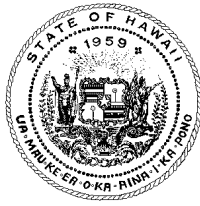


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



TOMMY JOHNSON  
DIRECTOR

Melanie Martin  
Deputy Director  
Administration

Vacant  
Deputy Director  
Correctional Institutions

Sanna Muñoz  
Deputy Director  
Rehabilitation Services  
and  
Programs

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF CORRECTIONS  
AND REHABILITATION**  
*Ka 'Oihana Ho'omalu Kalaima  
a Ho'oponopono Ola*  
1177 Alakea Street  
Honolulu, Hawaii 96813

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1628, HOUSE DRAFT 2, SENATE DRAFT 1  
RELATING TO COMPASSIONATE RELEASE.

by  
Tommy Johnson, Director  
Department of Corrections and Rehabilitation

Senate Committee on Ways and Means  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

**AND**

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Wednesday, April 8, 2026; 10:15 a.m.  
State Capitol, Conference Room 211 & via Videoconference

Chairs Dela Cruz, Rhoads, Vice Chairs Moriwaki, Gabbard, and Members of both  
Committees:

The Department of Corrections and Rehabilitation (DCR) **opposes** House Bill (HB) 1628, House Draft (HD) 2, Senate Draft (SD) 1 as we have very serious concerns regarding several areas of Section 2 of this measure. We therefore provide suggested amendments to address our concerns. Recommended language to be deleted is bracketed and struck through, proposed new language is underscored.

Specifically, Section 2 (Page 4, Lines 9 through 12) should be amended as follows:

"Incarcerated person's representative" means an attorney, family member or other non-incarcerated person, ~~[including another incarcerated person,]~~ who has express written consent signed by the committed person to discuss personal health information for ~~[is assisting the incarcerated person in~~

~~initiating an application for compassionate release or~~] navigating the compassionate release process.

Recommended amendments to this paragraph is to clarify that written authorization from the incarcerated person is required for another person who is not incarcerated to assist the incarcerated person with navigating the compassionate release process. Also, an incarcerated person should not be assisting another incarcerated person with the compassionate release process as there is a real possibility of manipulation. This recommended amendment is consistent with the language and purpose of subsection (f).

In additon Section 2 (Page 6, Lines 16 through 20 and Page 8, Lines 1 – 2) should be amended as follows:

(e) the authority shall hold an administrative hearing to consider an application for compassionate release no later than ten business days after receiving an application for compassionate release from the director and shall ~~[grant]~~ consider granting release in accordance with subsection (f).

This recommended amendment is consistant with the language and purpose of subsection (f).

Lastly, Section 2 (Page 8, Lines 4 through 9) should be amended as follows:

(j) Notwithstanding any law to the contrary, all persons incarcerated by the state, except persons sentenced to life without possibility of parole and persons serving a mandatory minimum sentence, shall be eligible for compassionate release pursuant to this subpart. ~~[A mandatory minimum sentence shall not preclude eligibility for compassionate release pursuant to this subpart.]~~

Recommended amendments to this paragraph are consistent with current laws. Any changes to the laws regarding mandatory minimum terms negatively affects public safety and removes discretionary authority vested with the judiciary/state judges. Also, persons serving life without the possibility of parole must have their sentence commuted to life with the possiblity of parole by the Governor in order for the Hawai'i Paroling Authority to set a minimum term of imprisonment, and only after these requirements have occurred would the person be eligible for compassionate release consideration.

It should be noted, those serving life without the possibility of parole, and the majority of those serving life with the possibility of parole, have committed heinous crimes against one or more victims, with some offenders purposely raping and/or killing more than one victim. At present, there are twenty (20) individuals in DCR's custody serving sentences of life without the possibility of parole (LWOP) and twelve (12) of them were convicted of first degree murder and some have lesser included offenses such as carrying a firearm in the commission of a felony, rape, sodomy, kidnapping assault and other offenses. Several of these individuals are also serving life with the possibility of parole sentences as well, for additional crimes. The remaining eight (8) LWOP individuals are serving sentences for attempted murder in the first degree (some with more than one charge), felony in possession of a firearm, kidnapping, assault rape, sodomy, burglarly, and the list goes on. Many of these inmates have extensive criminal records where they preyed upon the community, and in some cases, their own families. Please see attached list of the crimes committed by the 20 individuals serving LWOP which totals 111 crimes, with an average number of crimes for each individual being 5.5 crimes.

In addition, this measure does not provide any additional staff or resources DCR would require to carryout the provisions of this measure. If enacted, we would require a Physician (1.0 FTE) position, which would be responsible for providing oversight, coordination, and review of the statewide compassionate release program. As a component of the compassionate release program, the development of a medical release plan for purposes of continuity of care would also be required. Currently, nursing case management positions within the Health Care Division of DCR do not exist. Therefore, an additional Advanced Practice Registered Nurse II (1.0 FTE) position would be needed. This position would be responsible for the development of the medical release plan and petitioning for guardianship when applicable.

The total increase in payroll cost for the additional 2.0 FTE staffing requirement is estimated at \$368,996 each year, recurring. Should the Committee decide to advance this measure, DCR respectfully requests that it be amended to include an appropriation of sufficient funds to support the requirements of the compassionate release program.

House Bill 1628, HD2, SD1 Relating to Compassionate Release.  
April 8, 2026  
Page 4

Thank you for the opportunity to provide testimony in **opposition** to HB 1628, HD  
2, SD 1.

Attachment.

**CLASS "A" FELONY OFFENSES**

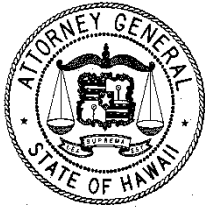
Murder 1	Murder 2	Attempted Murder 1	Attempted Murder 2	Rape 1	Sodomy 1	Attempted Assault 1	Kidnapping	Robbery 1	PDD 1	ENHANCED PDD 2	ENHANCED Robbery 2	ENHANCED Burglary 1	Escape 1
12	1	9	2	3	3	1	4	5	4	2	3	2	1

**CLASS "B" FELONY OFFENSES**

Attempted Manslaughter	Burglary 1	Felony in Possession of Firearm/Carrying	Felony in Possession of Firearm Ammo	Assault 2	Attempted Assault 2	Robbery 2	Crim. Property Damage 1	ENHANCED UCPV
1	6	11	1	1	1	1	1	1

**CLASS "C" FELONY OFFENSES**

Assault 2	Terroristic Threatening 1	Place to Keep Firearm	Possession of Prohibited Firearm	Escape 2	UCPV	Crim. Property Damage 2	Burglary 2	Theft 1	Failure to Render Asst.	Reckless Endangering 1
2	4	3	3	1	2	3	9	5	1	2



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 1628, H.D. 2, S.D. 1, RELATING TO COMPASSIONATE RELEASE.

**BEFORE THE:**

SENATE COMMITTEES ON JUDICIARY AND ON WAYS AND MEANS

**DATE:** Wednesday, April 8, 2026 **TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Lisa M. Itomura,  
Deputy Attorney General, at (808) 586-8379)

---

Chairs Rhoads and Dela Cruz and Members of the Committees:

The Department of the Attorney General (Department) offers the following comments on this bill and respectfully proposes amendments, set forth at the end of this testimony, to address the concerns described below.

This bill establishes and codifies a structured process within chapter 353, Hawaii Revised Statutes (HRS), by which incarcerated persons suffering from a terminal illness, a debilitating, chronic, or irreversible condition, or a cognitive impairment that prevents participation in rehabilitation or awareness of punishment, may apply for compassionate release from the Department of Corrections and Rehabilitation (DCR) and the Hawaii Paroling Authority (HPA).

