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No. _____

TESTIMONY ON HOUSE BILL 824, HOUSE DRAFT 2
RELATING TO MEDICAL RELEASE.

By

Tommy Johnson, Director
Department of Public Safety

Senate Committee on Public Safety and Intergovernmental and Military Affairs
Senator Glenn Wakai, Chair,
Senator Brandon J.C. Elefante, Vice Chair

Wednesday, March 15, 2023; 3:00 p.m.
State Capitol, Conference Room 225 and via Video Conference

Chair Wakai, Vice Chair Elefante, and Members of the Committees:

The Department of Public Safety (PSD) **supports** House Bill (HB) 824, House Draft (HD) 2, which proposes to codify, in statute, a medical release program that has existed in the policies and procedures of the Department and the Administrative Rules of the Hawai'i Paroling Authority (HPA) since December 2014 for certain ill or impaired incarcerated individuals who pose a low risk to public safety.

EFFECTIVENESS OF CURRENT MEDICAL RELEASE PROGRAM

Chapter 353 of the Hawai'i Revised Statutes currently provides for an established and effective medical release program through the Hawai'i Administrative Rules, as specified in Chapter 700 of Title 23, and COR.10.1G.11 (Medical Release) of the Department's Policies and Procedures. The department's Medical Release database demonstrates the effectiveness of the medical release program, with substantial program improvement since 2019. The table below shows PSD medical release applications submitted over the last seven years.

Year	Medical Release Applications
2022	5
2021	5
2020	22
2019	12
2018	0
2017	0
2016	3

The effectiveness of the current medical release program is attributed to Mr. Tommy Johnson, PSD Director and former HPA Parole and Pardons Administrator, and Mr. Edmund “Fred” Hyun, HPA Board Chairman, who initiated the collaborative working relationship with the newly appointed Corrections Health Care Administrator, beginning January 2, 2019. Over the last four years, PSD embraced an active approach to the medical release program with a clear demonstration of effectiveness between the Departmental Medical Release policy and the Hawai‘i Administrative Rules.

Despite the success of the PSD-HPA medical release program, identified areas for improvement include the following: a) guardianship procedures and b) housing. With the assistance of the Family Courts for the Judiciary, PSD, along with the Office of the Public Guardian, developed a process for cases requiring guardianship of inmates being considered for medical release. Although the collaborative process has shown progress, the limits of law and the comprehensive requirements of the process do not allow for expeditious relief in time-sensitive cases. HB 824, HD 2 does not resolve the guardianship issue.

The Department has also encountered challenges with the medical release program due to housing issues, which have proven to frustrate all stakeholders, because of the indefinite postponement of granted and approved medical releases. Two populations have been particularly difficult: a) sex offender and b) non-U.S.

citizens. Attorney Robert Merce has been a champion for the PSD medical release program, voluntarily assisting the Department with housing for medical release cases. He, too, has experienced this shared difficulty with housing. HB 824, HD 2, does not resolve the housing issue. Like traffic, HB 824, HD 2, creates a hurry-up and wait scenario (i.e., even though an incarcerated individual might be granted and approved parole for medical reasons, the incarcerated individual would remain in custody indefinitely without the existence of housing in the community).

APPROPRIATIONS NEEDED TO SUPPORT HB 824

In order to comply with the requirements of HB 824, HD 2, the following provides an updated analysis of the resources needed for compliance. Anticipated staffing increases include a Physician (1.0 FTE) position, which would be responsible for providing oversight, coordination, and review of the statewide medical release program. As a component of the medical release program, HB 824, HD 2, also requires the development of a medical release plan for purposes of continuity of care. One barrier to the medical release plan process has been the absence of specialized nursing positions to provide case management and pursue guardianship for incapacitated inmates. Currently, nursing case management positions within the Health Care Division of the Department of Public Safety does not exist. An additional Advanced Practice Registered Nurse II (1.0 FTE) position would be responsible for the development of the medical release plan, including serving as petitioner for guardianship when needed.

