

A Bill for an Act Relating to the Implementation of the Hawaii Correctional Master Plan.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this Act is to adopt and implement that portion of the Hawaii Correctional Master Plan pertaining to the management and establishment of intake service centers, correctional facilities and programs as authorized by Act 179, Session Laws of Hawaii, 1970, and to further a modern correctional system by establishing an integrated relationship among the agencies and institutions that have correctional responsibilities, altering the responsibilities given to such agencies and institutions, creating authority for introducing new programs, and cooperating with and utilizing agencies outside of the Hawaii correctional system. The system will be characterized by a diversity of programs and maximum effective utilization of government and community resources to provide a correctional treatment program which responds to the safety of the community and to the need of each individual offender processed through the system.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended to read:

**“CHAPTER 353
CORRECTIONS”**

SECTION 3. Section 353-2, Hawaii Revised Statutes, is amended to read:

“Sec. 353-2 Erection of correctional facilities, etc. The comptroller, with the approval of the governor, may erect correctional facilities, and intake service centers, as may be necessary.”

SECTION 4. Section 353-3, Hawaii Revised Statutes, is amended to read:

“Sec. 353-3 Powers of director; rules. The director of social services and housing shall have the entire government, control, and supervision of state correctional facilities except intake service centers and of the administration thereof. The director may make and from time to time alter or amend rules relating to the conduct and management of such facilities and the care, control, treatment, furlough and discipline of persons committed to his care, which rules must be approved by the governor, but shall not require publication in order to be valid and binding upon all inmates, officers, and employees of such institutions, and which rules shall be printed from time to time.

The director, subject to the rules, shall enforce the rules and prescribe the disposition of committed persons for any breach of correctional facility rules or other misconduct.”

SECTION 5. Section 353-4, Hawaii Revised Statutes, is amended to read:

“Sec. 353-4 Special powers and duties. The director of social services and housing shall:

(a) See to it that the duties of all officers and employees are efficiently and faithfully performed;

(b) Keep himself fully informed at all times concerning the health, care, and treatment of committed persons, the sanitary and other conditions affecting the correctional facilities under his jurisdiction, and all other matters within his jurisdiction;

(c) Cause correctional facilities to be kept in a clean, healthful, and sanitary condition;

(d) Inquire into and deal justly with all complaints made by committed persons relating to their food, clothing, accommodations, training, education, work, individual correctional plan or treatment;

(e) Attend to the purchasing of all supplies, materials and equipment necessary for the proper maintenance and operation of correctional facilities and for the care and maintenance of committed persons, and see to the proper care, use, and disposition thereof, conformably with law;

(f) Keep all books, accounts, and records and make such reports as may be required of him by law;

(g) Negotiate with private organizations or agencies for participation and cooperation in programs which further the treatment, training, education and work of committed persons pursuant to law;

(h) Initiate the individual prescribed correctional plan for committed persons including privileges, placement, treatment, training, education and work in accordance with law.

(i) The director or his agent may transfer any committed person to or from any correctional facility under his jurisdiction. Nothing in this section shall be construed to prohibit the transfer of committed persons from any correctional facility to the Hawaii state hospital or other state institutions as provided by law.”

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SECTION 6. Section 353-6, Hawaii Revised Statutes, is amended to read:

“Sec. 353-6 Duties of director; visitation of correctional facilities, etc. The director of social services and housing or his agent shall visit all state correctional facilities and inquire into the management and operation of the same, and the care, education, recreational, vocational training, employment opportunities and maintenance of committed persons.”

SECTION 7. Section 353-7, Hawaii Revised Statutes, is amended to read:

“Sec. 353-7 Access to correctional facilities and records; instituting of inquiries and securing of information. The board of paroles and pardons and every member thereof and the director of social services and housing shall at all times have free access to all correctional facilities throughout the State, wherein persons convicted of crime are confined, and to all records and books kept in connection therewith, and may institute inquiries about any committed person whether confined or on parole.