The bill requires the HPA to hold an administrative hearing within ten business days of receiving an application and provides that the HPA shall grant compassionate release unless the individual does not meet the medical criteria or "presently poses an unreasonable risk to public safety." (Page 7, lines 1-6.)

The Department supports the intent of this bill. However, compassion for incarcerated individuals must be balanced with the safety of victims and their families, witnesses, and the community.

**Scope of Medical Eligibility**

The bill defines "terminal illness" broadly as a condition expected to result in death without specifying a time frame (page 4, lines 14-16). It also defines a "debilitating, chronic, or irreversible condition" as a persistent or progressive condition

that "compromises an incarcerated person's ability to perform one or more activities of daily living or significantly compromises an incarcerated person's quality of life" (page 4, lines 1-5).

These definitions could be interpreted to encompass a wide range of conditions with varying levels of severity and functional impact. Without clearer limitations, individuals with conditions that do not substantially diminish their ability to reoffend could qualify for consideration.

To better align compassionate release with public safety considerations, we recommend clarifying that qualifying medical conditions are limited to those involving substantial functional impairment and that significantly reduce the individual's ability to reoffend.

### **Consistency with Existing Parole Standards**

Current law provides a structured framework for release decisions that emphasizes both rehabilitation and public safety. Section 353-62(a)(3), HRS, requires the HPA to determine parole eligibility at the point when "the element of risk to the community is minimal." Section 353-69, HRS, further provides that parole shall not be granted unless "there is a reasonable probability that the prisoner concerned will live and remain at liberty without violating the law and that the prisoner's release is not incompatible with the welfare and safety of society."

Additionally, section 706-670(1) and (3), HRS, requires a validated risk assessment and the development of a plan for the individual's transition to the community.

In contrast, this bill places the burden on the HPA to deny release by finding that an incarcerated person poses an "unreasonable risk to public safety" (page 7, lines 1-6). This standard may be interpreted as less protective than existing parole standards and could shift the presumption in favor of release rather than requiring an affirmative showing that release is appropriate.

### **Preservation of HPA Discretion**

The bill currently provides that the HPA "shall grant" compassionate release unless specified findings are made. This provision may limit the HPA's ability to exercise its expertise and discretion in evaluating complex, individualized cases.

To preserve the HPA's traditional role and align with existing parole practices, the Department recommends replacing "shall grant" on page 6, line 19, and page 7, line 1, with "may grant."

### **Recommended Amendments**

To address the concerns described above, the Department recommends the following amendments:

1. Amend definitions as follows:

On page 4, lines 1-5, amend the definition of "debilitating, chronic, or irreversible condition" to read:

"Debilitating, chronic, or irreversible condition" means a serious and persistent medical or cognitive condition that is not expected to improve and that, in the clinical judgment of a licensed physician:

- (1) Results in a sustained and substantial loss of the individual's physical or cognitive capacity to independently perform basic self-care; and
- (2) Substantially limits the incarcerated person's ability to engage in conduct that would constitute a new criminal offense.

On page 4, lines 14-16, amend the definition of "terminal illness" to read:

"Terminal illness" means a progressive and irreversible medical condition that, in the clinical judgment of a licensed physician, is expected to result in death, for which curative treatment is no longer effective or appropriate, and that has advanced to the point that, due to the underlying medical condition, the incarcerated person requires substantial physical assistance with basic self-care.

2. On page 6, line 19, replace the phrase "shall grant" with "may grant."
3. On page 7, lines 1-11, amend the new third section 353- (f) to read as

follows:

(f) The authority may grant compassionate release and release the incarcerated person to an appropriate community setting if the authority finds that:

- (1) The incarcerated person meets the medical criteria under subsection (a);

- (2) The incarcerated person has been assessed using a validated risk assessment tool pursuant to section 706-670(1) and does not pose a significant risk to public safety;
- (3) The incarcerated person has a verified plan for placement in the community, including appropriate housing and access to necessary medical care, pursuant to section 706-670(3); and
- (4) The release of the incarcerated person is not incompatible with the welfare and safety of society.

The authority shall state in writing the reasons for granting or denying compassionate release. A denial of compassionate release shall not be appealed and shall not create a private right of action.

Thank you for the opportunity to testify on this bill.



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

**TESTIMONY IN SUPPORT OF HOUSE BILL 1628 HD2 SD1**

RELATING TO COMPASSIONATE RELEASE

Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

(Senate Committee on Judiciary)

Ke Kōmike ‘Aha Kenekoa o ke Ki‘ina Hana a me nā Kumuwaiwai

(Senate Committee on Ways and Means)

Ke Kapitala ‘o Hawai‘i

Hawai‘i State Capitol

‘Apelila 8, 2026

10:15 AM

Lumi 211

Aloha e Chair Rhoads, Chair Dela Cruz, Vice Chair Gabbard, Vice Chair Moriwaki, Members of the Senate Committee on Judiciary, and Members of the Senate Committee on Ways and Means:

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB1628 HD2 SD1**. The underlying measure establishes a clear, fair, and timely compassionate release protocol for incarcerated persons who are terminally ill or seriously debilitated, including individuals whose medical needs cannot be adequately addressed in a correctional setting. **However, amendments adopted by the Senate Public Safety and Military Affairs Committee in SD1 threaten to overly narrow this measure and make it less effective.**

OHA’s longstanding criminal justice work has documented that Native Hawaiians experience disproportionate and compounding harms at multiple points of system contact, and that overly punitive justice approaches have a heavier impact on the Native Hawaiian community than on any other ethnic group in Hawai‘i.<sup>1</sup> OHA consistently supports reforms that reduce unnecessary incarceration, strengthen reentry, and promote culturally grounded pathways to restoration and healing.<sup>2</sup> Establishing a transparent compassionate release process is consistent with these priorities because it prevents continued confinement from becoming a substitute for appropriate medical care when incarceration no longer serves a meaningful public safety purpose.

This measure also advances practical equity for ‘ohana. Long term incarceration carries substantial intergenerational impacts, including destabilizing family networks and creating barriers to reintegration. For Native Hawaiian ‘ohana already facing structural

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<sup>1</sup> Office of Hawaiian Affairs, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* (2010), [https://www.oha.org/wp-content/uploads/2014/12/ir\\_final\\_web\\_rev.pdf](https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf)

<sup>2</sup> Office of Hawaiian Affairs, “Criminal Justice,” <https://www.oha.org/governance/criminal-justice/>

inequities, the prolonged incarceration of kūpuna or a seriously ill family member can deepen harm and extend trauma, particularly when that individual's condition has progressed to a point where dignity and humane care are better provided in a community setting with appropriate supports.

In HB1628 HD2 SD1, OHA appreciates and supports amendments that strengthen victim and prosecutorial notification requirements and that provide for implementation of resources. Clear procedures, transparency, and coordination are important to maintain public trust and ensure the program operates effectively. **However, OHA has concerns regarding amendments that narrow eligibility by limiting consideration only to individuals with a terminal illness or those who are too ill or cognitively impaired to participate in rehabilitation, and that categorically exclude individuals sentenced to life without the possibility of parole.**

The prior version of the measure preserved broader discretion to evaluate individual medical and humanitarian circumstances. Compassionate release frameworks function best when decision makers retain the ability to conduct individualized assessments rather than rely on categorical exclusions. Unduly restricting eligibility may prevent consideration of cases in which continued incarceration no longer advances legitimate public safety interests.

Hawai'i has historically relied on internal policy rather than statute to address compassionate release, creating concerns regarding transparency and timely consideration.<sup>3</sup> This measure moves the State toward a clearer statutory framework with defined criteria and time-bound review, which supports fair and consistent decision making. For these reasons, the Office of Hawaiian Affairs respectfully urges this Committee to **PASS HB1628 HD2 SD1 with amendments that address the concerns noted above.**

Mahalo nui for the opportunity to provide testimony on this important measure.

