

ACT 151

S.B. NO. 952

A Bill for an Act Relating to Public Safety.

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

SECTION 1. The purpose of this Act is to exempt the department of public safety and the office of youth services from state and county requirements relating to planning, land use, and construction for the renovation or expansion of existing facilities or construction of new facilities on their property located in Kailua, Oahu.

In 1985, the State of Hawaii entered into a consent decree with the American Civil Liberties Union (ACLU) to improve conditions at the Oahu community correctional center (OCCC) and the women's community correctional center (WCCC). The State has substantially complied with conditions at the OCCC. However, expert monitors appointed by the United States District Court have stated that the State will not be able to comply with consent decree requirements at the WCCC because of its inadequate and deteriorated physical plant. Therefore, the department of public safety has developed plans to rebuild the WCCC at its existing site in Kailua. The legislature authorized this construction through an appropriation in Act 316, Session Laws of Hawaii 1989.

In view of the State's good faith efforts to rebuild the WCCC, the ACLU and the court monitors have tolerated conditions at the WCCC. However, the State's efforts have been stalled because of the city planning commission's denial of the request for a special use permit to allow the rebuilding of the facility on Mt. Olomana. Any challenge to this denial may cause a significant delay which is unacceptable to the ACLU and the court monitors. The ACLU, in fact, has served notice that it will petition the United States District Court for relief which may include closing down the WCCC unless the State can provide a firm plan for construction.

In order to avoid delay and possible litigation by the ACLU over this issue, the State has an alternative plan to relocate the existing women's facility across the highway to the present Hawaii Youth Correctional Facility (HYCF) and to subsequently construct a new youth facility on the grounds of the present women's facility. This alternative plan requires the renovation of existing structures and the construction of new structures at both the present HYCF and WCCC facilities.

Obtaining all approvals relating to planning and/or land use reclassification would be a time-consuming and expensive process. Time, as the ACLU and court monitors have indicated, is something the State can little afford.

The legislature finds that a new WCCC is urgently needed. The purpose of this Act is to provide a three-year exemption to the department of public safety and the office of youth services from planning, land use classification, and construction requirements, either state or county, otherwise applicable to the relocation of the WCCC to the makai side of Kalaniana'ole highway, and the renovation and expansion of existing buildings and addition of other needed structures there, and the relocation of the HYCF to the mauka side of Kalaniana'ole highway, and the renovation of existing buildings and construction of other needed structures there. In conjunction with this exemption, however, it is the intent of the legislature that the department of public safety and the office of youth services shall work closely with the community regarding concerns in the renovation and expansion of existing structures, as well as the construction of new structures, and

address with sensitivity, the needs and aesthetic preferences of the community and the pristine appearance of Mt. Olomana.

SECTION 2. Section 352D-6, Hawaii Revised Statutes, is amended to read as follows:

“§352D-6 **Organizational structure.** The office of youth services shall be composed of such divisions and sections as are deemed necessary by the director to [provide]:

- (1) [Diagnostic] Provide diagnostic evaluation, treatment, and rehabilitation services for all youths referred to services provided by the office or placed in the office’s custody by the family court;
- (2) [Supervision] Provide supervision and counseling services for youth in shelter or correctional facilities under the office’s jurisdiction, including community-based facilities;
- (3) [Educational,] Provide educational, vocational-educational, and other programs to effectively occupy the time of the youth placed in a facility under the office’s jurisdiction which promote the development of self-esteem and useful skills to prepare youths in becoming productive members of the community;
- (4) [Continuous] Provide continuous program planning, development, and coordination of youth services, including the coordination with other government and private social service agencies that work with youths to ensure that a full-range of programs is available and that such programs are consistent with the policy of this chapter and are not unnecessarily duplicative or conflicting;
- (5) [Prevention] Provide prevention services to include a comprehensive intake/assessment and information/referral system throughout the State which shall access services to youth and their families;
- (6) [A] Provide a case management system based on the individual needs of youth which shall provide for in-depth client assessment, appropriate service planning, and client advocacy;
- (7) Provide for the implementation of chapter 352, youth correctional facilities and other needed correctional services[;], including ensuring that these facilities and services meet the present and future needs of youth under the jurisdiction of the youth correctional facilities;
- (8) Facilitate the development of and, when appropriate, provide for training programs for persons offering services to youth at risk;
- (9) Provide for technical assistance and consultation to providers and potential providers;
- (10) Seek, apply for, and encourage the use of all federal funds for youth services and facilitate the coordination of federal, state, and local policies concerning services for youth;
- (11) Prepare and submit an annual report to the governor and the legislature. This report shall include, but not be limited to, a review of the status of youth services within the State, recommendations for priorities for the development and coordination of youth services; and
- (12) Monitor, evaluate, and audit all grants, subsidies, and purchase of services under chapter 42 which relate to the office of youth services.”

