the definition of "child abuse or neglect" to
22 include sex trafficking or severe forms of trafficking in
23 persons.

1 Hawaii is not isolated from human and sex trafficking.
2 Hawaii's location in the Pacific makes it a highly sought after
3 tourist destination and lucrative place for national and
4 international conferences, thereby creating a demand for
5 prostitution, which may include sex trafficking of minors.

6 Youth in foster care are at a higher risk of being victims
7 of sex trafficking because of the often continuing
8 vulnerabilities that stem from being maltreated or neglected as
9 children. It is difficult to obtain an accurate picture of this
10 issue due to the covert nature of sex trafficking and the fact
11 that victims may not and do not identify themselves as victims.
12 However, it is anticipated that with the change in mandated
13 reporting requirements, the numbers of youth who are victims of
14 human trafficking in Hawaii will be better identified.

15 The purposes of this Act are to:

- 16 (1) Support ho'opono mamo, the new Hawaii youth diversion
17 system, through the establishment of the Kawaihoa
18 youth and family wellness center, operated and
19 maintained by the Hawaii youth correctional
20 facilities;
- 21 (2) Improve and enhance Hawaii's juvenile justice system
22 by strengthening services available to prevent

1 juvenile delinquency and recidivism and to support
2 rehabilitation; and

- 3 (3) Re-invest savings from the reduction of the number of
4 youth in secure confinement at Hawaii youth
5 correctional facility into the provision of services
6 to prevent juvenile delinquency, specifically mental
7 health and substance abuse treatment and
8 rehabilitation, and to provide a more successful and
9 supportive community reentry transition.

10 SECTION 2. Chapter 352, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§352- Authority for Hawaii youth correctional facility
14 to accept youth at risk and youth diverted from the juvenile
15 justice system, and young adults at risk between the ages of
16 eighteen to twenty-four. (a) The office of youth services
17 designates the Hawaii youth correctional facilities as the
18 authority to establish, build, repair, maintain, and operate the
19 Kawailoa youth and family wellness center, as set forth in
20 section 352D- , from funds appropriated or approved by the
21 legislature for these purposes, facilities, and programs
22 necessary to implement the provisions of this chapter and
23 chapter 352D.

1 (b) Persons committed to the Hawaii youth correctional
2 facility shall be kept segregated from the diverted and youth at
3 risk and young adults at risk admitted to the Kailoa youth and
4 family wellness center."

5 SECTION 3. Section 352D-3, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Young adult at risk or "young adult" means any adult
9 between the ages of eighteen and twenty-four who has been
10 arrested, or who has had contact with the police, or who is
11 experiencing social, emotional, psychological, educational,
12 physical problems, or who is no longer eligible for child
13 protective services provided by the State of Hawaii due to their
14 age."

15 SECTION 4. Chapter 352D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§352D- Kailoa youth and family wellness center;
19 creation. (a) The office of youth services shall create and
20 develop at the site of the Hawaii youth correctional facility a
21 central youth service center that shall be called the Kailoa
22 youth and family wellness center. The Hawaii youth correctional
23 facility shall operate and maintain the Kailoa youth and

1 family wellness center, within the scope of the authority
2 granted to it by the office of youth services, pursuant to
3 Chapter 352D.

4 (b) The primary objective of the Kawaihoa youth and family
5 wellness center is delinquency prevention as set forth in
6 section 352D-7.

7 (c) The population eligible for services at the Kawaihoa
8 youth and family wellness center is all youths, in need of
9 services and all young adults at risk.

10 (d) The objectives of the Kawaihoa youth and family
11 wellness center shall be to:

12 (1) Offer residential programs in delinquency prevention
13 including the youth services as defined in this
14 chapter;

15 (2) Provide a wider range of informal dispositions,
16 particularly alternatives to the juvenile justice
17 system; and

18 (3) Develop an improved system of intake, assessment, and
19 follow-up for youths and young adults between the ages
20 of eighteen to twenty-four.

21 (e) The Kawaihoa youth and family wellness center programs
22 may include, but shall not be limited to, the establishment and
23 operation of mental health services and programs, substance

1 abuse treatment programs, crisis shelters for homeless youth,
2 crisis shelters for victims of human and sex trafficking,
3 vocational training, group homes, day treatment programs,
4 aftercare, independent and family counseling services,
5 educational services, and such other services as may be required
6 to meet the needs of youth or young adults."

7 SECTION 5. Section 352-2.1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§352-2.1 Purpose. (a) This chapter creates within the
10 department of human services, and to be placed within the office
11 of youth services under the supervision of the director and such
12 other subordinates as the director shall designate, the Hawaii
13 youth correctional facilities, to provide for the custody,
14 rehabilitation, and institutional care and services to prepare
15 for reentry into their communities and families, youth committed
16 by the courts of the State.

17 (b) This chapter further creates within the department of
18 human services, and to be placed within the office of youth
19 services under the supervision of the director and such other
20 subordinates as the director shall designate, and under the
21 supervision of the Hawaii youth correctional facilities, a
22 youth services center as provided in chapter 352D which shall be
23 called the Kawaihoa youth and family wellness center, to provide

1 services and programs for youth at risk in the state and young
2 adults at risk between the ages of eighteen to twenty-four, to
3 prevent delinquency and reduce the incidence of recidivism among
4 youth and young adults between the ages of eighteen to twenty-
5 four through the provision of prevention, rehabilitation and
6 treatment services.