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<sup>3</sup> Hawai'i Public Radio, "Lawmakers to consider compassionate release measures for Hawai'i inmates with medical conditions," (Oct. 7, 2025), <https://www.hawaiipublicradio.org/local-news/2025-10-07/compassionate-release-laws-for-inmates-with-medical-conditions>

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
**HAWAII PAROLING AUTHORITY**  
*Ka 'Ākena Palola o Hawai'i*  
1177 Alakea Street, First Floor  
Honolulu, Hawaii 96813

GENE DEMELLO JR.  
CHAIRMAN

MILTON H. KOTSUBO  
JENNIFER M. MERKLE  
LINDA L. RICH  
CHERYL E. INOUE  
MEMBERS

COREY J. REINCKE  
ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON HB 1628, HD2, SD1  
RELATING TO COMPASSIONATE RELEASE

by  
Gene DeMello, Jr., Chairman  
Hawaii Paroling Authority

SENATE COMMITTEE ON WAYS AND MEANS  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Wednesday, April 8, 2026 – 10:15 a.m.  
State Capitol – Room 211

Chair Dela Cruz, Vice Chair Moriwaki and Members of the Ways and Means Committee, and Chair Roads, Vice Chair Gabbard, and Members of the Judiciary Committee:

The Hawaii Paroling Authority (HPA) **opposes** this bill. Expanding HPA's authority to reduce court-imposed mandatory minimums would conflict with established sentencing practices, judicial intent, and public safety goals. We request that the bill clearly state that HPA is not allowed to reduce mandatory minimum sentences, along with the following amendment:

All persons incarcerated by the State are eligible for compassionate release, except those serving mandatory minimum sentences. The Hawaii Paroling Authority may not reduce these sentences, as such authority rests solely with the courts.

A mandatory minimum term unequivocally sets a non-negotiable standard reflecting the seriousness of an offense and must be fully served before parole eligibility. The Judicial Branch alone retains exclusive authority over such sentence reductions.

The HPA supports compassionate release when appropriate. In the past three years, all 13 compassionate release requests were approved, but four releases are pending due to limited medical placements, highlighting a critical barrier.

Thank you for your consideration. We urge adoption of our amendment and are available for any questions.

JOSH GREEN, M.D.  
GOVERNOR



MARK PATTERSON  
CHAIR

CHRISTIN M. JOHNSON  
OVERSIGHT COORDINATOR

COMMISSIONERS  
HON. R. MARK BROWNING (ret.)

HON. RONALD IBARRA (ret.)

MARTHA TORNEY

HON. MICHAEL A. TOWN (ret.)

**STATE OF HAWAII**  
**HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**  
**E HUIKALA A MA'EMA'E NO**  
235 S. Beretania Street, 16<sup>th</sup> Floor  
HONOLULU, HAWAII 96813  
(808) 587-4160

TO: The Honorable Donovan M. Dela Cruz, Chair  
The Honorable Sharon Y. Moriwaki, Vice Chair  
Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Senate Committee on Judiciary

FROM: Mark Patterson, Chair  
Hawai'i Correctional System Oversight Commission

SUBJECT: House Bill 1628, House Draft 2, Senate Draft 1, Relating to Compassionate Release

Hearing: Wednesday, April 8, 2026; 10:15 a.m.  
State Capitol, Room 211

Chairs Dela Cruz and Rhoads, Vice Chair Moriwaki and Gabbard, and Members of the Committees:

The Hawai'i Correctional System Oversight Commission (HCSOC) submits **comments** on House Bill 1628, House Draft 2, Senate Draft 1, relating to compassionate release, which establishes a protocol for compassionate release for certain ill or seriously debilitated incarcerated persons.

The Commission respectfully requests that the Chair accept the following amendments:

- 1) On page 5, lines 4 through 11, add two criteria's that were previously removed:
  - a. Has a debilitating, chronic, or irreversible condition;
  - b. Has a condition or combination of conditions that requires a complexity of treatment or level of care that the department is unable to provide on a long-term basis or the incarcerated person would otherwise be more appropriately managed in a community setting.

Please note that the above language mirrors language already utilized in the Department of Corrections and Rehabilitation's (DCR) Policies and Procedures COR.10.1G.11

- 2) On page 8, lines 4 through 9, add criteria back in to allow those serving a sentence of life without parole to be eligible for compassionate release. This is in alignment with national best practice.
- 3) On page 14, line 11 through 12, remove the blank appropriation for the Department of Corrections and Rehabilitation to implement compassionate release. The Department should not need additional funding to implement this bill as the cost savings of removing these medically frail individuals is expected to save the Department hundreds of thousands of dollars. Additionally, having a streamlined process to remove medical frail individuals would ease pressure on correctional medical staff, allowing them to redirect time, attention, and resources toward the broader incarcerated population.

Our team has personally witnessed the suffering of elderly, seriously ill, and dying individuals in Hawai'i's correctional facilities. Many of these individuals no longer pose a threat to public safety, yet remain incarcerated under conditions that are medically complex, emotionally painful, and often inhumane. Compassionate release would allow terminally ill, elderly, or incapacitated people to spend their final months with family, preserving dignity at the end of life while still ensuring careful review standards, eligibility requirements, and public safety.

The Commission has collectively worked on this legislation in collaboration with the Department of Corrections and Rehabilitation, the Hawai'i Paroling Authority, and community partners. This bill reflects a shared commitment to public safety, human dignity, fiscal responsibility, and the values that define Hawai'i.

From a fiscal and operational standpoint, Hawai'i spends significant public resources incarcerating elderly and medically frail individuals, often incurring extraordinarily high medical expenses without corresponding public benefit. Recently, the House Committee on Public Safety hosted an informational briefing to inform and educate the committee about best practices for medical release programs adopted by correctional systems throughout the United States. During this briefing, it was shared that:

- The average annual cost of incarceration exceeds \$100,000 per person
- Some critically ill incarcerated individuals have required medical expenses exceeding \$900,000 in a single year
- Another individual's care surpassed \$2 million in just one quarter, including emergency medical evacuation and hospitalization
- In one case, a single prescription consumed over 90% of the department's annual medication budget, diverting care from others in custody

The State of Hawai'i must pay out-of-pocket for all incarcerated individuals' medical costs, including hospital care, specialty treatment, high-cost medications, medical escorts, and staff overtime for off-site appointments. By contrast, when eligible individuals are released into the community, they can qualify for Medicare or Medicaid, shifting significant healthcare costs away from Hawai'i taxpayers.

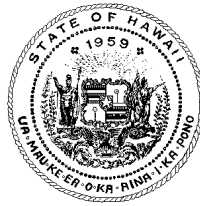
Additionally, compassionate release can help correctional staff. The Commission's [2025 Correctional Staff Survey Report](#), based on responses from over 800 correctional employees, found that Hawai'i's correctional staffing crisis has reached a critical and unsustainable level. Key findings include:

- Mandatory overtime, chronic vacancies, and unsustainable workloads
- Approximately 60% of staff reporting serious health impacts due to job stress
- High levels of PTSD, depression, burnout, and emotional exhaustion
- Nearly 30% vacant rates in some facilities, forcing staff to cover essential posts through excessive overtime

Staff also reported that caring for critically ill and dying incarcerated individuals places a heavy emotional, logistical, and clinical burden on an already strained workforce. Compassionate release would ease pressure on correctional medical staff, allowing them to redirect time, attention, and resources toward the broader incarcerated population, improve safety, and reduce burnout.

