

ACT 325

H.B. NO. 1539

A Bill for an Act Relating to Youth Correctional Facilities.

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

SECTION 1. Section 352-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All persons committed to the Hawaii youth correctional facilities shall be committed for the period of their minority or as otherwise ordered by the court. Such persons may be placed on furlough or parole if deemed appropriate. The power to discharge a committed person is reserved to the director provided that the director shall give a thirty-day notice of such intended discharge to the appropriate court and to the prosecutor’s office of the appropriate county. Prior court approval for furlough, parole, or discharge of all minors, committed by the family court for the period of their minority or otherwise, shall be obtained when such is specifically required in the commitment order. In any case, no person nineteen years or older shall be incarcerated in a youth correctional facility.”

SECTION 2. Section 352-25, Hawaii Revised Statutes, is amended to read as follows:

“**§352-25 Furlough, parole, discharge.** The director, for good reasons shown to the director’s satisfaction, may furlough or parole any person committed to the director’s custody. The director shall give the court and the prosecutor’s office of the appropriate county a thirty-day notice prior to discharging a committed person. [Court] Prior court approval shall be obtained when such is specifically required [in accordance with section 352-29(a)(3).] in the commitment order.

No furlough, parole, or discharge shall be granted unless it appears to the director that there is a reasonable probability that the person will not violate the law and that the person’s release is not incompatible with the welfare and safety of society.

The form of furlough or parole may include return to the person’s own home, transfer to another youth correctional facility, a group home or foster home placement, or other appropriate alternative. Nonresidential programs may be made available to selected persons on furlough such that they return to the facility during nontreatment hours.”

SECTION 3. Section 352-28, Hawaii Revised Statutes, is amended to read as follows:

“**§352-28 Transfer to correctional facility.** Any person after the person’s sixteenth birthday, who has been committed to the care of the director and disrupts the order and the discipline of any state-operated youth correctional facility or injures the staff or other person committed to the facility or for other good cause, may be transferred by the director to an adult correctional facility, with the prior approval of the family court, for the balance of the term provided for by the court. If such person demonstrates sufficient improvement or progress, or for other good reason, the family court may order the person’s return to a youth correctional facility.”

SECTION 4. Section 352-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority of the director to supervise the conduct of a person who has been committed to the director’s care, unless such authority shall be sooner terminated pursuant to this chapter or chapter 571, shall cease:

- (1) At the time of sentencing for any subsequent offense for which the committed person has been waived pursuant to section 571-22 and has been convicted by a court of competent criminal jurisdiction; or
- (2) At the expiration date of the order of commitment issued unless the director has, prior to such expiration date, sought and obtained from the court an extension of such order; or
- (3) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person under age eighteen; provided that if the commitment order reserves the prior approval of the family court for any discharge before termination, the director shall obtain approval of the court for a discharge; or
- (4) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person committed to a term extending beyond the person’s eighteenth birthday and obtains court approval prior to discharge.”

SECTION 5. There is established a two-year pilot program to provide a secure residential facility for short-term commitments of youth offenders on the island of Kauai to be administered by the office of youth services. The facility shall have a capacity of no more than ten bed spaces and provide services in the following areas: substance abuse, anger management, problem solving, gang mentality, job seeking skills, community service, and victim awareness. The administration of the facility and provision of appropriate services shall be procured pursuant to section 352-3, Hawaii Revised Statutes.

All short-term commitments through the pilot program shall be subject to the exclusive jurisdiction of the director of youth services for the purposes of furlough and parole.

The office of youth services shall submit a report on the cost-effectiveness and operation of the facility to the legislature prior to the convening of the 1999 regular session.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 1997-1998 and the same sum or so much thereof as may be necessary for fiscal year 1998-1999 for the operation of the pilot program.

SECTION 7. The sums appropriated shall be expended by the office of youth services for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 30, 1997.)