
A BILL FOR AN ACT

RELATING TO COMPASSIONATE RELEASE.

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

1 PART I

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

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



1 deal with the aging and seriously ill prison population has led
2 policymakers in all states and the federal government to provide
3 for the early release of certain older and seriously ill
4 individuals.

5 The legislature further finds that the early release of
6 elderly and seriously ill incarcerated persons will reduce state
7 spending on corrections. The average cost of housing an
8 incarcerated person in Hawaii is \$307 per day or \$112,055 per
9 year. However, the estimated total annual taxpayer cost per
10 high-acuity, medically complex incarcerated person is six to
11 eight times higher at \$650,000 to \$900,000 per year, and in some
12 cases, exceeds several million dollars per person per year.
13 This sum is attributed to costs related to a critically ill
14 person's poor health, including specialty appointments, medical
15 equipment, non-formulary prescriptions, laboratory tests and
16 imaging, surgeries, Medevac flights, emergency room admissions,
17 hospitalizations, transportation to and from appointments, and
18 overtime pay for corrections officers who must accompany
19 incarcerated individuals at all times when off-site for care.

20 The legislature additionally finds that parole board
21 members, with the aid of medical and correctional professionals,



1 are able to make informed decisions about granting compassionate
2 release. Release policies are also supported by recidivism
3 research, which shows that arrest rates drop to slightly more
4 than two per cent for persons ages fifty to sixty-five years
5 old, and to almost zero per cent for those older than sixty-
6 five.

7 The legislature further finds that compassion is an
8 expression of the aloha spirit and that compassionate release of
9 seriously ill and debilitated incarcerated persons reflects the
10 State's commitment to dignity, humanity, and justice.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Create a compassionate release protocol for certain
13 ill or seriously debilitated incarcerated persons with
14 the express intent that all incarcerated persons who
15 qualify for release are considered for release to the
16 community in a fair, just, and expeditious manner; and
17 (2) Establish a working group within the department of
18 corrections and rehabilitation to develop initial
19 administrative rules to implement the protocol.



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

4 " . Compassionate Release

5 §353- Definitions. As used in this subpart:

6 "Authority" means the Hawaii paroling authority.

7 "Compassionate release" means the release of an
8 incarcerated person before the expiration of the incarcerated
9 person's sentence due to the incarcerated person's terminal
10 illness or debilitating or irreversible condition.

11 "Debilitating or irreversible condition" means a persistent
12 or progressive medical, cognitive, or mental health condition
13 that compromises an incarcerated person's ability to perform one
14 or more activities of daily living or significantly compromises
15 an incarcerated person's quality of life.

16 "Incarcerated person" means a person committed to the
17 custody of the director who has been convicted of one or more
18 felony offenses and is currently serving one or more felony
19 sentences.

20 "Incarcerated person's representative" means an attorney,
21 family member, or other person, including another incarcerated



1 person, who is assisting the incarcerated person in initiating
2 an application for compassionate release or navigating the
3 compassionate release process.

4 "Terminal illness" means a progressive medical condition
5 with a predictably poor prognosis that is expected to result in
6 death.

7 **§353- Referral.** The director shall have an affirmative
8 and ongoing duty to ensure that incarcerated persons who may
9 meet the criteria for compassionate release pursuant to this
10 subpart are identified by the department and shall refer such
11 incarcerated persons to the authority for possible compassionate
12 release as provided by this subpart.

13 **§353- Compassionate release; authority to release;**
14 **process.** (a) An incarcerated person may be considered for
15 compassionate release if the incarcerated person:

- 16 (1) Has a terminal illness;
- 17 (2) Has a debilitating or irreversible condition;
- 18 (3) Is too ill or cognitively impaired to participate in
19 rehabilitation or to be aware of punishment; or
- 20 (4) Has a condition, a combination of conditions, or
21 medical needs that requires a complexity of treatment



1 or level of care that the department is unable to
2 provide on a long-term basis or the incarcerated
3 person's medical needs would otherwise be more
4 appropriately managed in a community setting.

5 (b) The department shall promptly identify incarcerated
6 persons who meet the criteria for compassionate release under
7 subsection (a) and assist the incarcerated person in applying
8 for compassionate release, including developing a plan that
9 meets the medical and physical needs of the incarcerated person.

10 (c) An application for compassionate release may be
11 initiated by the department's medical staff, the incarcerated
12 person, or an incarcerated person's representative outside of
13 the department.

14 (d) The director shall submit all applications for
15 compassionate release to the authority within fifteen business
16 days from the date of the original request, along with the
17 director's recommendation for or against compassionate release,
18 the reasons for the director's recommendation, and any other
19 documents the director deems appropriate to assist the authority
20 in making a decision for or against release; provided that if it
21 appears that an application for compassionate release clearly



1 does not meet the criteria for compassionate release or is
2 clearly frivolous, the director may hold the request and not
3 submit it to the authority until it is supported by a report
4 from a licensed physician stating that, to a reasonable degree
5 of medical probability, the incarcerated person meets the
6 criteria for compassionate release. The incarcerated person or
7 the incarcerated person's representative shall be responsible
8 for obtaining the physician's report; provided that if the
9 incarcerated person or the incarcerated person's representative
10 is unable to obtain the physician's report due to medical,
11 cognitive, or financial limitations, the department shall
12 provide the incarcerated person or the incarcerated person's
13 representative with reasonable assistance in obtaining the
14 physician's report.