Lastly, this legislation is deeply aligned with Hawai'i's values of aloha, kuleana, restorative justice, and community healing. It recognizes the disproportionate impact incarceration has on Native Hawaiian and Pacific Islander communities, and offers a pathway grounded in compassion, accountability, and fairness. For all these reasons, the Commission respectfully asks you to pass this bill.

Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-849-3580 or at [christin.m.johnson@hawaii.gov](mailto:christin.m.johnson@hawaii.gov). Thank you for the opportunity to testify.



STATE OF HAWAII – Ka MOKU'ĀINA 'O HAWAI'I  
**CRIME VICTIM COMPENSATION COMMISSION**  
Ke Komikina Uku Luaahi Kalaima  
1164 Bishop Street, Suite 1530  
Honolulu, Hawai'i 96813  
Telephone: 808 587-1143  
FAX 808 587-1146

MARI McCAIG BELLINGER  
Chair

CLIFTON Y.S. CHOY  
Commissioner

JO KAMAE BYRNE  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

**LATE**

TESTIMONY ON HOUSE BILL 1628, HD2, SD1  
RELATING TO COMPASSIONATE RELEASE

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

Senate Committee on Ways and Means  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Wednesday, April 8, 2026; 10:15 AM  
State Capitol, Conference Room 211 & Videoconference

Good morning, Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Senate Committees on Ways and Means and Judiciary. Thank you for providing the Crime Victim Compensation Commission (“Commission”) with the opportunity to testify in strong opposition to House Bill 1628, HD2, SD1, Relating to Compassionate Release. HB 1628, HD2, SD1, establishes a protocol for compassionate release for certain ill or seriously debilitated incarcerated individuals. However, criminal justice reform cannot only serve the interest of the offender, but must also include meaningful protection for crime victims to avoid harmful, unintended consequences. This bill does not provide notice to the victim that the offender is being considered for release, allowing no opportunity for the victim to be heard about the release consideration or to create a safety plan prior to the offender’s release, retraumatizing victims as they learn after the fact that individuals who committed a violent act against them have already been released back into the community.

The bill also undermines public safety by not requiring the Hawai‘i Paroling Authority (HPA) to consider all relevant factors outlined previously by the Department of the Prosecuting Attorney, including:

- The nature and circumstances of the underlying offense;
- The defendant’s full criminal history;
- Prior acts of violence of escalation; and

- The impact on victims.

Such grave omissions may affect the determination of whether release of the offender creates an unreasonable risk to the public and deprive HPA of the opportunity to create appropriate conditions of release to safeguard the victim and the public.

Of final concern, the working group tasked with developing the administrative rules governing compassionate release does not include any representative from the victim service community. Having a representative from the victim service community on the working group will ensure that the development of the administrative rules is informed by the needs and concerns of victims and surviving family members, and by the safety of the community.

Many victims of violent crime face significant medical bills, require mental health or rehabilitative services, or must bury a loved one. The Commission helps such victims of violent crime with un-reimbursed expenses for crime-related losses, but recognizes that compensation alone cannot help victims. Every opportunity to support victims and to prevent additional harm and trauma must be taken; this bill does not do that.

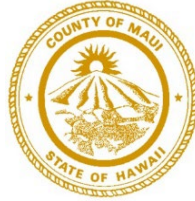
Thank you for allowing the Commission to testify in strong opposition to HB 1628, HD2, SD1.

**LATE**

**RICHARD T. BISSEN, JR.**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**SHELLY C. MIYASHIRO**  
First Deputy Prosecuting Attorney



**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY ON  
H.B. 1628 HD2 SD1  
RELATING TO COMPASSIONATE RELEASE

April 7, 2026

The Honorable Donovan M. Dela Cruz  
Chair  
The Honorable Sharon Y. Moriwaki  
Vice Chair  
and Members of the Committee on Ways and Means

The Honorable Karl Rhoads  
Chair  
The Honorable Mike Gabbard  
Vice Chair  
and Members of the Committee on Judiciary

Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in opposition to the current draft of H.B. 1628 HD2 SD1, Relating to Compassionate Release**. This bill would create a compassionate release process for incarcerated offenders with terminal illnesses and other serious impairments.

We appreciate the legislature's attempt to address the question of whether compassionate release should be allowed for incarcerated offenders with terminal illnesses and other serious impairments. However, we are opposed to the current language of H.B. 1628 HD2 SD1 because it does not allow for a full and fair review of a petition for release that involves timely input from victims, prosecutors and other relevant parties.

First, victims and prosecutors are only notified of an offender's petition after their release is granted (page 8, lines 1-3) and do not appear to have any input on whether the petition should

be granted or denied. While the primary focus of this version of the bill appears to be on the offender's health status, the vital public safety component of the review process lacks input from the people who are most likely to be affected by release: the actual victims in each case. Moreover, this bill's notification delay unnecessarily risks victim safety by reducing the time each victim receives to prepare for an offender's release.

Second, as drafted the public safety factor of the review process does not clearly articulate what "presently poses an unreasonable risk to public safety" might mean. Without any sort of clear statutory guidance, and considering our concerns about the lack of victim and prosecution input, we are concerned that offenders could be released that would otherwise remain incarcerated. For example, an offender may not be a risk to the general public, but may pose an arguably non-violent threat to a victim in the form of physical or electronic stalking. Without any clarity on what the public safety factor involves, and without any input from crime victims, this bill unnecessarily risks public safety.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **opposes the current draft of H.B. 1628 HD2 SD1**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: [\(808\) 927-1214](tel:(808)927-1214) / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)

*Today's Inmate; Tomorrow's Neighbor*



## COMMITTEE ON WAYS AND MEANS

Senator Donovan Delacruz, Chair

Senator, Sharon Moriwaki, Vice Chair

## COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Wednesday, April 8, 2026

10:15 AM

Room 225 and VIDEOCONFERENCE

## COMMENTS ON HB1628 HD2, SD1 - COMPASSIONATE RELEASE

Aloha Chair Dela Cruz and Chair Rhoads, Vice Chair Moriwaki and Vice Chair Gabbard and Members of WAM and JDC Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost three decades. This testimony is respectfully offered on behalf of the 3,626 Hawai'i individuals living behind bars<sup>1</sup> and under the "care and custody" of the Department of Corrections and Rehabilitation on March 23, 2026. We are always mindful that 795 of Hawai'i's imprisoned male population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates the opportunity to share our thoughts regarding compassionate release. **We support the HD2 version over the SD1 version.**

We **OPPOSE** the HB 1628 SD1 version, specifically on page 8 (j) lines 4-7, that reads:

(j) Notwithstanding any law to the contrary, all persons incarcerated by the state, *except persons sentenced to life without the possibility of parole, shall be eligible for compassionate release pursuant to this subpart.*

---

<sup>1</sup> DCR Weekly Population Report, March 23, 2026

[Pop-Reports-Weekly-2026-03-23.pdf](#)

We **SUPPORT** the last sentence in (j) – lines 7-2 that reads:

*A mandatory minimum sentence shall not preclude eligibility for compassionate release pursuant to this subpart.*

Page 10 of HB 1628 HD2, SD1(3) reads:

*For each applicant who has applied for compassionate release:*

We don't understand Page 10 of HB 1628 HD2, SD1 (C) that reads:

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

This has nothing to do with compassionate release for people who are in the final stages of their lives!

This bill is for people suffering and, in many cases, their last days or weeks of life. These are not people who can hop out of bed and commit crimes. For most they cannot feed themselves, dress themselves, understand what is happening to them, or even participate in conversation.

Community Alliance on Prisons understands that this bill will most likely go to conference committee and we hope that WAM and JDC end up supporting HB 1628 HD2 as the final version of this measure.