7 ~~[(b)]~~ (c) The policy and purpose of this chapter is to
8 harmonize the sometimes conflicting requirements of public
9 safety, secure placement, and individualized services for law
10 violators in the custody and care of the director. To that end,
11 the director shall provide the opportunity for intelligence and
12 aptitude evaluation, psychological testing and counseling,
13 prevocational and vocational training, and employment counseling
14 to all persons committed to the Hawaii youth correctional
15 facilities~~[-]~~ and to all youth and young adults between the ages
16 of eighteen to twenty-four admitted to the Kawaihoa youth and
17 family wellness center. Counseling services shall be available
18 to the committed or admitted person's or young adult's family
19 during the term of commitment or admission to the Kawaihoa youth
20 and family wellness center. The director shall coordinate
21 services provided to the facilities by other departments and
22 agencies, to realize these policies and purposes."

SECTION 6. Section 352D-7, Hawaii Revised Statutes, is amended to read as follows:

"352D-7 Youth services centers; creation. (a) Beginning July 1, 1991, the office of youth services shall create, develop, and operate youth service centers throughout the State including one or more in each county. This may be done either directly or by contract with private parties. Delinquency prevention shall be a primary objective of these centers. The population eligible for services at the centers shall be all youths in need of services and all young adults at risk. All referrals and admissions to a youth services center shall be voluntary. Centers shall also develop individualized intake capabilities, program plans, delivery of services, and a comprehensive referral network. The objectives of the youth service centers shall be to:

- (1) Develop and implement programs in delinquency prevention;
- (2) Provide a wider range of informal dispositions, particularly alternatives to the juvenile justice system;
- (3) Develop an improved system of intake, assessment, and follow-up for youths[+], including youth at risk and young adults at risk; and

(4) Provide better coordination of juvenile justice and nonjuvenile justice services in order to reduce overlaps and gaps in services.

(b) Each center shall:

(1) Be responsible for coordinating all services, justice system or non-justice system, both public and private, to the youth and young adults at risk referred to it; and

(2) Be responsive to the needs of its immediate community and offer an array of services that are tailored to the needs of its constituents.

(c) Every youth and young adult at risk referred to a youth services center shall, as soon as possible, be appropriately placed with a service provider and provided services. The center shall develop procedures [~~which~~] that will [~~insure~~] ensure that appropriate service providers are available on a twenty-four hour basis for each youth~~[-]~~ and young adult at risk. The center may contract with such service providers for such services.

(d) Each youth service center shall maintain a registry of every youth and young adult at risk referred to it and shall monitor and supervise the follow-up services that are provided to the youth~~[-]~~ and young adult at risk. Each center shall be

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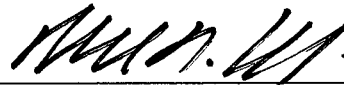
1 primarily responsible to ensure that ~~[the]~~ each youth is fully
2 diverted from the juvenile justice system.

3 (e) The office of youth services shall create, develop,
4 and operate at the site of the Hawaii youth correctional
5 facility a youth service center that shall be called the
6 Kawailoa youth and family wellness center as set forth in
7 section 352D- ."

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

10 SECTION 8. This Act shall take effect upon its approval.

11
12
13 INTRODUCED BY:



14 BY REQUEST
15

S.B. NO. 2791

Report Title:

Department of Human Services; Office of Youth Services; Juvenile Justice Reform; Kawaiiloa Youth and Family Wellness Center

Description:

Amends chapter 352 and chapter 352D, Hawaii Revised Statutes, to establish the Kawaiiloa Youth and Family Wellness Center, and transforms the approach of juvenile justice to a therapeutic model.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Office of Youth Services, Department of Human Services.

TITLE: A BILL FOR AN ACT RELATING TO JUVENILE JUSTICE REFORM.

PURPOSE: To establish the Kawaiiloa youth and family wellness center at the Hawaii youth correctional facility of the office of youth services to incorporate a more therapeutic and rehabilitative focus.

MEANS: Add one new section to chapters 352 and 352D and amend sections 352-2.1, 352D-3, and 352D-7, Hawaii Revised Statutes.

JUSTIFICATION: The Kawaiiloa Youth and Family Wellness Center will provide mental health treatment services, substance abuse treatment services, a crisis shelter for homeless youth, a crisis shelter for commercially sexually trafficked youth, vocational training, group homes, day treatment programs, educational services, and such other services as may be required to meet the needs of the youth at risk and young adults at risk. This bill proposes to:

- (1) Transform Hawaii's current correctional model into a more treatment oriented, and collaborative and restorative justice model;
- (2) Support Ho'opono Mamo, the new Hawaii youth diversion system, by providing specialized treatment programs for youth that address mental health and illness, substance abuse, truancy, and other misdemeanor related offenses as an alternative sentencing option;
- (3) Extend family therapy and parent counseling services to family members of admitted youth to provide healing and rehabilitation to family units as a whole;

- (4) Reinvest savings from reducing the number of youth in secure confinement at the Hawaii youth correctional facility into the provision of services at the Kawaiiloa youth and family wellness center, and to prevent juvenile delinquency, to provide a more successful and supportive community reentry transition.

Impact on the public: Improve and enhance Hawaii's juvenile justice system by preventing juvenile delinquency and lowering recidivism with support services for at risk youth, including homeless youth, sex trafficked youth.

Impact on the department and other agencies: Departments of Human Services, Health, and Education, and the Judiciary, may be required to develop a joint information sharing agreement that will satisfy existing confidentiality and other federal and state law regarding sharing of data of individuals. The Department of the Attorney General will likely need to assist in the drafting of related data sharing agreements.

GENERAL FUNDS:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	HMS 503.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.