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# A BILL FOR AN ACT

RELATING TO CRIMINAL JUSTICE REFORM.

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

1           SECTION 1. The legislature finds that state laws relating  
2 to certain violations of community supervision have resulted in  
3 skyrocketing rates of incarceration and severe overcrowding in  
4 state correctional facilities. The legislature recognizes that  
5 the use of alcohol and illicit substances by parolees is often  
6 rooted in the complex issue of addiction and not simply due to a  
7 deliberate choice to disregard the law or the terms of parole.  
8 Subjecting a parolee to arrest and potential revocation of  
9 community supervision is disruptive to the person's overall  
10 efforts and progress in leading a pro-social life and is also  
11 costly for the State. The State currently spends \$253 per day,  
12 or \$92,345 per year, to incarcerate just one person. Research  
13 shows that, in contrast, community-based services may be  
14 provided at a fraction of the cost of incarceration.

15           The legislature believes that instead of expending funds to  
16 arrest a parolee who has tested positive for drug use and  
17 holding a hearing on whether parole should be revoked based on



1 the positive test, funds should be reinvested in employment,  
2 housing, social services, and community-based treatment programs  
3 that more effectively reduce recidivism.

4 Accordingly, the purpose of this Act is to:

5 (1) Provide that at any time before trial, the court may  
6 order the defendant to undergo a substance abuse  
7 assessment and participate in any necessary treatment;  
8 and

9 (2) Prohibit the revocation of parole or arrest of a  
10 parolee solely due to the parolee having one positive  
11 test for drug use.

12 SECTION 2. Chapter 805, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§805- Substance abuse screening; treatment. At any  
16 time before trial, the court may order the defendant to undergo  
17 a substance abuse assessment and participate in any necessary  
18 treatment; provided that nothing in this section shall be  
19 construed as precluding the court from ordering that the  
20 defendant undergo a substance abuse assessment and participate



1 in treatment after trial or as part of any conviction that  
2 results therefrom."

3 SECTION 3. Chapter 806, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§806- Substance abuse screening; treatment. At any  
7 time before trial, the court may order the defendant to undergo  
8 a substance abuse assessment and participate in any necessary  
9 treatment; provided that nothing in this section shall be  
10 construed as precluding the court from ordering that the  
11 defendant undergo a substance abuse assessment and participate  
12 in treatment after trial or as part of any conviction that  
13 results therefrom."

14 SECTION 4. Section 353-66, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending subsection (b) to read:

17 "(b) No parole shall be revoked and no credits forfeited  
18 without cause, which [~~cause must~~] shall be stated in the order  
19 revoking the parole[7] but shall not be based solely upon the  
20 parolee having one positive test for drug use, or in the order  
21 forfeiting the credits after notice to the [~~paroled prisoner~~]



1 parolee of the [~~paroled prisoner's~~] parolee's alleged offense  
2 and an opportunity to be heard; provided that [~~when~~] if a person  
3 is convicted in the State of a crime committed while on parole  
4 and is sentenced to imprisonment, or [~~when~~] if it is shown by  
5 personal investigation that a parolee has left the State without  
6 permission from the paroling authority and due effort is made to  
7 reach the parolee by registered mail directed to the parolee's  
8 last known address, no hearing shall be required to revoke the  
9 parolee's parole; [~~and~~] provided further that [~~when~~] if any duly  
10 licensed psychiatrist or licensed psychologist finds that  
11 continuance on parole will not be in the best interests of a  
12 parolee or the community, the paroling authority, within the  
13 limitations of the sentence imposed, shall order the detention  
14 and treatment of the [~~prisoner~~] committed person until [~~such~~  
15 ~~time as~~] the [~~prisoner shall be~~] committed person is found by  
16 any duly licensed psychiatrist or licensed psychologist to be  
17 eligible for continuance on parole."

18 2. By amending subsection (d) to read:

19 "(d) The paroling authority may at any time order the  
20 arrest and temporary return to custody of any [~~paroled~~  
21 ~~prisoner,~~] parolee, as provided in section 353-65, for the



1 purpose of ascertaining whether [~~or not~~] there is sufficient  
2 cause to warrant the [~~paroled prisoner's~~] parolee's  
3 reimprisonment or the revoking of the [~~paroled prisoner's~~]  
4 parolee's parole or other action provided for by this part[~~er~~];  
5 provided that a parolee shall not be arrested under this  
6 subsection solely because the parolee has one positive test for  
7 drug use."

8 SECTION 5. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Courts; Corrections; Arrests; Substance Abuse Assessment; Parole

**Description:**

Allows the court to order substance abuse assessment and treatment of a defendant before trial. Prohibits the revocation of parole or arrest of a parolee solely due to the parolee having one positive test for drug use. Effective 7/1/3000.  
(HD1)

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