Mahalo for this chance to carefully go over this bill.

We hope the committee will support HB1628 HD2 – the real compassionate release of people suffering.



Hawai'i

Committee: Ways and Means  
 Judiciary

Hearing Date/Time: Wednesday, April 8, 2026, at 10:15am

Place: Conference Room 211 & Via Videoconference

Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB1628 HD2 SD1 Relating to Compassionate Release**

Dear Chairs Dela Cruz and Rhoads, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

The ACLU of Hawai'i **supports HB1628 HD2 SD1**, which establishes a protocol for compassionate release for certain ill or seriously debilitated incarcerated persons and appropriates funds. **We are also requesting amendments.**

Our compassionate release program is in need of improvement. According to the Department of Corrections and Rehabilitation's (DCR) own data, only 47 applications for compassionate release were filed. This amounts to an average of 6 applications a year.<sup>1</sup>

Year	Medical Release Applications
2022	5
2021	5
2020	22 (COVID pandemic)
2019	12 (COVID pandemic)
2018	0
2017	0
2016	3

That this data isn't otherwise publicly available is frustrating. What's more, the Department's data is incomplete. DCR's data does not tell us how many of the people who applied for compassionate release were actually released, how many were denied, and worst yet, how many people died in custody while awaiting a decision on their application. Nor do we have accurate data from DCR outlining how many people died in our jails and prisons who were eligible for compassionate release but did not apply.

---

<sup>1</sup> Department of Public Safety (now DCR) Testimony in opposition to HB824 (2023).  
[https://www.capitol.hawaii.gov/sessions/Session2023/Testimony/HB824\\_TESTIMONY\\_CMV\\_02-03-23\\_.PDF](https://www.capitol.hawaii.gov/sessions/Session2023/Testimony/HB824_TESTIMONY_CMV_02-03-23_.PDF)

In 2022, Families Against Mandatory Minimums made an in-depth study of the Compassionate release processes of all states and D.C., and assigned each state a grade.<sup>2</sup> **Sadly, Hawai‘i received a “F” grade due in part to our policy design, inconsistent rules and lack of clarity.** In stark contrast, states such as Colorado, Illinois, Rhode Island, Massachusetts and D.C. earned an “A.”

As noted by the American Bar Association, “Ultimately, expanding and better utilizing compassionate release programs would be an important step in making the prison system more humane and would reduce the financial strain of mass incarceration places on states. The issue of compassionate release rests on an important question— why do we incarcerate people? If individuals are in the last stages of their lives and are incredibly unlikely to recommit, what do we gain by continuing to incarcerate them, especially when the older adult has spent decades in jail? These questions should be explored, and more than that, we should make efforts to allow people to die with their loved ones, regardless of their incarceration status.”<sup>3</sup>

Improving Hawai‘i’s compassionate release system would also save the state money. Our prisons are crowded and costly. Currently, DCR spends an average of \$307 per day for every individual incarcerated across the state.<sup>4</sup> This cost goes up dramatically for seniors who are incarcerated, especially for those who are ill. As an example, in California prisons in the 1990s, the state spent three times as much money to incarcerate an older person than someone of any other age group.<sup>5</sup>

While the ACLU of Hawai‘i supports this measure, we also strongly agree with OHA and the Hawai‘i Correctional System Oversight Commission (HCSOC) that **the SD1 is unnecessarily narrow and restrictive and undermines the ultimate impact and effectiveness of the proposed legislation. We urge you to restore the previous language.**

By passing HB1628 HD2 SD1, with amendments, we can reaffirm our aloha for everyone in Hawai‘i, including those who are incarcerated, while simultaneously reducing DCR’s overall costs.

---

<sup>2</sup> Grading the States: The State Compassionate Release Report Card Project, FAMM. October 2022. <https://famm.org/wp-content/uploads/2022/10/compassionate-release-report.pdf>.

<sup>3</sup> Broken and Underutilized: Understanding Compassionate Release Programs for Older Adult Prisoners. American Bar Association. January 2023.

[https://www.americanbar.org/groups/law\\_aging/publications/bifocal/vol44/bifocal-vol-44-issue3/broken-and-underutilized-understanding-compassionate-release/](https://www.americanbar.org/groups/law_aging/publications/bifocal/vol44/bifocal-vol-44-issue3/broken-and-underutilized-understanding-compassionate-release/)

<sup>4</sup> Hawai‘i State Senate, WAM-PSM Informational Briefing - Statement of Hawai‘i Director of Corrections and Rehabilitation Tommy Johnson at 4:35, YOUTUBE (Jan. 7, 2025), [www.youtube.com/live/YNmnzV6OMQM](http://www.youtube.com/live/YNmnzV6OMQM).

<sup>5</sup> The aging prison population: Causes, costs, and consequences. Prison Policy Initiative, August 2023. <https://www.prisonpolicy.org/blog/2023/08/02/aging/>

Mahalo,

**Josh Frost**

Josh Frost

Policy Assistant

ACLU of Hawai'i

[jfrost@acluhawaii.org](mailto:jfrost@acluhawaii.org)

*With more than 4,000 Hawaii-based members, the mission of the American Civil Liberties Union of Hawai'i is to protect the fundamental freedoms enshrined in the United States and Hawai'i State Constitutions through legislative, litigation, and public education work. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving our communities in Hawai'i for over 60 years.*

**HB-1628-SD-1**

Submitted on: 4/6/2026 6:59:07 PM

Testimony for JDC on 4/8/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

We have been advocating for this for a long time both as a policy and in individual cases. Case by case, there has been some success but it has been limited. In our dealings the resistance has not always necessarily come from the prison or the Parole Board. It has been a result of the lack of appropriate community placements to transfer the inmates to. We have had cases where the Parole Board has been ready to discharge someone but because of the stigma of having been in prison they experienced difficulty finding a care home that would accept the individual. Some prisoners actually had served their full term plus more time and were kept in the prison infirmary because the alternative would have been to discharge the individual to the street. So, if we are really going to try to solve this problem we need to address the lack of available placements.

As to the substance of the Bill, we note that the current system is very ad hoc and generally depends on the concerted efforts of advocates like Attorney Bob Merce who persistently fights for the release of individuals who would qualify under this Bill. What we mostly like about this bill is that it formalizes the process and creates certain procedural rights and establishes a legal framework to facilitate these efforts. This is key.

From a humane standpoint, this Bill makes perfect sense. What an individual may have done when they were younger and healthier might have no reflection on gauging that person's future conduct when they are old and/or infirm. Moreover, as an economic matter, it is equally compelling. These individuals are likely to be the most expensive prisoners in the entire state as they may be basically living in a prison hospital. These funds presumably come from the Budget of the Department of Corrections and Rehabilitation. That Department currently doesn't have enough money to carry out all the functions they are supposed to do. If they were placed in the community, their care would probably be covered by Medicaid which means that not only would it be cheaper to begin with, but it would also be paid in part with federal dollars.

So, for all those reasons this is an excellent idea. We would suggest that the Committee consider returning the eligibility criteria to the original bill, however.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

Apr 8, 2026

#### MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

#### EXECUTIVE DIRECTOR

Roxanne U. Bolden

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The Honorable Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means  
The Honorable Karl Rhoads, Chair  
Senate Committee on Judiciary  
The Thirty-Third Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

**SUBJECT:** HB1628 HD2 SD1 – Relating to Compassionate Release

Chairs and Members of the Committees:

Aloha Independent Living Hawaii (AILH) respectfully submits testimony in **support of HB1628 HD2 SD1**. AILH is a Center for Independent Living serving rural Oahu and all neighbor islands, and we advocate from a cross-disability perspective for policies that promote dignity, community integration, and access to needed supports. HB1628 HD2 SD1 would establish a protocol for compassionate release for certain ill or seriously debilitated incarcerated persons and appropriates funds for implementation.

