

JAN 23 2026

A BILL FOR AN ACT

RELATING TO COMPASSIONATE RELEASE.

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

1 SECTION 1. The legislature finds that correctional
2 facilities in Hawaii and across the United States are housing a
3 growing number of incarcerated persons who require a high level
4 of complex and costly medical care. This is due in part to an
5 aging prison population, and in part to the generally poor
6 health of incarcerated persons.

7 The National Institute of Corrections defines older
8 incarcerated persons as being aged fifty years or older, and
9 many correctional institutions estimate that an incarcerated
10 person's physiological age is ten to fifteen years older than
11 their chronological age due to prior lack of medical care, drug
12 use, and the stress of incarceration. As of mid-September 2025,
13 the Department of Corrections and Rehabilitation housed nine
14 hundred ninety-six incarcerated persons fifty years of age or
15 older, including over eighty incarcerated persons who were
16 seventy or more years old. Concern over how society should deal
17 with the aging and seriously ill prison population has led



1 policymakers in all states and the federal government to provide
2 for the early release of certain older and seriously ill
3 individuals.

4 The legislature further finds that the early release of
5 elderly and seriously ill incarcerated persons will reduce State
6 spending on corrections. The average cost of housing an
7 incarcerated person in Hawaii is \$307 per day or \$112,055 per
8 year. Therefore the average cost to house Hawaii's nine hundred
9 ninety-six older incarcerated persons is \$305,000 per day, or
10 \$111,000,000 per year, not including the cost of higher staffing
11 needs, medications, and hospitalizations that are associated
12 with caring for older incarcerated persons.

13 The legislature additionally finds that parole board
14 members, with the aid of medical and correctional professionals,
15 are able to make informed decisions about granting compassionate
16 release. Release policies are also supported by recidivism
17 research which shows that arrest rates drop to slightly more
18 than two per cent for persons ages fifty to sixty-five years
19 old, and to almost zero percent for those older than sixty-five.

20 The legislature further finds that compassion is an
21 expression of the aloha spirit and that compassionate release of



1 seriously ill and debilitated incarcerated persons reflects the
2 State's commitment to dignity, humanity, and justice.

3 Accordingly, the purpose of this Act is to create a
4 compassionate release protocol for certain ill or seriously
5 debilitated incarcerated persons with the express intent that
6 all incarcerated persons who qualify for release are considered
7 for release to the community in a fair, just, and expeditious
8 manner.

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

12 " . Compassionate Release

13 §353- Definitions. As used in this subpart:

14 "Authority" means the Hawaii paroling authority.

15 "Compassionate release" means the release of an
16 incarcerated person before the expiration of the incarcerated
17 person's sentence due to the incarcerated person's terminal
18 illness or debilitating, chronic, or irreversible condition.

19 "Debilitating, chronic, or irreversible condition" means a
20 persistent or progressive medical, cognitive, or mental health
21 condition that compromises an incarcerated person's ability to



1 perform one or more activities of daily living or significantly
2 compromises an incarcerated person's quality of life.

3 "Director" means the director of corrections and
4 rehabilitation.

5 "Incarcerated person" means a person committed to the
6 custody of the director who has been convicted of one or more
7 felony offenses.

8 "Incarcerated person's representative" means an attorney,
9 family member, or other person, including another incarcerated
10 person, who is assisting the incarcerated person in initiating
11 an application for compassionate release or navigating the
12 compassionate release process.

13 "Terminal illness" means a progressive medical condition
14 with a predictably poor prognosis that is expected to result in
15 death.

16 **§353- Referral.** The director shall have an affirmative
17 and ongoing duty to identify incarcerated persons who may meet
18 the criteria for compassionate release pursuant to this subpart
19 and shall refer such incarcerated persons to the authority for
20 possible compassionate release as provided by this subpart.



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1 §353- **Compassionate release; authority to release;**
2 **process.** (a) An incarcerated person may be considered for
3 compassionate release if the incarcerated person:

4 (1) Has a terminal illness;

5 (2) Has a debilitating, chronic, or irreversible
6 condition;

7 (3) Is too ill or cognitively impaired to participate in
8 rehabilitation or to be aware of punishment; or

9 (4) Has a condition or combination of conditions that
10 requires a complexity of treatment or level of care
11 that the department is unable to provide on a long-
12 term basis or the incarcerated person would otherwise
13 be more appropriately managed in a community setting.

