The probation

A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

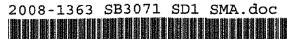
- SECTION 1. Section 704-413, Hawaii Revised Statutes, is 1 amended to read as follows: 3 "§704-413 Conditional release; application for 4 modification or discharge; termination of conditional release and commitment. (1) Any person conditionally released pursuant 5 6 to section 704-411, or section 704-412, shall continue to 7 receive mental health or other treatment and care deemed 8 appropriate by the director of health until discharged from 9 conditional release. The person shall follow all prescribed 10 treatments and take all prescribed medications according to the 11 instructions of the person's treating mental health 12 professional. If any mental health professional treating any 13 conditionally released person believes either the person is not 14 complying with the requirements of this section or there is 15 other evidence that hospitalization is appropriate, the mental 16 health professional shall report the matter to the probation
- officer may order the conditionally released person to be 2008-1363 SB3071 SD1 SMA.doc

officer of the conditionally released person.



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- 1 hospitalized for a period not to exceed seventy-two hours if the
- 2 probation officer has probable cause to believe the person has
- 3 violated the requirements of this subsection. No person shall
- 4 be hospitalized beyond the seventy-two hour period, as computed
- 5 pursuant to section 1-29, unless a hearing has been held
- 6 pursuant to subsection $[\frac{(3)}{\cdot}]$ (4).
- 7 (2) The director of health may apply to the court ordering
- 8 any persons released pursuant to section 704-411, or section
- 9 704-412, for the person's discharge from, or modification of,
- 10 the order granting conditional release; provided that the person
- 11 receives community-based mental health services from or
- 12 contracted by the department of health, and the director is of
- 13 the opinion that the person on conditional release is no longer
- 14 affected by a physical or mental disease, disorder, or defect
- 15 and may be discharged or the order may be modified, without
- 16 danger to the person or to others. The director shall make
- 17 application for the discharge from, or modification of, the
- 18 order of conditional release in a report to the court. The
- 19 director shall transmit a copy of the application and report to
- 20 the prosecuting attorney of the county from which the
- 21 conditional release order was made, to the person's treating
- 22 mental health professionals, and to the probation officer



- 1 supervising the conditional release. The person on conditional 2 release shall be given notice of such application. 3 $\left[\frac{(2)}{2}\right]$ (3) Any person conditionally released pursuant to 4 section 704-411, or section 704-412, may apply to the court 5 ordering the conditional release for discharge from, or 6 modification of, the order granting conditional release on the 7 ground that the person is no longer affected by a physical or 8 mental disease, disorder, or defect and may be discharged, or 9 the order may be modified, without danger to the person or to 10 others. The application shall be accompanied by a letter from 11 or supporting affidavit of a qualified physician or licensed 12 psychologist. A copy of the application and letter or affidavit 13 shall be transmitted to the prosecuting attorney of the circuit 14 from which the order issued, to the person's treating mental 15 health professionals, and to [any persons] the probation officer 16 supervising the conditional release, and the hearing on the 17 application shall be held following notice to such persons. the determination of the court is adverse to the application, 18 19 the person shall not be permitted to file further application 20 until one year has elapsed from the date of any preceding 21 hearing on an application for modification of conditions of
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release or for discharge.

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2	$[\frac{(3)}{(4)}]$ If, at any time after the order pursuant to
3	section 704-411, or section 704-412, granting conditional
4	release, the court determines, after hearing evidence, that:
5	(a) The person is still affected by a physical or mental
6	disease, disorder, or defect, and the conditions of
7	release have not been fulfilled; or
8	(b) For the safety of the person or others, the person's
9	conditional release should be revoked,
10	the court may forthwith modify the conditions of release or
11	order the person to be committed to the custody of the director
12	of health, subject to discharge or release only in accordance
13	with the procedure prescribed in section 704-412."
14	SECTION 2. Statutory material to be repealed is bracketed
15	and stricken. New statutory material is underscored.
16	SECTION 3. This Act shall take effect upon its approval.

Report Title:

Conditional Release

Description:

Grants the director of health the authority to apply for discharge from conditional release (CR) or modification of the CR order for any patient in a mental health facility served by the DOH directly or through a contracted provider. (SD1)

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