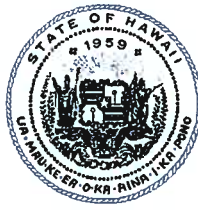
The table below shows the anticipated staffing increases that the implementation of HB 824, HD 2 would require. The total increase in payroll cost for the additional 2.0 FTE staffing requirement is estimated at \$368,996 each year, recurring. Should the Committee decide to advance the measure, PSD respectfully requests that it be amended to include an appropriation of sufficient funds to support the requirements of the medical release program.

<u>Position</u>	<u>FTE</u>
Physician	1.0
<u>Advanced Practice R.N.</u>	<u>1.0</u>
Total FTE	2.0

Our physicians are extremely committed to their patients yet overwhelmed and overworked. As an example, one physician experienced a heart attack on a Saturday and returned to work on Monday, because he needed to attend to his patients, and he did not want to backlog his caseload further. For similar reasons, another physician continues working well into the evening hours during the week and often works on her days off. The Department respectfully requests appropriation of the requested minimal staffing to support the proposed medical release program: 1.0 FTE Physician and 1.0 FTE Advanced Practice Registered Nurse II.

Thank you for the opportunity to provide testimony in support of HB 824, HD2.

JOSH B. GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
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COREY J. REINCKE
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No. _____

TESTIMONY ON HOUSE BILL 824, HD 2
RELATING TO MEDICAL RELEASE

by
Edmund "Fred" Hyun, Chairman
Hawaii Paroling Authority

Senate Committee on Public Safety and Intergovernmental and Military Affairs
Senator Glenn Wakai, Chair
Senator Brandon J. C. Elefante, Vice Chair

Wednesday, March 15, 2023 – 3:00 p.m.
Conference Room 225

Chair Wakai, Vice Chair Elefante, and Members of the Committee:

The Hawaii Paroling Authority (HPA) offers comments on HB 824, HD 2, regarding creating a medical release program within the Department of Public Safety (PSD). As stated in previous testimonies, in place is a medical release program. Basically, HPA receives referrals via PSD Director's office from PSD/Health Care. The most difficult to place are Sex Offenders and non-US citizens. Current challenges for those granted parole (Medical Release) is housing and/or servicing issues.

Thank you for the opportunity to provide testimony on House Bill 824, HD 2.

JOSH GREEN, M.D.
GOVERNOR



MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

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STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
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TO: The Honorable Glenn Wakai, Chair
The Honorable Brandon J.C. Elefante, Vice Chair
Senate Committee on Public Safety and Intergovernmental and Military Affairs

FROM: Mark Patterson, Chair
Hawaii Correctional System Oversight Commission

SUBJECT: House Bill 824, House Draft 2, Relating to Medical Release
Hearing: Wednesday, March 15, 2023; 3:00 p.m.
State Capitol, Room 225

Chair Wakai, Vice Chair Elefante, and Members of the Committee:

The Hawaii Correctional System Oversight Commission (HCSOC, the Commission) **supports the intent** of House Bill 824, House Draft 2, relating to Medical Release within the Department of Public Safety for certain ill, disabled, or impaired inmates who pose low risk to public safety. Please note that the amendments added to House Draft 1 (creating House Draft 2) adds an immense number of barriers for those who would have initially been eligible for medical release. The Commission has grave concerns about the amendments added as it severely limits the pool of eligible ill, disabled, or impaired inmates.

Compassionate Release allows inmates who have complex medical needs to spend their remaining days outside of jail or prison in the company of their family and friends. This is important as inmates with complex medical needs are not only some of the costliest individuals to house within the jails and prisons, but many are also the least likely (of the population) to pose any threat to society once released. For these reasons, the Commission is requesting the following Amendments to House Bill 824 House Draft 2 be removed:

Request to Remove Amendments:

- (1) Clarifying that an inmate must pose a low risk to public safety to be eligible for the medical release program;

The issue here is that there is no definition of what, “low risk to public safety” means. Moreover, this phrasing is irrelevant since the bill is focused on those who have a terminal illness, have seriously debilitating or irreversible conditions, those who are too ill to participate in rehabilitation, and those who require complex treatments. People who are incapacitated to this level are unlikely to be a risk to the public. Removing this type of phrasing is important as this phrasing is often used to exclude lifers, or those with longer sentences due to violent crimes.