All circuit judges, district judges, prosecuting attorneys, sheriffs, police officers, and other court and corrections officials and employees shall furnish, when called upon by the board or director, all information that may be possessed concerning any committed person.

Upon the refusal of any person in charge of any such correctional facility to give free access thereto or to any records or books kept in connection therewith, or of any such officer, district judge, sheriff, official, or employee to furnish such information, the board or director may make informal application in writing to any circuit court, reciting the facts and requesting an order directing the person concerned to give such access, or furnish such information and the court, after such reasonable notice to the person as he shall direct, shall proceed to hear the application and shall have power to make such order as may appear proper. In case of the refusal of a circuit judge to furnish information as in this section required, the board or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit court hereinabove provided for. The circuit courts and the supreme court are given jurisdiction and all powers necessary for the purposes of this section.

In all investigations made by the board or director and in all proceedings before it or him, the board and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the board or any member thereof or the director or of any subpoena issued by it or him or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the board or a member thereof or the director, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the State on vouchers approved by the director out

of any appropriation or funds available for the expenses of the department of social services and housing.”

SECTION 8. Section 353-8, Hawaii Revised Statutes, is amended to read:

“Sec. 353-8 Correctional records. The department of social services and housing shall establish a record of all facts relating to the admission, sentence commutation, parole, pardon, discharge, escape, death and correctional programs of any committed person and also all actions that are taken for breach of correctional rules and all other occurrences of note concerning the committed person.”

SECTION 9. Section 353-10, Hawaii Revised Statutes, is amended to read:

“Sec. 353-10 Examination by medical officer. The medical officer of a correctional facility shall carefully examine the committed person upon admission and shall establish a medical record and enter therein a statement of his physical condition upon entry and all subsequent medical treatment and examination made while he is residing at a state correctional facility.”

SECTION 10. Section 353-16, Hawaii Revised Statutes, is amended to read:

“Sec. 353-16 Establishment of temporary correctional facilities. The director, with the prior approval of the governor, may, from time to time, establish temporary correctional facilities, if required in conjunction with projects or specialized service authorized by law. The temporary facilities shall be discontinued upon termination of the project.”

SECTION 11. Section 353-22, Hawaii Revised Statutes, is amended to read:

“Sec. 353-22 Establishment of conditional release centers for committed persons. (a) The director of social services and housing may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers, each of which will house not more than fifteen committed persons.

(b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs and other correctional programs for persons committed to the department of social services and housing and to give committed persons, in selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual’s fitness for release on parole.”

SECTION 12. Section 353-25, Hawaii Revised Statutes, is amended to read:

“Sec. 353-25 Compensation for labor or training by committed persons. Every committed person who is working within a state correctional facility or who is in such training or educational programs as the director or his agent, pursuant to law prescribes, may be allowed such graduated sums of money as the director of social services and housing by rule may determine. Any committed person engaged in work, training, or education pursuant to this section

or work pursuant to chapter 353 or 354 shall not be affected by chapter 386.”

SECTION 13. Section 353-47, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-47 What officials may visit.** The governor, lieutenant governor, attorney general, director of finance, comptroller, the judges of the supreme, circuit and district courts, the ombudsman, the mayors of the counties, members of the legislature, and members of county councils shall be allowed at suitable hours freely to visit any state correctional facility.”

SECTION 14. Section 353-48, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-48 Others by permission.** None but official visitors shall be allowed to visit any state correctional facility or to have any oral or written communication with the committed person, unless with the written permission of the administrator of the correctional facility or the director of social services, nor shall any visitor deliver to or receive from any committed person any letter or message except with permission granted by the administrator of a state correctional facility pursuant to rules adopted by the director of social services and housing or facility administrator. Unauthorized communications, passing of documents, or visiting is a grade C felony within the meaning of title 37.”

