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

12 The legislature believes that instead of expending funds to
13 arrest a parolee who has tested positive for drug or alcohol use
14 and holding a hearing on whether parole should be revoked based
15 on the positive test, funds should be reinvested in employment,
16 housing, social services, and community-based treatment programs
17 that more effectively reduce recidivism.



1 Accordingly, the purpose of this Act is to:

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

6 (2) Prohibit the revocation or forfeiture of parole or
7 arrest of a parolee solely due to the parolee having
8 one positive test for drug or alcohol use.

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

12 "§805- Substance abuse screening; treatment. At any
13 time before trial, the court may order the defendant to undergo
14 a substance abuse assessment and participate in any necessary
15 treatment; provided that the substance abuse assessment and any
16 necessary treatment be commenced within seven days of the order;
17 provided further that nothing in this section shall be construed
18 as precluding the court from ordering that the defendant undergo
19 a substance abuse assessment and participate in treatment after
20 trial or as part of any conviction that results therefrom."



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

4 "§806- Substance abuse screening; treatment. At any
5 time before trial, the court may order the defendant to undergo
6 a substance abuse assessment and participate in any necessary
7 treatment; provided that the substance abuse assessment and any
8 necessary treatment be commenced within seven days of the order;
9 provided further that nothing in this section shall be construed
10 as precluding the court from ordering that the defendant undergo
11 a substance abuse assessment and participate in treatment after
12 trial or as part of any conviction that results therefrom."

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

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

16 "(b) No parole shall be revoked and no credits forfeited
17 without cause, which [~~cause must~~] shall be stated in the order
18 revoking the parole[7] or forfeiting the credits; provided that
19 the revocation or forfeiture shall not be based solely upon the
20 parolee having one positive test for alcohol or unprescribed or
21 illegal drug use. A parole revocation hearing may take place



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

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

20 "(d) The paroling authority may at any time order the
21 arrest and temporary return to custody of any [~~paroled~~



1 ~~prisoner,~~ parolee, as provided in section 353-65, for the
2 purpose of ascertaining whether [~~or not~~] there is sufficient
3 cause to warrant the [~~paroled prisoner's~~] parolee's
4 reimprisonment or the revoking of the [~~paroled prisoner's~~]
5 parolee's parole or other action provided for by this part[-];
6 provided that a parolee shall not be arrested under this
7 subsection solely because the parolee has one positive test for
8 drug or alcohol use."

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

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

14 SECTION 7. This Act shall take effect on April 14, 2112.



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 or forfeiture of parole or arrest of a parolee solely due to the parolee having one positive test for drug or alcohol use. Takes effect 4/14/2112. (SD1)

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