(2) Requiring that requests for medical release be accompanied by a recommendation for medical release by a physician who is licensed to practice medicine in the State;

This creates additional barriers that are costly, timely, and disregards the fact that many outside providers are uninterested in giving such an opinion. There is no indication that the Department of Public Safety would cover costs, or that the Department of Public Safety would help secure an opinion from a physician. Moreover, this does not account for the inmates who are housed in Arizona, who are the vast majority of lifers/older patients.

(3) Deleting language that would have required the Director of Public Safety to appoint an advocate for any inmate who requests medical release and is unable, due to incapacitation or debilitation, to advocate on the inmate's own behalf;

This again creates immense barriers for those who are too incapacitated to advocate for themselves. The Department should take responsibility in assisting these individuals in appointing an advocate who can help them through the process. This is especially important given that the Department of Public Safety does not have adequate or humane space to house people with complex medical needs.

The Commission's mandate specifies that it is the Commission's duty to:

- Facilitate a correctional system transition to a rehabilitative and therapeutic model.
- Establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

The Commission believes that this bill, with the adjusted amendments, will reduce the population, reduce costs to the Department, and elevate a level of humanity in corrections that would align with a rehabilitative and therapeutic model. To highlight the need of this bill, the Commission has broken down the current number of inmates housed in a medical infirmary or hospital and pulled the number of inmates ranging from ages 65-84.

It is important to note that **within the past three months, three elderly inmates have died in custody:** one individual was 73 years old, and the second individual was 87 years old, and the third individual was 74 years old. All three died while housed in the prison infirmary at the Halawa Correctional Facility (prison).

As of last month, there were 13 individuals housed within a jail or prison infirmary, and four individuals hospitalized due to complex medical issues.

Facility	Number of Inmates in Medical Infirmary	Number of Inmates Currently Hospitalized
Hawaii Community Correctional Center (Jail)	0	1
Halawa Correctional Facility (Prison)	8	3
Oahu Community Correctional Center (Jail)	4	0

Women’s Community Correctional Center (Prison)	1	0
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Department data as of 2/14/2023

Additionally, as of the date of this testimony, the Department of Public Safety currently houses 177 individuals who are between the ages of 65-84 years old.

Age	Number of Inmates
65-69 years	112
70-74 years	42
75-79 years	15
80-84 years	8
Total	177

Department data as of 3/13/2023

The criminal justice system imprisons people to deter crime, punish those who commit crimes, protect the public, and rehabilitate those who will one day return home. The Commission believes that inmates should be released when they are too debilitated to commit further crimes, too compromised to benefit from rehabilitation, or too impaired to be aware of punishment. The Commission heavily supports all amendments added to House Bill 824, making House Bill 824, House Draft 1 the best outcome for the State of Hawai’i. However, House Bill 824, House Draft 2 creates significant barriers for those elderly, sick individuals who need the most help. For these reasons, the Commission supports the intent of the bill and hopes the Committee will remove the amendments listed above.

Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-900-2200 or at christin.m.johnson@hawaii.gov. Thank you for the opportunity to testify.

HB-824-HD-2

Submitted on: 3/12/2023 11:54:43 AM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jay Amina III	Individual	Support	Written Testimony Only

Comments:

I support SB824.

HB-824-HD-2

Submitted on: 3/12/2023 11:55:24 AM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alfred Horner	Individual	Support	Written Testimony Only

Comments:

Alfred Horner supports Hb824

HB-824-HD-2

Submitted on: 3/13/2023 10:02:25 AM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB824 HD2.

HB-824-HD-2

Submitted on: 3/13/2023 3:24:48 PM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

Support

HB-824-HD-2

Submitted on: 3/14/2023 12:00:14 PM

Testimony for PSM on 3/15/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor