
A BILL FOR AN ACT

RELATING TO MEDICAL RELEASE.

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

1 PART I

2 SECTION 1. An ever-increasing number of men and women are
3 entering prison with serious medical illnesses, and many face
4 the risk of developing a serious illness or disability,
5 particularly prisoners with long mandatory sentences. Long
6 sentences and an aging prison population mean that correctional
7 facilities in this State and across the United States are
8 housing a growing number of elderly inmates who often have
9 extensive medical needs. Concern over how society should deal
10 with the aging and seriously ill prison population has led
11 policy makers in many states to endorse early release for older
12 and seriously ill prisoners who pose a low risk to public
13 safety. Presently, the United States federal prison system and
14 many states grant some kind of medical or compassionate release
15 under certain circumstances.

16 Compassionate release provides physicians and other medical
17 professionals an opportunity to use their unique expertise and



1 knowledge of prognosis, geriatrics, cognitive and functional
2 decline, and palliative medicine to ensure that medical criteria
3 for compassionate release are appropriately evidence-based.
4 With this information, criminal justice professionals are able
5 to better determine whether or not an inmate should be granted
6 medical release.

7 Compassion is an integral part of the aloha spirit.
8 Accordingly, the purpose of this Act is to create a medical or
9 compassionate release program for certain ill, disabled, or
10 impaired inmates who pose a low risk to public safety.

11 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
12 amended by adding a new subpart to part II to be appropriately
13 designated and to read as follows:

14 " . **Medical Release Program**

15 **§353- Definitions.** As used in this subpart:

16 "Continuity of care" means an integrated system that
17 ensures that a patient's medical needs are met as the patient
18 transitions from one health care provider to another, from one
19 setting to another, or from one level of care to another.

20 "Inmate" means any person committed to the custody of the
21 director.



1 "Medical release" means the release of an inmate before the
2 expiration of the inmate's sentence due to the inmate's medical
3 condition.

4 "Medical release plan" means a comprehensive, written
5 medical and psychosocial care plan that is specific to the
6 inmate.

7 "Reasonable medical probability" means that a medical
8 outcome is more likely to occur than not to occur.

9 "Terminal illness" means a progressive and incurable
10 medical condition that is expected to result in death.

11 **§353- Medical release program; authority to release;**

12 **rules.** (a) An inmate may be considered for medical release if
13 the inmate:

- 14 (1) Has a terminal illness with a predictably poor
15 prognosis;
- 16 (2) Has a seriously debilitating and irreversible mental
17 or physical condition that impairs the inmate's
18 functional ability to the extent that the inmate would
19 be more appropriately managed in a community setting;
- 20 (3) Is too ill or cognitively impaired to participate in
21 rehabilitation or be aware of punishment; or



1 (4) Has a disease or condition that requires a complexity
2 of treatment or level of care that the department is
3 unable to provide on a long-term basis.

4 (b) All requests for medical release shall be made to the
5 department in writing. Requests may be made by the director, an
6 inmate, or an inmate's representative.

7 (c) If a request for medical release is made by the
8 director, the request shall contain the following:

9 (1) A report from a department physician stating whether
10 the inmate meets the criteria for medical release and
11 the basis for the physician's opinion; provided that
12 the report shall state each diagnosis that applies to
13 the inmate and the prognosis for each condition to a
14 reasonable medical probability; provided further that,
15 where practicable, the physician shall discuss the
16 results of any tests, studies, or physical findings
17 that support the diagnosis and prognosis, and the
18 nature and extent of the medical treatment that will
19 most likely be required to manage the inmate's
20 condition while incarcerated within the standard of
21 care; and provided further that, if appropriate, the



1 physician shall provide citations to relevant medical
2 literature;

3 (2) A written evaluation prepared by the director on the
4 risk for violence and recidivism, if any, that the
5 inmate poses to society in light of the inmate's
6 medical condition, the severity of the offense for
7 which the inmate is incarcerated, and the inmate's
8 prison record; and

9 (3) A medical release plan that provides for continuity of
10 care; provided that the medical release plan shall
11 include a recommended course of treatment for the
12 inmate and plan to provide continuity of care as the
13 inmate transitions from prison to the community.

14 The department shall provide the inmate with a copy of the
15 director's medical release request.

16 (d) If a request for medical release is made by an inmate
17 or the inmate's representative, the request shall state the
18 grounds for the requested release and contain a statement as to
19 where the inmate would reside, who would care for the inmate,
20 and how the inmate plans to obtain medical care if released.



1 All requests initiated by an inmate or an inmate's
2 representative shall be immediately referred to the director.
3 Within twenty days of receiving the request, the department
4 shall submit a medical release report to the Hawaii paroling
5 authority containing the information required in subsection (c).
6 The department shall provide the inmate with a copy of the
7 medical release report.

