JAN 1 8 2023

A BILL FOR AN ACT

RELATING TO ALCOHOL AND SUBSTANCE ABUSE.

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

SECTION 1. Section 353-66, Hawaii Revised Statutes, is
 amended by amending subsection (f) to read as follows:

3 "(f) The Hawaii paroling authority may require a paroled 4 prisoner to undergo and complete a substance abuse treatment 5 program when the paroled prisoner has committed a violation of the terms and conditions of parole involving possession or use, 6 7 not including to distribute or manufacture as defined in section 8 712-1240, of any dangerous drug, detrimental drug, harmful drug, 9 intoxicating compound, marijuana, or marijuana concentrate, as 10 defined in section 712-1240, unlawful methamphetamine 11 trafficking as provided in section 712-1240.6, or involving 12 possession or use of drug paraphernalia under section 329-43.5. 13 The Hawaii paroling authority shall provide written notice of 14 the paroled prisoner's right to attend a nonreligious substance 15 abuse treatment program. The notice shall include a list of 16 nonreligious substance abuse treatment programs. If the paroled 17 prisoner fails to complete the substance abuse treatment program



1 or the Hawaii paroling authority determines that the paroled 2 prisoner cannot benefit from any substance abuse treatment 3 program, the paroled prisoner shall be subject to revocation of parole and return to incarceration. As a condition of parole, 4 5 the Hawaii paroling authority may require the paroled prisoner 6 to: 7 Be assessed by a certified substance abuse counselor (1) 8 for substance abuse dependency or abuse under the 9 applicable Diagnostic and Statistical Manual and 10 Addiction Severity Index; (2) Present a proposal to receive substance abuse 11 12 treatment in accordance with the treatment plan 13 prepared by a certified substance abuse counselor 14 through a substance abuse treatment program that 15 includes an identified source of payment for the 16 treatment program; (3) Contribute to the cost of the substance abuse 17 18 treatment program; and 19 (4)Comply with any other terms and conditions for parole. 20 As used in this subsection, "substance abuse treatment 21 program" means drug or substance abuse treatment services



1 provided outside a correctional facility by a public, private,
2 or nonprofit entity that specializes in treating persons who are
3 diagnosed with having substance abuse or dependency and
4 preferably employs licensed professionals or certified substance
5 abuse counselors.

6 Nothing in this subsection shall be construed to give rise
7 to a cause of action against the State, a state employee, or a
8 treatment provider."

9 SECTION 2. Section 706-622.5, Hawaii Revised Statutes, is
10 amended by amending subsection (2) to read as follows:

11 "(2) A person eligible under subsection (1) may be sentenced to probation to undergo and complete a substance abuse 12 treatment program if the court determines that the person can 13 14 benefit from substance abuse treatment and, notwithstanding that 15 the person would be subject to sentencing as a repeat offender 16 under section 706-606.5, the person should not be incarcerated to protect the public. The judiciary shall provide written 17 18 notice to the person of the person's right to attend a 19 nonreligious substance abuse treatment program. The notice 20 shall include a list of nonreligious substance abuse treatment 21 programs. If the person fails to complete the substance abuse



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treatment program and the court determines that the person 1 2 cannot benefit from any other suitable substance abuse treatment 3 program, the person shall be subject to sentencing under the applicable section under this part. As a condition of probation 4 5 under this subsection, the court may direct the person to undergo and complete substance abuse treatment under the 6 7 supervision of the drug court if the person has a history of 8 relapse in treatment programs. The court may require other 9 terms and conditions of probation, including requiring that the 10 person contribute to the cost of the substance abuse treatment 11 program, comply with deadlines for entering into the substance 12 abuse treatment program, and reside in a secure drug treatment 13 facility."