SECTION 15. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353 Committed person, furlough, employment.** The director or his agent may grant furloughs to committed persons in any correctional facility of the department for the purpose of employment, social reorientation, education, or training. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State.”

SECTION 16. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Establishment of community correctional centers.** There shall be a community correctional center for each of the counties under the direction and administration of the director of the department of social services and housing. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

(a) Provide residential custody and correctional care for committed misdemeanants and for felony offenders committed to indeterminate sentences;

(b) Provide for committed persons, correctional services, including but not limited to social and psychiatric-psychological evaluation, employment counseling, social inventory, correctional programming, medical and dental services;

(c) Provide for committed persons, recreational, educational, and occupational training and social adjustment programs;

(d) Provide for persons released from the centers, referrals to community educational, vocational training, employment, and work study programs;

and aftercare, supervisory and counseling services.

The community correctional centers may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or may utilize contractual professional services.”

SECTION 17. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Establishment of a high security correctional facility.** (a) The director of social services and housing shall establish a high security correctional facility for the residential care, correctional services, and control of high custodial risk convicted felons or the temporary detention of high custodial risk persons awaiting trial; the high security correctional facility may be integrated and operated concurrently with any other correctional facility or facilities.

(b) Provide extensive control and correctional programs for categories of persons who cannot be held or treated in other correctional facilities, including but not limited to:

- (1) Individuals committed because of serious predatory or violent crimes against the person;
- (2) Intractable recidivists;
- (3) Persons characterized by varying degrees of personality disorders;
- (4) Recidivists identified with organized crime;
- (5) Violent and dangerously deviant persons;
- (6) Persons in need of major medical, psychiatric or specialized care.

(c) Provide correctional services including but not limited to psychiatric and psychological evaluation, social inventory, correctional programming, medical and dental services.

(d) Provide recreational, educational, occupational training and social adjustment programs.

(e) The director is authorized to hire or contract for professional staff necessary to operate the facility appointed pursuant to chapter 76.”

SECTION 18. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Creation of intake service center advisory board.** There shall be an intake service center advisory board, hereinafter called the board. The board shall consist of fifteen members who shall be appointed by the governor for a term ending on the day that the governor completes his term in office, but who shall continue to serve on the board until their successors are appointed. Three members each shall be selected from the judiciary and among private social service agencies. Two members each shall be selected from the department of social services and housing, the department of health, from among the police departments of the counties, from among the prosecuting attorneys of the counties, and the remaining member shall be the public defender. A vacancy occurring in the membership shall be filled for the unexpired term thereof. The board shall select its chairman from one of its appointed members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in

the performance of their duties.

The board shall advise and recommend to the governor policies and procedures for the operation of intake service centers and shall nominate and submit to the governor not less than three candidates for each vacancy for any vacant intake service center executive director position from which the governor shall appoint one.

SECTION 19. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 353- Creation of intake service center. (a) There shall be an intake service center for each of the counties, each of which shall be directed and managed by an executive director appointed by the governor pursuant to section 353- without regard to chapters 76 and 77, but who shall meet qualifications for the position determined by the department of personnel services. Any center may be integrated with and operated concurrently with a community correctional center.

(b) It shall provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;

(c) Provide short-term residential detention for persons awaiting judicial disposition who have not been conditionally released;

(d) Provide such other personal and correctional services as needed;

(e) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;

(f) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;

(g) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs;

(h) It may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or utilize contractual professional services."

SECTION 20. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 353- Intake service centers integrated with community correctional centers. The community correctional centers for Maui, Hawaii and Kauai shall integrate their services and facilities with the intake service centers created under the authority of section 353- ."

SECTION 21. Chapter 353, Hawaii Revised Statutes, is amended by repealing sections 353-11, 353-12, 353-13, 353-14, 353-19, 353-20, 353-21, 353-23, 353-26, 353-31, 353-40, 353-41, 353-42, 353-43. Sections 353-91, 353-92, 353-93, 353-94, 353-95, 353-96, and 353-102 are repealed on the date of transfer of county jails to the Department of Social Services and Housing by Executive

order of the Governor.

