

# S.B. NO. 2814

JAN 24 2018

## A BILL FOR AN ACT

RELATING TO THE RELEASE OF MISDEMEANANTS.

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

SECTION 1. Section 353-36, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Notwithstanding chapter 804 and any other law to the contrary and except as provided in subsection (b), the director may order the release of a misdemeanor on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director shall consider the circumstances and nature of the misdemeanor's charge or offense prior to ordering a release pursuant to this section. The director's order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. For purposes of this section and section 353-37, "misdemeanant" means a person incarcerated at a community correctional center who has been charged with a petty misdemeanor or misdemeanor, or an incarcerated person who has been sentenced ~~[pursuant to section 706-663.]~~ for conviction of an offense identified as a petty misdemeanor or misdemeanor.

# S.B. NO. 2814

(b) No person who is incarcerated under any of the following circumstances shall be eligible for release pursuant to this section:

(1) The person has been denied bail or whose bail has been set at more than \$5,000 pursuant to chapter 804;

(2) The person is charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3;

(3) The person has been arrested or convicted for abuse of family or household members, as defined in section 709-906; or

(4) ~~[Other than the offense for which release is contemplated under this section, the]~~ The person has been previously arrested or convicted of any offense, as defined in title 37, that involves injury or threat of injury to the person of another, including but not limited to sexual harassment in the fourth degree, harassment by stalking, violation of an order of protection, or violation of a temporary restraining order."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

S.B. NO. 2814

1 SECTION 3. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: *MM H. W.*

4

BY REQUEST

5

# S.B. NO. 2814

**Report Title:**

Release of Misdemeanants

**Description:**

Defines the circumstances for the Director of Public Safety or a designee of the director to release pretrial and sentenced misdemeanants at community correctional centers.

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

# SB. NO. 2814

## JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO THE RELEASE OF MISDEMEANANTS.

PURPOSE: Amend the statutory authorization of the Director of Public Safety to release pretrial or sentenced misdemeanants based on specified criteria and referenced procedures.

MEANS: Amend section 353-36(a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: The Department of Public Safety has long experienced significant overcrowded conditions at the jail facilities. Act 217, Session Laws of Hawaii 2016, authorized the Director to release pretrial or sentenced misdemeanants under specified criteria as one mechanism to reduce overcrowding. One year's experience has shown, however, that the criteria would need to be expanded in order to more effectively fulfill the purpose of Act 217. This bill will make adjustments to the statute to expand the criteria and increase the pool of petty misdemeanants and misdemeanants to whom the discretionary authority of the Director may apply.

Impact on the public: Provides an additional methodology for alternatives to incarceration.

Impact on the department and other agencies: Provides an additional resource for the management of cases by the Judiciary, the relevant County Office of the Prosecuting Attorney, and the Office of the Public Defender.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: PSD 900.

OTHER AFFECTED

AGENCIES:

County Offices of the Prosecuting Attorney,  
Office of the Public Defender, the Judiciary.

EFFECTIVE DATE:

Upon approval.