

ACT 55

S.B. NO. 718

A Bill for an Act Relating to the Community Court Outreach Project.

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

SECTION 1. The legislature finds that hundreds of Honolulu residents are cited or arrested for offenses such as drinking liquor in public, being in public parks after hours of closure, and camping on sidewalks, beaches, and other restricted public places. Many of those cited do not come to court, which leads to the issuance of bench warrants for their arrest. Time and resources are then expended to bring these individuals to court.

The legislature also finds that once these offenders are brought into court, the sentences imposed are often monetary fines, as the offenses are not usually serious enough to warrant incarceration. However, most offenders have little or no income and are unable to pay the fines. This noncompliance leads to another bench warrant, which repeats the cycle and keeps the offenders in the system without offering any rehabilitative measures. In addition, the prosecution of these cases burdens and congests the court system without producing a meaningful resolution that will prevent recurrence of the offenses.

The legislature further finds that the prosecuting attorney of the city and county of Honolulu has worked with the judiciary and the public defender on a community court outreach project, which is described as the criminal justice system's response to the many nonviolent offenses that overburden the courts and law enforcement. The goal of the project is to help nonviolent offenders who face problems such as drug abuse and mental health challenges to obtain basic services and necessities, like food and shelter.

The community court is intended to function as a mobile justice system that travels to neighborhoods and resolves cases against offenders who may suffer psychological conditions that make it difficult for them to attend a traditional court setting or pay fines imposed. The community court is also intended to impose alternative sentences such as community service and mandatory participation in programs deemed appropriate for individual offenders based on their need for specific mental health services, substance abuse treatment, sustenance, and shelter.

The purpose of this Act is to support these efforts by establishing a community court outreach project in the city and county of Honolulu to offer combined accountability and treatment options to offenders that will reduce crime and recidivism. The legislature intends to evaluate the community court outreach project during its operational period and determine whether the project should be expanded to other counties of the State.

SECTION 2. Definitions. For the purposes of this Act:

"Community court outreach project" or "project" means the community court outreach project established by this Act.

"Prosecuting attorney" means the prosecuting attorney of the city and county of Honolulu.

"Public defender" means the public defender of the State.

SECTION 3. Community court outreach project; establishment; purpose.

(a) There is established the community court outreach project to help nonviolent offenders who face problems such as drug abuse and mental health challenges to obtain basic services and necessities, like food and shelter. The program shall be administered and operated by the judiciary in the city and county of Honolulu from July 1, 2017.

(b) The purpose of the project shall be to operate a mobile court that:

- (1) Travels to communities where defendants:
 - (A) Have been cited or arrested for certain nonviolent offenses; and
 - (B) Do not pose a threat to the public; and
- (2) Disposes of the cases of defendants who enter plea agreements after negotiations between the prosecuting attorney and public defender.

SECTION 4. Project process. (a) Under the project, the court shall hold hearings at community sites to dispose of cases for which the prosecuting attorney and public defender have negotiated and reached plea agreements on the disposition of the defendants.

(b) Only cases involving nonviolent, nonfelony offenses under state law and city ordinance may be heard and disposed of under the project.

(c) The public defender shall engage a social service or health care professional to provide outreach services to defendants charged with the identified offenses who:

- (1) Are willing to participate in the project;
- (2) Are willing to be represented by the public defender; and

(3) May benefit from participation in the project.

After consulting with the social service or health care professional, the public defender shall develop a list of the defendants who are potential participants in the project and transmit the list to the prosecuting attorney.

(d) The prosecuting attorney shall review the list and may select from the list those defendants who the prosecuting attorney determines may be appropriate for participation in the project. The prosecuting attorney shall enter into plea agreement negotiations with the public defender for disposition of those defendants.

(e) The plea agreement for a defendant may include a proposed fine, community service, court-ordered treatment, other court-ordered condition, or any other action that the court has the authority to take.

(f) At the hearing, the court may finalize the plea agreement by court order or judgment; provided that the court shall not be bound by the proposed disposition in the plea agreement.

SECTION 5. Project; subject to the availability of funds. Subject to the availability of sufficient funds through a specific appropriation, transfer of an appropriation from another state agency, or a federal or other grant:

(1) The judiciary shall administer and operate the project; and

(2) The prosecuting attorney and public defender shall participate in the project.

SECTION 6. Annual report. The chief justice shall submit a report on the project to the legislature and the governor at least twenty days prior to the convening of the regular sessions of 2018, 2019, and 2020. The report shall include a quantification and discussion of program measures and outcomes. In any report, the chief justice may recommend that this Act be amended, expanded to other counties, or terminated. The report shall also include the comments and recommendations of the prosecuting attorney and public defender.

SECTION 7. This Act shall take effect on July 1, 2017.

(Approved June 22, 2017.)