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

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 within twenty days of receiving the request forwarded to the
17 Hawaii paroling authority with a recommendation from the
18 director for or against release and a statement as to whether
19 the inmate meets the criteria for release; provided that if it
20 appears that a request clearly does not meet the criteria for
21 release or is clearly frivolous, the director may hold the



1 request and not submit it to the Hawaii paroling authority,
2 unless and until it is supported by a report from a physician
3 stating that, to a reasonable degree of medical probability, the
4 inmate meets the criteria for release.

5 (d) The Hawaii paroling authority shall conduct a hearing
6 on all requests for medical release. The hearing shall be held
7 within ten days of receiving a medical release report from the
8 department. The Hawaii paroling authority shall grant or deny
9 the request within two days following the hearing.

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

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

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



1 (h) The department shall adopt a fast-track procedure for
2 the evaluation and release of rapidly dying inmates; 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 chapter
14 91 to implement the medical release program.

15 (k) As used in this section:

16 "Reasonable degree of medical probability" means that a
17 medical outcome is more likely to occur than not to occur.

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

20 §353- Conditions of a medical release. The Hawaii
21 paroling authority shall set reasonable conditions on an



1 inmate's medical release that shall apply through the date upon
2 which the inmate's sentence would have expired. The conditions
3 shall include the following:

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

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

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

11 **§353- Revocation of medical release; return of inmate to**

12 **custody.** (a) The Hawaii paroling authority shall promptly
13 order an inmate to be returned to the custody of the director to
14 await a revocation hearing if the paroling authority receives
15 credible information that the inmate has failed to comply with
16 any reasonable condition set upon the inmate's medical release.

17 (b) If the Hawaii paroling authority revokes an inmate's
18 medical release for failure to comply with a reasonable
19 condition of release, the inmate shall resume serving the
20 remaining balance of the inmate's sentence, with credit given
21 only for the duration of the inmate's medical release served in



1 compliance with all reasonable conditions. Revocation of an
2 inmate's medical release for violating a reasonable condition of
3 release shall not affect an inmate's eligibility for any other
4 form of parole or release provided by law."

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

9 SECTION 5. New statutory material is underscored.

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



Report Title:

DCR; Hawaii Paroling Authority; Corrections; Medical Release Program

Description:

Creates a medical release program within the Department of Corrections and Rehabilitation for certain ill or impaired inmates who pose a low risk to public safety. (SD1)

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