8 (e) The Hawaii paroling authority shall conduct a hearing
9 on all requests for medical release. The hearing shall be held
10 within ten days of receiving a medical release report from the
11 department. The inmate and the inmate's representative shall be
12 permitted to participate in the hearing and may submit medical
13 and other evidence in support of the request. The paroling
14 authority shall:

15 (1) Independently determine whether the inmate meets the
16 criteria for medical release and assess the risk for
17 violence and recidivism, if any, that the inmate poses
18 to society;

19 (2) Provide the victim of the criminal act for which the
20 inmate was sentenced, or the victim's family, with the
21 opportunity to be heard; and



1 (3) Grant or deny the request within two days following
2 the hearing.

3 (f) The Hawaii paroling authority shall not grant medical
4 release to an inmate who poses a danger to society.

5 (g) A denial of medical release by the Hawaii paroling
6 authority shall not affect an inmate's eligibility for any other
7 form of parole or release under applicable law; provided that
8 the inmate shall not reapply or be reconsidered for medical
9 release unless there is a demonstrated change in the inmate's
10 medical condition.

11 (h) The director shall appoint an advocate for any inmate
12 who requests medical release and is unable, due to
13 incapacitation or debilitation, to advocate on the inmate's own
14 behalf.

15 (i) The department shall adopt a fast-track procedure for
16 the evaluation and release of rapidly dying prisoners; provided
17 that the procedure shall be posted on the websites of the
18 department and the Hawaii paroling authority.

19 (j) Medical release shall not be considered a reduction of
20 a minimum sentence, and the sixty-day notice requirement of
21 section 706-669(5) shall not apply to any medical release;



1 provided that the department shall notify the prosecuting
2 attorney of the appropriate county of all requests for medical
3 release as soon as practicable after a request is initiated, and
4 the prosecuting attorney may participate in any medical release
5 hearing conducted by the Hawaii paroling authority.

6 (k) The department shall adopt rules pursuant to
7 chapter 91 to implement the medical release program.

8 **§353- Conditions of a medical release.** The Hawaii
9 paroling authority shall set reasonable conditions on an
10 inmate's medical release that shall apply through the date upon
11 which the inmate's sentence would have expired. The conditions
12 shall include the following:

13 (1) The released inmate shall be subject to supervision by
14 the Hawaii paroling authority;

15 (2) Personnel of the department shall be allowed to visit
16 the inmate at reasonable times at the inmate's home or
17 elsewhere; and

18 (3) The released inmate shall comply with all conditions
19 of release set by the Hawaii paroling authority.

20 **§353- Revocation of medical release; return of inmate**
21 **to custody.** (a) The Hawaii paroling authority shall promptly



1 order an inmate to be returned to the custody of the director to
2 await a revocation hearing if the paroling authority receives
3 credible information that the inmate has failed to comply with
4 any reasonable condition set upon the inmate's medical release.

5 (b) If the Hawaii paroling authority revokes an inmate's
6 medical release for failure to comply with a reasonable
7 condition of release, the inmate shall resume serving the
8 remaining balance of the inmate's sentence, with credit given
9 only for the duration of the inmate's medical release served in
10 compliance with all reasonable conditions. Revocation of an
11 inmate's medical release for violating a reasonable condition of
12 release shall not affect an inmate's eligibility for any other
13 form of parole or release provided by law; provided that
14 revocation of an inmate's medical release may be used as a
15 factor in determining eligibility for future parole or release."

16 PART II

17 SECTION 3. Chapter 353, Hawaii Revised Statutes, is
18 amended by adding a new section to part I to be appropriately
19 designated and to read as follows:



1 "§353- Medical release program. The department shall
2 assess and refer inmates to the Hawaii paroling authority for
3 possible medical release as provided in subpart B of part II."

4 SECTION 4. Chapter 353, part II, Hawaii Revised Statutes,
5 is amended by designating sections 353-61 to 353-72 as
6 subpart A, entitled "Hawaii Paroling Authority; General
7 Provisions".

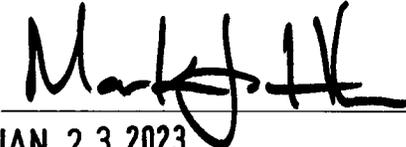
PART III

9 SECTION 5. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY:



 JAN 23 2023



H.B. NO. 824

Report Title:

PDS; Hawaii Paroling Authority; Corrections; Medical Release Program; Compassionate Release; Medical Assistance

Description:

Creates a medical release program within the Department of Public Safety for certain ill, disabled, or impaired inmates who pose a low risk to public safety.

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