SECTION 22. Section 354-2, Hawaii Revised Statutes, is amended to read:

“Sec. 354-2 Establishment of industries at the State prison and other correctional facilities. The department of social services and housing shall, with the advice and assistance of the department of planning and economic development, be responsible to study and evaluate any proposed or existing correctional industrial enterprise to determine if the enterprise conflicts with the orderly and planned economic development of the State. The department of social services and housing may:

- (1) Introduce productive industrial and agricultural enterprises in the state correctional facilities under the jurisdiction of the director of social services and housing and pay to assigned inmates an hourly wage based on the income that is derived from correctional industries.
- (2) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing any industrial or agricultural enterprise involving a gross annual production of more than \$25,000 value, but in no case more than \$350,000 value, and authorize or prohibit such action. The department shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the department. The department shall annually adjust the maximum gross annual production value of \$350,000 permitted for each enterprise, the purpose of such adjustment being to keep the limit in balance with changes in population of state institutions and changes in cost of production and any conflict with private business.
- (3) Provide contracted access for authorized industries to correctional facilities, adequate space to perform their industrial and agricultural enterprises, adequate facilities for loading and storing of raw materials, equipment, and tools, and procedures safeguarding the health and safety of the working residents, industry and correctional personnel, as well as the security of the facilities.

An industrial enterprise with a gross annual production of over \$25,000 shall not be established without a public hearing. Public notice of the hearing shall be given prior to the hearing. The department may hold public hearings on any subject within its jurisdiction.”

SECTION 23. Section 602, title 37, Hawaii Revised Statutes, is amended to read:

“Sec. 602 Pre-sentence diagnosis and report. The pre-sentence diagnosis and report shall be made by personnel assigned to the court, intake service center or other agency designated by the court and shall include an analysis of the circumstances attending the commission of the crime, the defendant’s history of delinquency or criminality, physical and mental condi-

tion, family situation and background, economic status, education, occupation, and personal habits and any other matters that the reporting person or agency deems relevant or the court directs to be included.”

SECTION 24. Section 603, title 37, Hawaii Revised Statutes, is amended to read:

“**Sec. 603 Pre-sentence psychiatric, psychological and medical examination.** Before suspending or imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to psychiatric, psychological, and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital, intake service center or community correctional center and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists or other physicians to make the examination. The report of the examination shall be submitted to the court.”

SECTION 25. Section 711-78, Hawaii Revised Statutes, is amended to read:

“**Sec. 711-78† Probation officers.** Any probation officer assigned to the courts may be placed in any correctional facility to perform his assigned duties.”

SECTION 26. Section 88-21, Hawaii Revised Statutes, is amended to read:

“**Sec. 88-21 Definitions.** The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

‘Accumulated contributions’: the sum of all the amounts paid by, or deducted from the compensation of, a member and credited to his individual account in the annuity savings fund together with regular interest thereon.

‘Actuarial equivalent’: a benefit of equal value to the accumulated contributions, annuity, pension or retirement allowance, when computed upon the basis of the actuarial tables in use by the system.

‘Annuity’: benefit payments for life derived from the accumulated contributions of a member.

‘Average final compensation’: the average annual compensation as described in section 88-81, which becomes part of the formula for the computation of a retirement allowance.

‘Beneficiary’: the recipient of any benefit from the system or, as the context may indicate, the natural person or persons designated by a member to receive the benefits payable in the event of his death.

‘Corrections officers’: all regularly employed personnel who are designated as adult corrections officers pursuant to the classification of positions under chapter 76.

‘County’: the counties of Hawaii, Honolulu, Kauai and Maui, including

†Revisor’s note. Section 711-78 was renumbered 726-72, pursuant to L. 1972, c 9, §1.

their respective boards of water supply and other quasi-independent boards, commissions and agencies.

