
A BILL FOR AN ACT

RELATING TO MEDICAL RELEASE.

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

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

15 The legislature further finds that compassionate release
16 provides physicians and other medical professionals an
17 opportunity to use their unique expertise and knowledge of



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

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

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

14 "§353- Medical release program. The director shall
 15 assess and refer inmates to the Hawaii paroling authority for
 16 possible medical release as provided in subpart of part
 17 II."

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

21 " . **Medical Release Program**



1 **§353- Definitions.** As used in this subpart:

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

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

7 **§353- Medical release program; authority to release;**
8 **rules.** (a) An inmate may be considered for medical release if
9 the inmate poses a low risk to public safety and:

- 10 (1) Has a terminal illness with a predictably poor
11 prognosis;
- 12 (2) Has a seriously debilitating and irreversible mental
13 or physical condition that impairs the inmate's
14 functional ability to the extent that the inmate would
15 be more appropriately managed in a community setting;
- 16 (3) Is too ill or cognitively impaired to participate in
17 rehabilitation or be aware of punishment; or
- 18 (4) Has a disease or condition that requires a complexity
19 of treatment or level of care that the department is
20 unable to provide on a long-term basis.



1 (b) Requests for medical release may be initiated by the
2 director, an inmate, or an inmate's representative when the
3 request is accompanied by a recommendation for medical release
4 by a physician who is licensed to practice medicine in the
5 State. All requests for medical release shall be made in
6 writing. Requests initiated by an inmate or an inmate's
7 representative shall be made to the director and state the
8 grounds for the request, relevant diagnoses and prognosis, and
9 include a statement describing how and why the inmate meets the
10 criteria for medical release.

11 (c) Requests initiated by the director shall be forwarded
12 to the Hawaii paroling authority with a brief statement of the
13 reasons for the request and a statement that the inmate meets
14 the criteria for release. Requests initiated by an inmate or
15 inmate's representative shall be reviewed by the director and
16 forwarded to the Hawaii paroling authority with a recommendation
17 from the director for or against release and a statement as to
18 whether the inmate meets the criteria for release; provided that
19 if it appears that a request clearly does not meet the criteria
20 for release or is clearly frivolous, the director may hold the
21 request and not submit it to the Hawaii paroling authority,



1 unless and until it is supported by a report from a physician
2 stating that, to a reasonable degree of medical probability, the
3 inmate meets the criteria for release.

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

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

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

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

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



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

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

7 (j) As used in this section,
8 "Reasonable degree of medical probability" means that a
9 medical outcome is more likely to occur than not to occur.

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

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

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

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



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

3 **§353- Revocation of medical release; return of inmate**
4 **to custody.** (a) The Hawaii paroling authority shall promptly

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

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

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



1 SECTION 5. New statutory material is underscored.

2 SECTION 6. This Act shall take effect on June 30, 3000.



Report Title:

PDS; Hawaii Paroling Authority; Corrections; Medical Release Program

Description:

Creates a medical release program within the department of public safety for certain ill or impaired inmates who pose a low risk to public safety. Effective 6/30/3000. (HD2)

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