AILH supported this measure earlier in the process because seriously ill and disabled people should not remain unnecessarily institutionalized in correctional settings when their condition, level of impairment, and care needs make continued confinement inappropriate or inhumane. That core concern remains the same in this updated version. From an Independent Living perspective, compassionate release can help ensure that people with significant disabilities, serious medical conditions, or severe debilitation have a meaningful opportunity to receive care in the most integrated and appropriate setting possible, rather than being left in a carceral environment that may be poorly suited to meet complex support needs.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

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Jennifer Hartsock

As this bill comes before Judiciary and Ways and Means, AILH respectfully urges attention to two issues. First, the protocol should be implemented with clear standards, timely review, and equitable access so that compassionate release is not limited in practice by delay, inconsistency, or barriers faced by disabled people who may have difficulty navigating the process. Second, the appropriation should be sufficient to support real implementation, including coordination across agencies and linkage to community-based services, health care, housing, and other reentry supports that may be necessary for a safe transition.

AILH also encourages a disability-responsive approach to implementation. People with psychiatric disabilities, cognitive disabilities, complex medical needs, and communication disabilities may all experience distinct barriers in seeking compassionate release, and those barriers should not prevent otherwise eligible individuals from receiving fair consideration. Access to information, reasonable accommodations, and coordination with community providers will matter if the Legislature intends this measure to function as a meaningful safeguard rather than a narrow paper remedy.

For these reasons, Aloha Independent Living Hawaii supports HB1628 HD2 SD1 and respectfully urges your favorable consideration.

Thank you for the opportunity to testify.

Mahalo,

Roxanne Bolden

Executive Director

**HB-1628-SD-1**

Submitted on: 4/7/2026 9:30:06 AM

Testimony for JDC on 4/8/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Ronald Fujiyoshi	Testifying for OHANA HOOPAKELE	Comments	Written Testimony Only

Comments:

Dear esteemed Senators on both the Committee on Ways and Means and the Committee on Judiciary:

My name is Ronald Fujiyoshi. I am the treasurer of Ohana Ho`opakele, an organization formed in 1999 with Kupuna concerned about **the disproportionate number of Kanaka Maoli** incarcerated in the Criminal Justice system. Our organization helped to draft a bill that was signed into law in June, 2012. Act 117 directed the then Department of Public Safety in cooperation with Ohana Ho`opakele and other restorative justice groups to plan for the creation of a Pu`uhonua or Wellness Center on lands owned or controlled by the State with a preference at the Kulani Correctional facility unless a better site is found.

Today I am testifying with comments on **HB1628, HD2, SD1**, Relating to Compassionate Release.

Ohana Ho`opakele has been a regular participant in the monthly Hawaii Correctional System Oversight Commission hearings. We regard highly this oversight commission formed by this legislative body with its fine commissioners and staff. We have consistently testified in favor of finding ways to release elderly pa`ahao or incarcerated persons, citing a study by Columbia University that found the recidivism rate for released people 65 years or older to be almost 0 percent.

I learned recently that the State of Hawaii is the only state of the United States of America that does not have a statute related to Compassionate Release. Compassionate Release is just one of the procedures where elderly pa`ahao who qualify for release from incarceration can be given hope for being released back into society to be with their loved ones and supporters to live a fulfilling life. "Prison should not be a death sentence." This was written on a poster in a photo shared in the annual report of the Hawaii Correctional System Oversight Commission. Standing next to this poster were Mark Kawika Patterson, Chair of the oversight commission, and Christin Johnson, Oversight Coordinator. Ohana Ho`opakele is in complete agreement with this statement—"**Prison should not be a death sentence.**" Releasing more elderly pa`ahao who qualify for release would save the State of Hawaii much needed funds and would work toward cutting down the number of pa`ahao before the question of building another expensive prison in Hawaii is forced upon you legislators.

**Please return the sentence eligibility to that in the original bill. Specifically, please extend the eligibility to people sentenced to life without parole. Hawaii should be leading the nation in allowing for Compassionate Release, not lagging behind other states. Aren't we the Aloha State? We do have an "Aloha Spirit" not found elsewhere. Let us show others that we believe in what we say. Let's lead in Compassion!**

**Mahalo** for allowing me to comment on HB1628, HD2, SD1 on behalf of Ohana Ho`opakele. Our organization would love to help serve in the role of "**incarcerated person's representative**" mentioned in this bill. As written in this bill, "incarcerated person's representative" means an attorney, family member, or **other person**, including another incarcerated person, who is assisting the incarcerated person in initiating an application for compassionate release or navigating the compassionate release process.'



# Native Hawaiian LEGAL CORPORATION

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**LATE**



## Testimony to the SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS

### Relating to Senate Bill HB1628 HD2 SD1

Relating to Compassionate Release.

April 8, 2026

10:15 a.m.

State Capitol, Conference Room 211

Aloha e Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Moriwaki, and members of the Senate Committees on Judiciary and Ways and Means:

The Native Hawaiian Legal Corporation (NHLC) respectfully submits this testimony as **comments** on HB 1628 HD2 SD1, relating to compassionate release. Hawai'i needs a formal compassionate release process. NHLC previously submitted comments this session supporting a statutory solution, because it is in the best interest of the State and the public, and failing to have one acutely impacts Native Hawaiian families and communities. That said, the current amended version of the bill omits provisions essential to making that process equitable and effective. We urge the Committees to fix these issues before moving the bill forward.

#### WHO WE ARE

Founded in 1974, NHLC is the only public interest legal organization dedicated exclusively to Native Hawaiian rights. For over fifty years, we have served the lāhui, developing deep expertise in the legal needs of our community and the systemic justice gaps that continue to burden it.

NHLC is a member of Kalana Ola, a coalition committed to pairing eligible individuals with advocates and advancing systemic improvements to Hawai'i's compassionate release processes. Coalition members include the Hawai'i Correctional System Oversight Commission, the Hawai'i Office of the Public Defender, the UH Mānoa William S. Richardson School of Law Pro Bono Program, Waikīkī Health, and Families Against Mandatory Minimums (FAMM).

#### ACUTE IMPACT ON NATIVE HAWAIIANS

The overrepresentation of Native Hawaiians in Hawai'i's jails and prisons remains one of the most pressing justice issues facing our community. Native Hawaiians comprise approximately 21.8% of Hawai'i's population—yet as of January 2025, they account for approximately 46% of individuals incarcerated at the Saguaro Correctional Center, Halawa Correctional Facility, O'ahu Community Correctional Center, and Hawai'i Community Correctional Center.

This disparity is compounded by systemic inequities at every stage of the criminal justice process: longer sentences, higher rates of parole revocation, and disproportionate placement in out-of-state facilities far from family and cultural support. When these individuals become critically ill, the absence of a timely, functional compassionate release process denies them the opportunity to return home to their ‘ohana.

A well-designed compassionate release statute would begin to address this. The evidence is clear that such policies do not compromise public safety – recidivism rates for individuals granted compassionate release are more than ten times lower than those of the general prison population, and individuals 65 and older are rearrested at a fraction of the rate of younger individuals after release. Compassionate release also makes compelling fiscal sense. In Hawai‘i, the average annual cost of incarcerating one person is approximately \$112,055 – already among the highest in the nation. For individuals with complex medical needs, that figure can climb six to eight times the baseline cost. ACLU research estimates that transitioning an aging incarcerated person to community-based care saves states an average of \$66,294 per year even after accounting for supervision, housing, and other support costs. In Hawai‘i, where medical incarceration costs are exceptionally high, the potential savings are far greater.