SECTION 3. Section 706-622.9, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

16 "(2) A person eligible under subsection (1) may be 17 sentenced to probation to undergo and complete a substance abuse 18 treatment program if the court determines that the person can 19 benefit from substance abuse treatment and, notwithstanding that 20 the person would be subject to sentencing as a repeat offender 21 under section 706-606.5, the person should not be incarcerated

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1 to protect the public. The judiciary shall provide written 2 notice to the person of the person's right to attend a 3 nonreligious substance abuse treatment program. The notice 4 shall include a list of nonreligious substance abuse treatment 5 programs. If the person fails to complete the substance abuse 6 treatment program and the court determines that the person 7 cannot benefit from any other suitable substance abuse treatment 8 program, the person shall be sentenced as provided in this part. 9 As a condition of probation under this subsection, the court may 10 direct the person to undergo and complete substance abuse 11 treatment under the supervision of the drug court if the person 12 has a history or relapse in treatment programs. The court may 13 require other terms and conditions of probation, including 14 requiring that the person contribute to the cost of the substance abuse treatment program, comply with deadlines for 15 16 entering into the substance abuse treatment program, and reside 17 in a secure drug treatment facility." 18 SECTION 4. Section 706-625, Hawaii Revised Statutes, is 19 amended by amending subsection (7) to read as follows: 20 The court may require a defendant to undergo and "(7) 21 complete a substance abuse treatment program when the defendant



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1 has committed a violation of the terms and conditions of 2 probation involving possession or use, not including to 3 distribute or manufacture as defined in section 712-1240, of any 4 dangerous drug, detrimental drug, harmful drug, intoxicating 5 compound, marijuana, or marijuana concentrate, as defined in 6 section 712-1240, unlawful methamphetamine trafficking as 7 provided in section 712-1240.6, or involving possession or use 8 of drug paraphernalia under section 329-43.5. The judiciary 9 shall provide written notice to the person of the person's right 10 to attend a nonreligious substance abuse treatment program. The 11 notice shall include a list of nonreligious substance abuse 12 treatment programs. If the defendant fails to complete the 13 substance abuse treatment program or the court determines that 14 the defendant cannot benefit from any other suitable substance 15 abuse treatment program, the defendant shall be subject to 16 revocation of probation and incarceration. The court may 17 require the defendant to:

18 (a) Be assessed by a certified substance abuse counselor
19 for substance abuse dependency or abuse under the
20 applicable Diagnostic and Statistical Manual and
21 Addiction Severity Index;



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1	(b)	Present a proposal to receive substance abuse
2		treatment in accordance with the treatment plan
3		prepared by a certified substance abuse counselor
4		through a substance abuse treatment program that
5		includes an identified source of payment for the
6		treatment program;
7	(c)	Contribute to the cost of the substance abuse
8		treatment program; and
9	(d)	Comply with any other terms and conditions of
10		probation.
11	As used in this subsection, "substance abuse treatment	
12	program" means drug or substance abuse treatment services	
13	provided outside a correctional facility by a public, private,	
14	or nonprofit entity that specializes in treating persons who are	
15	diagnosed with substance abuse or dependency and preferably	
16	employs licensed professionals or certified substance abuse	
17	counselors.	
18	Nothing in this subsection shall be construed to give rise	

19 to a cause of action against the State, a state employee, or a 20 treatment provider."



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1 SECTION 5. Section 706-650, Hawaii Revised Statutes, is 2 amended by amending subsection (5) to read as follows: 3 If the court determines that the person has the "(5) 4 ability to pay the monetary assessment and is eligible for 5 probation or will not be sentenced to incarceration, unless 6 otherwise required by law, the court may order the person to 7 undergo a substance abuse treatment program at the person's 8 expense. The judiciary shall provide written notice to the 9 person of the person's right to attend a nonreligious substance 10 abuse treatment program. The notice shall include a list of 11 nonreligious substance abuse treatment programs. If the person 12 undergoes a substance abuse treatment program at the person's 13 expense, the court may waive or reduce the amount of the 14 monetary assessment. Upon a showing by the person that the 15 person lacks the financial ability to pay all or part of the 16 monetary assessment, the court may waive or reduce the amount of 17 the monetary assessment." 18 SECTION 6. New statutory material is underscored. 19 SECTION 7. This Act shall take effect upon its approval. 20





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Report Title:

Substance Abuse Treatment; Nonreligious Programs; Written Notification

Description:

Requires a written notice to defendants and eligible paroled prisoners of their right to complete a nonreligious substance abuse treatment program. Requires a list of nonreligious substance abuse treatment programs to be provided.

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