15 (e) The authority shall hold an administrative hearing to
16 consider an application for compassionate release no later than
17 ten business days after receiving an application for
18 compassionate release from the director. At least forty-eight
19 hours before an incarcerated person's hearing, the authority
20 shall provide notice, including electronically, of the hearing
21 to the prosecuting attorney of the applicable county, for the



1 purposes of notifying victims. The authority shall grant
2 release in accordance with subsection (f).

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

14 (g) Denial of compassionate release by the authority shall
15 not affect an incarcerated person's eligibility for any other
16 form of parole or release under any applicable federal or state
17 law; provided that the incarcerated person or the incarcerated
18 person's representative shall not reapply or be reconsidered for
19 compassionate release unless there is a significant change in
20 the incarcerated person's medical, cognitive, or mental health
21 condition or any other material factor.



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

3 (i) Notwithstanding any law to the contrary, all persons
4 incarcerated by the State, including but not limited to persons
5 serving a mandatory minimum sentence or persons sentenced to
6 life without parole, shall be eligible for compassionate release
7 pursuant to this subpart.

8 **§353- Conditions of release.** (a) The authority shall
9 set reasonable conditions for an incarcerated person's
10 compassionate release, which shall take into consideration the
11 incarcerated person's medical conditions and abilities.

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

14 **§353- Revocation of compassionate release.** (a) The
15 authority may order an individual granted compassionate release
16 pursuant to this subpart to be returned to the custody of the
17 director to await a revocation hearing if the authority receives
18 credible information that the individual has failed in a
19 significant way to comply with the conditions established by the
20 authority for the individual's compassionate release.



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

5 (c) Revocation of compassionate release shall not affect
6 an individual's eligibility for any other form of parole or
7 release, including any subsequent application for compassionate
8 release.

9 (d) Absent a material change or change in circumstance of
10 the individual's medical, cognitive, or mental health condition,
11 an individual whose compassionate release has been revoked shall
12 not be eligible to apply for compassionate release for at least
13 six months after the revocation of the individual's
14 compassionate release.

15 **§353- Reporting.** (a) The department shall collect and
16 maintain the following data on compassionate release of
17 incarcerated persons pursuant to this subpart, which shall be
18 compiled into an annual report that shall be made publicly
19 available no later than twenty days prior to the convening of
20 each regular session:



- 1 (1) The number of applications for compassionate release
2 received by the department;
- 3 (2) The number of applications for compassionate release
4 forwarded to the authority; and
- 5 (3) For each applicant who has applied for compassionate
6 release:
- 7 (A) Where the applicant was housed at the time the
8 application was submitted;
- 9 (B) If the application was initiated by the
10 department's medical staff, the incarcerated
11 person, or the incarcerated person's
12 representative;
- 13 (C) The highest class of instant offense committed by
14 the applicant;
- 15 (D) How long the applicant had been incarcerated at
16 the time of application; and
- 17 (E) If the applicant died before a decision or after
18 being granted compassionate release but before
19 release from custody.
- 20 (b) The authority shall collect and maintain the following
21 data on compassionate release of incarcerated persons pursuant



1 to this subpart, which shall be compiled into an annual report
2 that shall be made publicly available no later than twenty days
3 prior to the convening of each regular session:

4 (1) The number of incarcerated persons granted
5 compassionate release by the authority pursuant to
6 this subpart, disaggregated by race, ethnicity, age,
7 and gender identity;

8 (2) The number of incarcerated persons whose application
9 for compassionate release was denied by the authority,
10 disaggregated by race, ethnicity, age, and gender
11 identity;

12 (3) The length of time between submission of the
13 application, the release decision, and the release
14 date, if applicable;

15 (4) The number of incarcerated persons approved for
16 compassionate release but whose release was delayed by
17 more than fifteen days from the date of the
18 administrative hearing and the reason for the delay;
19 and



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

4 SECTION 3. (a) There is established within the department
5 of corrections and rehabilitation for administrative purposes,
6 in collaboration with the Hawaii paroling authority and Hawaii
7 correctional system oversight commission, a working group to
8 develop initial administrative rules to implement the purposes
9 of chapter 353, part II, 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 chairperson of the Hawaii paroling authority;

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

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



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

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

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

8 or

9 (C) Was granted release;

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

17 (7) A subject-matter expert in compassionate release
18 research, policy, and practice, to be jointly
19 appointed by the director of corrections and
20 rehabilitation, chairperson of the Hawaii paroling



1 authority, and chairperson of the Hawaii correctional
2 system oversight commission.

3 (c) The initial administrative rules developed by the
4 working group shall be adopted pursuant to chapter 91 by the
5 department of corrections and rehabilitation and Hawaii paroling
6 authority no later than twenty days prior to the convening of
7 the regular session of 2028, after which the working group shall
8 cease to exist.

9 PART II

10 SECTION 4. Chapter 353, Hawaii Revised Statutes, is
11 amended by designating sections 353-61 to 353-72 as subpart A
12 and inserting a title before section 353-61 to read as follows:

13 "A. Hawaii Paroling Authority - General Provisions"

14 PART III

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Establishes a protocol for compassionate release for certain ill or seriously debilitated incarcerated persons. Establishes a working group within the Department of Corrections and Rehabilitation to develop initial administrative rules to implement the protocol. Effective 7/1/3000. (HD2)

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