The current version of HB 1628 HD2 SD1, however, falls short of what is needed.

## **COMMENTS ON THE CURRENT VERSION**

### **1. The Removal of Full Medical Eligibility Criteria (Categories 2 and 4) Should Be Reconsidered**

Amendments to HB1628 HD2 SD1 removed eligibility for individuals with debilitating, chronic, or irreversible conditions, as well as those requiring complex long-term care that the Department is not equipped to provide. We respectfully encourage the Committees to restore these categories.

Individuals in these circumstances are among those for whom compassionate release is most appropriate: their continued incarceration often serves limited penological purpose, and their medical needs place significant strain on correctional resources. Inclusion of these categories is consistent with national best practices and is necessary for HB 1628 to achieve its cost- and burden-shifting goals. As currently written, the bill risks excluding the very people it is designed to help and undercuts the benefits of compassionate release for the State with respect to reducing costs to provide constitutionally required care for these high medical needs individuals.

### **2. Eligibility for Those Serving Life Without Parole (LWOP) or Mandatory Minimum Sentences Should Be Restored**

The Committees should restore eligibility for individuals serving LWOP or mandatory minimum sentences. Legislative discourse this session has included concerns about whether individuals with these sentences are safe to compassionately release. Though fair issues to

weigh, compassionate release for these individuals is not a higher public safety concern nor barred by the Hawai‘i constitution or other laws. Public safety concerns about these individuals are addressed by the medical criteria required for eligibility and the power vested in the Hawai‘i Paroling Authority to deny compassionate release on public safety grounds even if they are eligible to be considered. Further, any individual granted release remains under parole supervision.

For similar reasons, the majority of states and the federal government extend compassionate release eligibility regardless of sentence length, provided the medical criteria are met. Without this, the government will leave behind a significant amount of the benefit it could receive from compassionate release, without trading a meaningful increase in public safety.

### **3. The Bill Should Be Made Effective Immediately**

Immediate implementation is essential. Many incarcerated individuals face rapidly progressing or complex medical conditions that require urgent access to community-based care. Delaying the effective date prolongs preventable suffering, risks further medical deterioration, and burdens Hawai‘i’s correctional healthcare system with avoidable, extraordinary expenses. The average annual cost of incarceration in Hawai‘i is about \$112,055. The cost for a medically complex person can reach six to eight times higher – between \$600,000 and \$900,000 annually. Timely implementation prevents this ongoing over-expenditure and allows eligible individuals to enter community settings where Medicaid and other payers can offset costs.

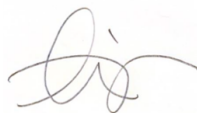
### **CONCLUSION**

Compassionate release reform in Hawai‘i is needed. However, in its current form, HB 1628 HD2 SD1 takes a half step in the right direction with eligibility exceptions that reduce the State and public benefit of compassionate release without advancing public safety. The Committees should restore the medical eligibility criteria and sentence-type eligibility provisions removed in SD1, so that this bill can achieve its potential to benefit the State and the public it serves.

We welcome the opportunity to work with the Committees and other stakeholders to strengthen this measure and are available to provide any additional information that may be helpful.

Mahalo for the opportunity to provide written testimony.

Me ka ha‘aha‘a,



Terina K. Fa‘agau  
Staff Attorney



Re: HB1628 Relating to Compassionate Release

Dear Judiciary Chair Rhoads, Vice Chair Gabbard, and Members of the Committee; and Ways and Means Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

Thank you very much for the opportunity to testify about HB1628 relating to compassionate release. My name is Molly Crane, and I am an attorney at FAMM. FAMM is a non-profit, non-partisan organization that works to create a more fair and effective justice system that respects individual accountability and dignity while keeping our communities safe.

For over 25 years, FAMM has worked on compassionate release in research and policy. We have studied every program in the country at the state and federal level, and assisted with strengthening these programs so they reduce the strain on correctional systems. Over the last year, we are grateful to have collaborated closely with agencies, nonprofits, staff, and families who identified the need for compassionate release reform in Hawai'i. We are providing **comments** – while we support the intent, without the below amendments, FAMM cannot support the bill as it will not align with best practices, and will fail achieve its cost- and burden-shifting purposes.

FAMM respectfully requests the following amendments to HB1628, discussed in detail below:

- **Restore categories of medical eligibility:** this reflects current DCR policy, and aligns with best practices.
- **Restore eligibility of all sentence lengths:** this matches national trends and is vital to the fiscal savings of the bill.
- **Provide an effective date:** “this Act shall take effect upon its approval” will ensure the bill is implemented as the legislature intends.
- **Remove the appropriation:** this bill, with the recommended amendments above, could save DCR an estimated \$9.6-\$14.4 million in one year and will not require additional appropriations.

## **I. Purpose of Compassionate Release**

Compassionate release describes programs created by lawmakers that allow people who are incarcerated to be considered for release for medical reasons. These programs are uniquely important when people are:

- Too ill or cognitively impaired to be aware of punishment;
- Too sick to participate in rehabilitation; or
- Too functionally compromised to pose a risk to public safety.

Compassionate release is best practice and exists in 49 states, the District of Columbia, and the federal system because lawmakers recognize that people who are critically ill are the most expensive to incarcerate, the most burdensome to care for, and the least likely to recidivate.



### *Fiscal Impact*

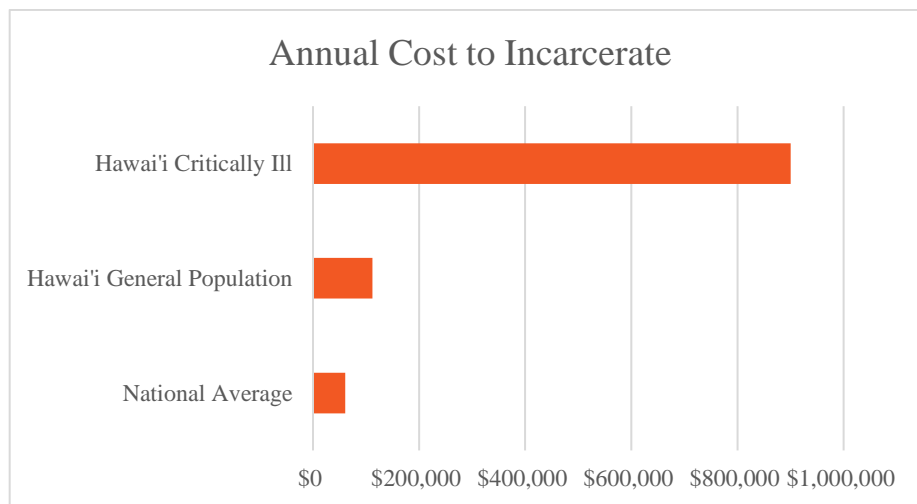
Housing medically complex patients in prison is uniquely costly for the state. In 2023, the Department of Corrections and Rehabilitation (DCR) reported an operating cost of healthcare alone of \$33,271,024, a significant increase from 2022.<sup>1</sup> The small number of critically ill individuals contribute an outsized amount to these rising costs.