'Credited service': prior service plus membership service.

'Elective officers, elective officials': elected officers of the State or any county including legislators and county councilmen.

'Employee': any employee or officer of the State or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and other elective officers, legislative employees who are employed on a full-time basis during and between sessions, probationary and provisional employees, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

- (1) per diem employees who elect to withdraw or not to become members as provided in section 88-42;
- (2) members of the legislature who do not elect to be members as provided in section 88-42;
- (3) persons excluded by rules of the board pursuant to section 88-43.

An individual is an employee during the period of a leave of absence if he is in service, as defined in this part, during the period of the leave of absence and the board shall determine who are employees within the meaning of this part.

'Firemen': all regularly employed members of the fire departments of the counties, whose principal duties are to prevent and fight fires.

'Judge': a justice of the supreme court or a judge of the circuit court of this State.

'Medical board': the board of physicians provided for in section 88-31.

'Medical review board': a board of physicians appointed to review appeals from the decisions of the medical board.

'Member': any person included in the membership of the system.

'Membership service': all service rendered by a member for which he had made the required contributions to the system.

'Pensions': benefit payments for life derived from money provided by the State or county, as the case may be.

'Per diem worker': a person employed and compensated on an hourly or daily basis.

'Policemen': all duly commissioned members of the police department of the several counties whose principal duties are law enforcement and who are paid on a monthly salary basis, including without limiting the generality of the foregoing, all police matrons and guards who work under the jurisdiction of such departments.

'Prior service': service rendered by a member to the State, territory or county or predecessor government prior to the establishment of the system or, as specifically provided in this part, prior to the admission of certain groups or classes of employees into the system membership.

'Regular interest': interest at four and one-half per cent a year, compounded annually.

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'Retirant': a member who has retired and becomes a beneficiary of the system.

'Retirement allowance': the benefit payable for life to which a member is entitled upon his retirement.

'Service': service as an employee paid by the State or county, and also service during the period of a leave of absence or exchange if the individual is paid by the State or county during the period of the leave of absence or exchange or if the individual is not paid by the State or county during the period of the leave of absence but the individual is engaged in the performance of a governmental function or on an approved leave of absence for professional improvement with or without pay and the individual makes the same contribution to the system as he would have made if he had not been on such leave of absence. Cafeteria managers and cafeteria workers shall be considered as paid by the State, regardless of the source of funds from which they are paid.

'Service retirement': retirement of a member for age or length of service.

'System': the employees' retirement system of the State of Hawaii."

SECTION 27. Section 88-45, Hawaii Revised Statutes, is amended to read:

"Sec. 88-45 Employee contributions. After June 30, 1965, the normal contribution by each member to the annuity savings fund shall be six per cent of his compensation, provided that after June 30, 1967, all firemen and policemen shall contribute ten and four-tenths per cent of their compensation; and provided that after the actual transfer of all county jails pursuant to executive order of the governor, all corrections officers shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all members including firemen, policemen, and corrections officers, shall contribute one and eight-tenths per cent of compensation to the post retirement fund."

SECTION 28. Section 88-74, Hawaii Revised Statutes, is amended to read:

"Sec. 88-74 Allowance on service retirement. Upon retirement for service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained the age of fifty-five, a retirement allowance of one-fiftieth of the average final compensation of the member multiplied by the total number of years of his credited service; provided, that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a fireman or a policeman; and provided that after June 30 following the date of actual transfer of the county jails by executive order of the governor, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a corrections officer, then for each year of service as a fireman, a policeman or a corrections officer, the retirement allowance shall be two and one-half per cent of his average final compensation; provided further, that the maximum retirement allowance for such a member shall not exceed eighty per cent of his average final compensation. If the member has not at-

tained the age of fifty-five, his retirement allowance shall be computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary.