14 (b) The department shall promptly identify incarcerated
15 persons who meet the criteria for compassionate release under
16 subsection (a) and assist the incarcerated person in applying
17 for compassionate release, including developing a plan that
18 meets the medical and physical needs of the incarcerated person.

19 (c) An application for compassionate release may be
20 initiated by the department's medical staff, an incarcerated
21 person, or an incarcerated person's representative.



1 (d) The director shall submit all applications for
2 compassionate release to the authority within fifteen business
3 days from the date of the original request, along with the
4 director's recommendation for or against compassionate release,
5 the reasons for the director's recommendation, and any other
6 documents the director deems appropriate to assist the authority
7 in making a decision for or against release; provided that if it
8 appears that an application for compassionate release clearly
9 does not meet the criteria for compassionate release or is
10 clearly frivolous, the director may hold the request and not
11 submit it to the authority until it is supported by a report
12 from a licensed physician stating that, to a reasonable degree
13 of medical probability, the incarcerated person meets the
14 criteria for release. The incarcerated person or the
15 incarcerated person's representative shall be responsible for
16 obtaining the physician's report; provided that if the
17 incarcerated person or the incarcerated person's representative
18 is unable to obtain the physician's report due to medical,
19 cognitive, or financial limitations, the department shall
20 provide the incarcerated person or the incarcerated person's



1 representative with reasonable assistance in obtaining the
2 physician's report.

3 (e) The authority shall hold an administrative hearing to
4 consider an application for compassionate release no later than
5 ten business days after receiving an application for
6 compassionate release from the director and shall grant release
7 in accordance with subsection (f).

8 (f) The authority shall grant compassionate release and
9 release the incarcerated person to an appropriate community
10 setting unless the authority finds that the incarcerated person
11 does not meet the medical criteria under subsection (a) for
12 compassionate release or that the incarcerated person presently
13 poses an unreasonable risk to public safety. If the authority
14 denies an application for compassionate release, the authority
15 shall state the reasons for the denial and shall notify the
16 incarcerated person or the incarcerated person's representative
17 of its decision. A denial of compassionate release may not be
18 appealed and shall not create a private right of action.

19 (g) Denial of compassionate release by the authority shall
20 not affect an incarcerated person's eligibility for any other
21 form of parole or release under any applicable federal or state



1 law; provided that the incarcerated person or the incarcerated
2 person's representative shall not reapply or be reconsidered for
3 compassionate release unless there is a significant change in
4 the incarcerated person's medical condition or any other
5 material factor.

6 (h) A grant of compassionate release shall not be subject
7 to the sixty day notice requirement of section 706-669(5).

8 (i) Notwithstanding any law to the contrary, all persons
9 incarcerated by the State, including but not limited to persons
10 serving a mandatory minimum sentence or persons sentenced to
11 life without parole, shall be eligible for compassionate release
12 pursuant to this subpart. A mandatory minimum sentence or
13 sentence of life without parole shall not preclude eligibility
14 for compassionate release pursuant to this subpart.

15 **§353- Conditions of release.** (a) The authority shall
16 set reasonable conditions for an incarcerated person's
17 compassionate release which shall take into consideration the
18 incarcerated person's medical conditions and abilities.

19 (b) The incarcerated person shall comply with all
20 conditions for compassionate release set by the authority.



1 §353- **Revocation of compassionate release.** (a) The

2 authority may order an individual granted compassionate release
3 pursuant to this subpart to be returned to the custody of the
4 director to await a revocation hearing if the authority receives
5 credible information that the individual has failed in a
6 significant way to comply with the conditions established by the
7 authority for the individual's compassionate release.

8 (b) When determining whether an individual's compassionate
9 release should be revoked, the authority shall consider the
10 individual's medical health, mental health, or cognitive
11 condition as it relates to the alleged violation.

12 (c) Revocation of compassionate release shall not affect
13 an individual's eligibility for any other form of parole or
14 release, including any subsequent application for compassionate
15 release.

