



**STATE OF HAWAII**  
**HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**  
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February 7, 2023

MEMORANDUM

TO: The Honorable Glenn Wakai, Chair  
House Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Martha Torney, Commissioner  
Hawaii Correctional System Oversight Commission

SUBJECT: PERIODIC REVIEWS OF DETAINEES IN COMMUNITY CORRECTIONAL CENTERS

Thank you for convening the Informational Hearing on Pretrial Release with Amber Widgery, Esq., of the National Conference of State Legislatures. Ms. Widgery's presentation was very germane to the mandate of the Hawaii Correctional System Oversight Commission (the Commission) and we are grateful beneficiaries of the information and sources shared.

The purpose of this memo is to bring to your attention Senate Bill 1392, Relating to Reviews of Detainees in Community Correctional Centers, introduced as part of the Governor's Package (House Bill 1094 is its companion). The Department of Public Safety proposes to delete Section 353-6.2, HRS, Community correctional centers; periodic review of pretrial detainee, which was included in Act 179/SLH 2019 as part of the Hawaii State Legislature's response to House Concurrent Resolution No. 134 (2017) regarding criminal pretrial practices and procedures.

The purpose of Section 353-6.2 is to "afford pretrial detainees greater and continuing opportunities to be released..." (Act 179, Section 22, page 31) by allowing additional reviews for release consideration once incarcerated. According to the preamble of Senate Bill 1392, the Department claims such reviews were to no avail—of 1,244 conducted, only ten pretrial detainees met the criteria for releases, of which only three were released by the courts.

To be clear, the Department conducted over 1,200 reviews but referred only ten to the courts, claiming that the remaining defendants did not "meet the criteria for pretrial release." The courts did not have an opportunity to consider these cases for release.

According to Ms. Widgery's presentation, many jurisdictions have successfully implemented "second look" pretrial programs that significantly impact the number of pretrial detainees kept in jail for extended periods. I believe the Department of Public Safety did not invest the time or

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effort into learning how to develop and implement such a program. And the Department had the resources to do so.

Act 179 provided the Department with \$305,138 in FY 2019-2020 and \$502,476 in FY 2020-2021:

to provide intake service centers with necessary funding, personnel, training, facilities, access, information, and technical support to meet current and projected future responsibilities in conducting timely risk assessments, efficiently disseminating bail reports, and supervising pretrial defendants. (Act 179, Section 31, Page 45)

The funds resulted in nine new positions to support the intent of Section 22 of Act 179. In 2022 the Department requested these positions become permanent, claiming in their budget justification “[w]ithout the appropriate staffing and sufficient funding, PSD will be unable to manage the Pretrial Bail Reform objectives of Act 179.” Even with the funding, the Department was clearly not able to achieve the objectives of Act 179.

The Commission will continue to meet its mandate to “formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.” (Section 353L-3(b)(2)) This includes addressing the pretrial population.