
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. The legislature finds that an ever-increasing
3 number of men and women are entering prison with serious medical
4 illnesses and many face the risk of developing a serious illness
5 or disability, particularly prisoners with long mandatory
6 sentences. Long sentences and an aging prison population mean
7 that correctional facilities in the State and across the United
8 States are housing a growing number of elderly inmates who often
9 have extensive medical needs. Concern over how society should
10 deal with the aging and seriously ill prison population has led
11 policymakers 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 The legislature further finds that compassionate release
17 provides physicians and other medical professionals an



1 opportunity to use their unique expertise and knowledge of
 2 prognosis, geriatrics, cognitive and functional decline, and
 3 palliative medicine to ensure that medical criteria for
 4 compassionate release are appropriately evidence-based. With
 5 this information, criminal justice professionals are able to
 6 better determine whether or not an inmate should be granted
 7 medical release. Furthermore, compassion is an integral part of
 8 the aloha spirit.

9 Accordingly, the purpose of this Act is to create a medical
 10 or compassionate release program for certain ill, disabled, or
 11 impaired inmates who pose a low risk to public safety.

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

15 " . **Medical Release Program**

16 **§353- Definitions.** As used in this subpart:

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

21 "Director" means the director of public safety.



1 "Inmate" means any person committed to the custody of the
2 director.

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

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

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

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

13 **§353- Medical release program; authority to release;**
14 **rules.** (a) An inmate may be considered for medical release if
15 the inmate:

- 16 (1) Has a terminal illness with a predictably poor
17 prognosis;
- 18 (2) Has a seriously debilitating and irreversible mental
19 or physical condition that impairs the inmate's
20 functional ability to the extent that the inmate would
21 be more appropriately managed in a community setting;



- 1 (3) Is too ill or cognitively impaired to participate in
2 rehabilitation or be aware of punishment; or
- 3 (4) Has a disease or condition that requires a complexity
4 of treatment or level of care that the department is
5 unable to provide on a long-term basis.
- 6 (b) Requests for medical release may be initiated by the
7 director, an inmate, or an inmate's representative. All
8 requests for medical release shall be made in writing. Requests
9 initiated by an inmate or an inmate's representative shall be
10 made to the director and state the grounds for the request,
11 relevant diagnoses and prognosis, and include a statement
12 describing how and why the inmate meets the criteria for medical
13 release.
- 14 (c) Requests initiated by the director shall be forwarded
15 to the Hawaii paroling authority with a brief statement of the
16 reasons for the request and a statement that the inmate meets
17 the criteria for release. Requests initiated by an inmate or
18 inmate's representative shall be reviewed by the director and
19 forwarded to the Hawaii paroling authority with a recommendation
20 from the director for or against release and a statement as to
21 whether the inmate meets the criteria for release; provided that



1 if it appears that a request clearly does not meet the criteria
2 for release or is clearly frivolous, the director may hold the
3 request and not submit it to the Hawaii paroling authority,
4 unless and until it is supported by a report from a physician
5 stating that, to a reasonable degree of medical probability, the
6 inmate meets the criteria for release.

7 (d) The Hawaii paroling authority shall conduct a hearing
8 on all requests for medical release.

9 (e) The Hawaii paroling authority shall not grant medical
10 release to an inmate who poses a danger to society.

11 (f) A denial of medical release by the Hawaii paroling
12 authority shall not affect an inmate's eligibility for any other
13 form of parole or release under applicable law; provided that
14 the inmate shall not reapply or be reconsidered for medical
15 release unless there is a demonstrated change in the inmate's
16 medical condition.

17 (g) The director shall appoint an advocate for any inmate
18 who requests medical release and is unable, due to
19 incapacitation or debilitation, to advocate on the inmate's own
20 behalf.



1 (h) The department shall adopt a fast-track procedure for
2 the evaluation and release of rapidly dying prisoners; provided
3 that the procedure shall be posted on the websites of the
4 department and the Hawaii paroling authority.

5 (i) Medical release shall not be considered a reduction of
6 a minimum sentence, and the sixty-day notice requirement of
7 section 706-669(5) shall not apply to any medical release;
8 provided that the department shall notify the prosecuting
9 attorney of the appropriate county of all requests for medical
10 release as soon as practicable after a request is initiated, and
11 the prosecuting attorney may participate in any medical release
12 hearing conducted by the Hawaii paroling authority.

13 (j) The department shall adopt rules pursuant to
14 chapter 91 to implement the medical release program.

15 **§353- Conditions of a medical release.** The Hawaii
16 paroling authority shall set reasonable conditions on an
17 inmate's medical release that shall apply through the date upon
18 which the inmate's sentence would have expired. The conditions
19 shall include the following:

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



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

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

6 **§353- Revocation of medical release; return of inmate**
7 **to custody.** (a) The Hawaii paroling authority shall promptly
8 order an inmate to be returned to the custody of the director to
9 await a revocation hearing if the paroling authority receives
10 credible information that the inmate has failed to comply with
11 any reasonable condition set upon the inmate's medical release.

12 (b) If the Hawaii paroling authority revokes an inmate's
13 medical release for failure to comply with a reasonable
14 condition of release, the inmate shall resume serving the
15 remaining balance of the inmate's sentence, with credit given
16 only for the duration of the inmate's medical release served in
17 compliance with all reasonable conditions. Revocation of an
18 inmate's medical release for violating a reasonable condition of
19 release shall not affect an inmate's eligibility for any other
20 form of parole or release provided by law; provided that



1 revocation of an inmate's medical release may be used as a
2 factor in determining eligibility for future parole or release."

3 PART II

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

7 "§353- Medical release program. The department shall
8 assess and refer inmates to the Hawaii paroling authority for
9 possible medical release as provided in subpart of part
10 II."

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

15 PART III

16 SECTION 5. New statutory material is underscored.

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



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. (HD1)

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