

ACT 305

H.B. NO. 2045

A Bill for an Act Relating to Release of Pretrial Inmates.

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

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§353- Release of pretrial inmates to prevent overcrowding. (a) Notwithstanding the provisions of chapter 804 and any other law to the contrary and except as provided in subsection (b), the director may order the release of pretrial inmates on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director’s order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. A copy of the director’s order shall be filed with the court in which the charge against the inmate is pending.

(b) No person who has been denied bail or whose bail has been set at more than \$5,000 pursuant to chapter 804, or who has been charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3, involving violence against a person shall be eligible for release pursuant to this section.

(c) The power to release an inmate pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers and nothing herein shall be construed as granting any person the right to be released. An order releasing an inmate pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the inmate.

(d) The State, its officers, and employees, shall not be subject to any civil liability or penalty, nor to any criminal prosecution, for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the State, its officers, and employees, in an official capacity under this section.

(e) The director shall adopt rules in accordance with chapter 91 for the release of inmates pursuant to this section.

§353- Terms and conditions of release; violations; sanctions. (a) A pretrial inmate released pursuant to section 353- shall be subject to the conditions stated in section 804-7.4. In addition, the director may impose any of the conditions which a court is authorized to impose pursuant to section 804-7.1 and shall impose any conditions contained in any court order superseded by the director's order.

(b) Intentional violations of the conditions of release shall be disposed of as provided in sections 804-7.2 and 804-7.3."

SECTION 2. No less than twenty days prior to the convening of the regular session of the legislature in 1994 and 1995, the director shall report the progress of the program, and make recommendations for further legislative action.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 1993, and shall be repealed on June 30, 1995.

(Approved June 21, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.