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

“**[§353C-2] Director of public safety; powers and duties.** The director of public safety shall administer the public safety programs of the department of public safety and shall be responsible for the formulation and implementation of state goals and objectives for correctional and law enforcement programs[.], including ensuring that correctional facilities and correctional services meet the present and future needs of persons committed to the correctional facilities. In the administration of these programs, the director may:

- (1) Preserve the public peace, prevent crime, detect and arrest offenders against the law, protect the rights of persons and property, and enforce and prevent violation of all laws and administrative rules of the State as the director deems to be necessary or desirable or upon request, to assist other state officers or agencies that have primary administrative responsibility over specific subject matters or programs;
- (2) Train, equip, maintain, and supervise the force [of] public safety officers, including law enforcement and correctional personnel, and other employees of the department;
- (3) Serve process both in civil and criminal proceedings;
- (4) Perform other duties as may be required by law;
- (5) Adopt, pursuant to chapter 91, rules that are necessary or desirable for the administration of public safety programs; and
- (6) Enter into contracts in behalf of the department and take all actions deemed necessary and appropriate for the proper and efficient administration of the department.”

SECTION 4. For the purposes of this Act only, notwithstanding the provisions in section 205-8, Hawaii Revised Statutes, the lawful use of land or buildings for correctional purposes that qualify as nonconforming uses under section 205-8, Hawaii Revised Statutes, may continue as lawful nonconforming uses, even if a nonconforming building is replaced, reconstructed, renovated, enlarged, changed, or additional nonconforming buildings are constructed, so long as the land and buildings continue to be used for correctional purposes; provided that such use is strictly limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes; and provided further that such lawful nonconformity in use shall apply to this land only so long as the land and buildings continue to be used for correctional purposes. The department of public safety and the office of youth services shall advise their consultants and contractors that in the design and construction of all lawful nonconforming uses, such design and construction, to the extent practicable and as long as it does not delay construction or renovation, shall blend into the pristine natural environment surrounding the facilities and be minimally intrusive, if at all, as to the surrounding communities. The department of public safety and the office of youth services shall submit to the legislature an annual status report regarding the HYCF and WCCC at least twenty days prior to the convening of each regular session which shall include:

- (1) A breakdown of the population incarcerated at each facility, including the numbers of serious or violent offenders incarcerated at each facility;
- (2) An assessment of each facility’s ability to accommodate the numbers of serious or violent offenders committed to each facility;

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- (3) An assessment of the implementation of programs providing alternatives to incarceration, including whether the numbers and types of programs have been adequate to meet the needs of persons under the jurisdiction of the facility; and
- (4) All plans and designs, except for security details, for the renovation of existing structures and the building of new structures at each facility, including the status of implementation and the costs of such plans, designs, and implementation.

SECTION 5. Notwithstanding any other law to the contrary, the department of public safety and the office of youth services shall be exempt from the necessity of obtaining any state or county approvals, permits, or licenses, including planning, land use classification, and environmental approvals which relate to the construction, improvement, use, reconstruction, renovation, replacement, enlargement, or relocation of buildings, facilities, or land used or to be used for correctional purposes, provided that such exemption is limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that no new construction or development shall be initiated at the Kailua sites, for correctional or any other purpose, after July 1, 1994 without prior legislative approval.

(Approved May 22, 1991.)