16 (d) Absent a material change or change in circumstance of
17 the individual's medical condition, an individual whose
18 compassionate release has been revoked shall not be eligible to
19 apply for compassionate release for at least six months after
20 the revocation of their compassionate release.



1 **§353- Reporting.** (a) The department shall collect and
2 maintain the following data on compassionate release of
3 incarcerated persons pursuant to this subpart, which shall be
4 complied into an annual report that shall be made publicly
5 available no later than of each year:

6 (1) The number of applications for compassionate release
7 received by the department;

8 (2) The number of applications for compassionate release
9 forwarded to the authority; and

10 (3) For each applicant who has applied for compassionate
11 release:

12 (A) Where the applicant was housed at the time the
13 application was submitted;

14 (B) If the application was initiated by the
15 department's medical staff, the incarcerated
16 person, or the incarcerated person's
17 representative;

18 (C) The highest class of instant offense committed by
19 the applicant;

20 (D) How long the applicant had been incarcerated at
21 the time of application; and



(E) If the applicant died prior to a decision or after being granted compassionate release but prior to release from custody.

(b) The authority shall collect and maintain the following data on compassionate release of incarcerated persons pursuant to this subpart, which shall be compiled into an annual report that shall be made publicly available no later than of each year:

- (1) The number of incarcerated persons granted compassionate release by the authority pursuant to this subpart, disaggregated by race, ethnicity, age, and gender identity;
- (2) The number of incarcerated persons whose application for compassionate release was denied by the authority, disaggregated by race, ethnicity, age, and gender identity;
- (3) The length of time between submission of the application, the release decision, and the release date;
- (4) The number of incarcerated persons approved for compassionate release but whose release was delayed by



1 more than fifteen days from the date of the hearing
2 and the reason for the delay; and

3 (5) The number of incarcerated persons returned to the
4 custody of the department after being granted
5 compassionate release.

6 §353- Administrative rules; working group. (a) The
7 department, authority, and Hawaii correctional system oversight
8 commission shall convene a working group to develop
9 administrative rules to implement the purposes of this subpart.

10 (b) The working group shall consist of the following
11 members or their designees:

12 (1) The director of corrections and rehabilitation;

13 (2) The medical director for the department of corrections
14 and rehabilitation;

15 (3) The chair of the Hawaii paroling authority;

16 (4) The chair of the Hawaii correctional system oversight
17 commission;

18 (5) A formerly incarcerated individual, to be jointly
19 appointed by the director of corrections and
20 rehabilitation, chair of the Hawaii paroling



1 authority, and chair of the Hawaii correctional system
2 oversight commission, who:

3 (A) Worked as a medical aide while in the custody of
4 the department;

5 (B) Has direct knowledge or experience of complex
6 medical issues while in the custody of the
7 department; or

8 (C) Was granted release;

9 (6) An attorney with experience in applying for or
10 representing an incarcerated person seeking
11 compassionate release, to be jointly appointed by the
12 director of corrections and rehabilitation, chair of
13 the Hawaii paroling authority, and chair of the Hawaii
14 correctional system oversight commission; and

15 (7) A subject matter expert in compassionate release
16 research, policy, and practice, to be jointly
17 appointed by the director of corrections and
18 rehabilitation, chair of the Hawaii paroling
19 authority, and chair of the Hawaii correctional system
20 oversight commission.



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1 (c) The administrative rules developed by the working
2 group shall be adopted pursuant to chapter 91 by the department
3 and authority no later than twenty days prior to the convening
4 of the regular session of 2028."

5 SECTION 3. Chapter 353, Hawaii Revised Statutes, is
6 amended by designating sections 353-61 to 353-72 as subpart A
7 and inserting a title before section 353-61 to read as follows:

8 "A. Hawaii Paroling Authority - General Provisions."

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11
INTRODUCED BY:

Carl F. Fuenmayor



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Report Title:

Hawaii Paroling Authority; Department of Corrections and
Rehabilitation; Compassionate Release

Description:

Establishes a protocol for compassionate release for certain ill
or seriously debilitated incarcerated persons.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