- (2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 88-72, he may accept such refund at time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in (1) hereof, an annuity which is the actuarial equivalent of such additional contributions with regular interest.
- (3) If the member has credited service as a judge or an elective officer, his retirement allowance shall be computed on the following basis:
 - (A) irrespective of age, for each year of credited service as a judge or an elective officer, three and one-half per cent of his average final compensation in addition to an annuity which is the actuarial equivalent of his accumulated contributions allocable to the period of such service; and
 - (B) for all other credited service as provided in subsections (1) and (2) hereof. No allowance shall exceed seventy-five per cent of the average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in (A) of this subsection and the portion of the accumulated contributions specified in the same subsection as may be in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of average final compensation.”

SECTION 29. The department of social services and housing shall succeed to all of the rights and powers exercised by the respective counties in the planning, construction, improvement, maintenance and operation of county jails, whether mentioned in or granted by any law, regulation, rule, contract, or document effective on the date of transfer of all county jails by executive order of the governor. Thereafter all references to a county, in any law, regulation, rule, contract, or document relating to the functions herein assigned to the director of social services and housing by this Act shall be deemed to include the director of the department of social services and housing as if he were specifically named in such law, rule, regulation, contract or document in place of the county.

SECTION 30. All of the employees of the counties whose duties relate to the maintenance and operation of county jails, are made State employees effective on the date of transfer of all county jails by executive order of the governor and thereafter shall perform the duties prescribed for the administration, government and operations of the jail, subject to the provisions of the state personnel laws and of this Act. No police officer presently assigned to county jails whose principal training and experience relate to police work, including police cadets, shall be transferred under this Act.

No employee made a state employee by this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act.

SECTION 31. Upon the appropriation of funds necessary to effect the transfer of county jails by further act of the legislature, the governor, in cooperation with the county governments, is authorized to effect by executive order the transfer of all personnel, records, equipment, files, supplies, contracts, books, papers, documents, maps, other personal property, land and improvements being used, or held by the counties for the maintenance and operation of county jails to the State without cost to the State or reimbursement to the county, and without compliance with any disposal procedure or requirement, any law to the contrary notwithstanding; provided, that the State shall assume the obligations of the counties of paying the interest and the principal on bonds which have been issued for improvements, property, or items described above. Nothing in this section shall obligate the legislature to appropriate funds for the transfer of county jails.

SECTION 32. The counties shall appropriate funds for the maintenance and operation of county jails until the transfer of county jails by executive order of the governor.

Any unencumbered and unexpended balance of state general funds and federal funds previously authorized for the design of correctional facilities and programs under Act 202, Session Laws of Hawaii, 1972, may be used for those purposes until they lapse. Any state general funds so authorized shall not be reduced in the event the State receives additional federal funds for the purpose of designing correctional facilities under the master plan.

Except as authorized, no state general funds shall be appropriated for implementing the provisions herein during the fiscal biennium 1973 to 1975.

SECTION 33. No offense committed and no penalty or forfeiture incurred under the laws of the State or any county ordinance or rule or regulation shall be affected by the assignment of functions to the department of social services and housing by this Act; provided that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer of the county to institute proceedings for prosecution of an offense, or any action to recover a penalty or forfeiture, shall henceforth be vested in the director of social services and housing or some person designated by the director or any person otherwise directed by law.

The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Act.

SECTION 34. Notwithstanding any other state law to the contrary, no state agency or department shall be required to provide any services or create any facilities authorized by this Act, not being provided or not in existence on the effective date thereof, until the legislature by further acts appropriate funds necessary for any services or facilities additional to those being provided

on the effective date of the Act. Nothing in this section shall obligate the legislature to appropriate funds hereinafter for any services or facilities not being provided by any state agency or department on the effective date of this Act.

SECTION 35. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

SECTION 36. For those statutory provisions which are being amended, statutory material to be repealed is bracketed and new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 37. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

*Edited accordingly.