Direct costs include specialty appointments, medical equipment, non-formulary prescriptions, labs and imaging, surgeries, Medevac flights, emergency room admissions, and hospitalizations. There are also indirect costs, including transportation to and from appointments, and extensive overtime pay for corrections officers who must accompany incarcerated individuals 24/7 when off-site for care. Examples of the additional costs of critically ill incarcerated individuals in Hawai'i include:

- Gurney transport and security movement, costing approximately \$4,000 per patient per week for patients requiring frequent off-site care, or \$208,000 per person per year;
- Medication costs for complex patients, costing approximately \$20,000 per patient per month, or \$240,000 per person per year;
- Hospitalizations and emergency department transfers, conservatively costing \$50,000–\$150,000 per patient per year, with far higher costs for inpatients needing ICU-level admissions;
- Medevac flights, costing approximately \$20,000-\$30,000 per flight between islands and \$90,000-\$200,000 per flight from Arizona to Hawai'i, depending on urgency and in-flight needs; and
- Additional staffing costs (such as nursing labor diverted to total-care demands, overtime/coverage impacts, and additional custody staffing for escort/supervision), adding approximately \$150,000–\$300,000 per year for a single high-needs patient, depending on acuity and frequency of outside care.

As a result, the cost to incarcerate those who are medically complex, yet pose no demonstrable risk to public, is far higher.

The average cost of housing an incarcerated person in Hawai'i is \$307 per day or \$112,055 per year. For those eligible for compassionate release, the estimated total annual taxpayer cost per high-acuity, medically complex incarcerated patient is six to eight times higher at \$650,000 to \$900,000 per year, even before accounting for the opportunity-cost of what that same staffing and funding could provide elsewhere in the system. Compassionate release alleviates the outsized financial strain of a small number of patients on the correctional system and the state.



The below are example expenditures for those who are critically ill and incarcerated, representing the amount that DCR and the State could save through SB 2688 if requested amendments are made. The below are estimates, as there are limitations in the data collected by DCR.

*Case study: a patient with cancer*

For a patient with cancer in DCR custody between September 2025 to January 2026, costs included:

- Out of facility medical costs, including hospitalizations and surgeries: **\$276,830**
- Transports to and from appointments: **\$64,000**, not including additional COs for transport and hospital shifts
- Medications: **\$9,000**
- Medevac from Arizona to Halawa: **\$100,000**
- Nursing care at Halawa: **\$240,000**

Therefore, in only **five months**, this patient costed DCR and the State nearly \$700,000. To keep this individual in custody, this would cost **\$1,515,000** for a single year.

*Case study: specialized prescription costs*

For a patient in DCR custody with a rare disease, the cost for a single month of that individual's non-formulary prescription took up **90% of DCR's entire budget for prescriptions** for all people in custody. This means that only 10% of the budget is available for the thousands of other individuals in custody who need medications, including prescriptions without which people will die - such as insulin.

Case study: outside medical costs

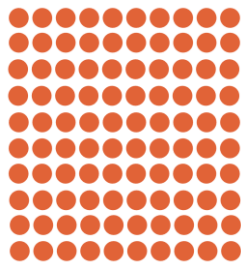
For the following patients in DCR custody, costs solely for outside medical care – **not counting medications, facility nursing care, etc.** – included:

- Patient 1: between July 2025-January 2026, \$148,393 for outside care and \$21,000 for EST transportation, totaling **\$148,414** for seven months of care.
- Patient 2: between February 2025-February 2026, \$347,950 for outside medical care, and \$25,000 for EST transportation, totaling **\$372,950** for one year of care.
- Patient 3: in only January of 2026, \$151,580 for outside care, and \$8,000 for EST transportation. **This is \$159,580 for only one month of care.**
- Patient 4: August 2025-February 2026, **\$703,478** for outside care alone, not including transportation.

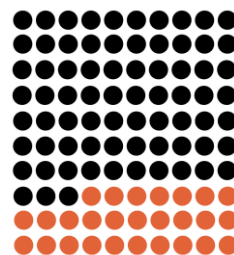
For twelve patients in custody who need a high level of care, **DCR spent \$2.9 million only on outside care in 10 months.**

Many of the individuals above have yet-to-be-completed mandatory minimums or are serving life without parole. Further, many have non-terminal yet debilitating conditions, and their care is so costly that DCR cannot provide it on a long-term basis without jeopardizing the care of others in custody. **Without the inclusion of these individuals, the cost savings of this bill will be dramatically decreased.**

Currently, DCR and the State are responsible for 100% of the costs for incarcerated people who are critically ill. . However, if these individuals are granted compassionate release and on Medicaid, the **federal government covers 60-90%** of these costs, depending on the Medicaid program the patient is enrolled in, instead of the State.<sup>ii</sup>



*The State is responsible for 100% of the costs for critically ill people in DCR*



*Federal funding is 73% of total Medicaid spending in Hawaii*

Although DCR can apply for Medicaid reimbursements if an individual is hospitalized for more than 24 hours while in custody, DCR must pay these costs up front and reimbursement is not guaranteed. Further, Medicaid will not reimburse many costs, including prescriptions, dialysis,



surgeries and ER visits, rehabilitation, long term care centers, hospice care, hospice medications, wound care visits, specialty visits, and more. Hospitals also often frequently discharge incarcerated patients back to Halawa as soon as possible. The transportation by 2 officers for every external appointment, test, procedure, ER visit, hospitalization, and more also leads to extensive overtime costs.

DCR's healthcare budget of over \$30 million is primarily for staffing, including salaries and overtime. Spending for outside patient visits, medications, hospitalizations, transportation, and more comes from DCR's healthcare operational budget, which is approximately \$13-14 million. This budget is also used for filling healthcare vacancies, which leaves DCR in the position of **choosing between filling positions and funding medical care**, such as durable medical equipment and medications for patients.

In the first year of implementation of this bill, an estimated 16 people – including those sentenced to LWOP and with non-terminal, non-cognitive conditions – could be eligible for release. If HPA finds all 16 persons suitable for release based on their individualized assessments, **the bill with the recommended amendments could save DCR \$9.6-\$14.4 million in one year**. These cost savings will also provide DCR with the necessary funds to hire staff **without requiring additional appropriations**.

### *Care Burden*

People with critical illnesses require extensive care that correctional systems are not designed to provide. This includes daily care, such as administering medical treatments, and additional non-medical treatment such as changing diapers, spoon feeding, and cleaning up vomit. When medical providers are already stretched thin, providing this ambulatory care takes them away from operating at the level of their medical license, which their other patients in custody desperately need. Further, those with incurable conditions require long-term housing in prison infirmaries, taking space away from people who may need temporary care, such as after an injury or with a transmittable infection.

Patients with complex medical needs often require an acute level of care beyond what the facility can provide. This means they need many specialist, treatment, and medical testing appointments off-site. Every off-site appointment requires scheduling and coordination from medical staff and supervision from two correctional staff. People who are terminally ill or incapacitated are often on the verge of an emergency, necessitating rapid hospitalizations that are stressful for both staff and the correctional system.

The burden of providing care for people who are critically ill with the most resource-intensive demands takes a toll on staff. In Hawai'i, the staffing vacancy rate is nearly 30%.<sup>iii</sup> The deteriorating health of people who are dying in prison is also harming staff health - staff surveys found that over 60% of corrections staff developed a serious health condition due to job stress.<sup>iv</sup> Further, providing supervision for people who are dying in front of your eyes takes an emotional



toll. Over 75% of corrections staff feel emotionally drained.<sup>v</sup> Compassionate release reduces the logistical, care, and emotional burden on staff and systems.

### *Public Safety*

The elderly and those with critical illnesses are the least likely to recidivate. Research makes clear that people age out of crime. Prison populations around the country today are graying. Elders above the age of 55 people make up five times as much of the prison population as they did three decades ago, and in Hawai'i, DCR houses 996 people 50 years of age or older, and over 80 incarcerated persons who are 70 or more years old.<sup>vi</sup> In contrast to the overall recidivism rate in Hawai'i of 54%, research shows that for people who are 55 and older, recidivism is just 2%, and for people 65 and older, the recidivism rate drops to nearly 0%.<sup>vii</sup>

On top of the downward trend of recidivism with age, people eligible for compassionate release are often physically and cognitively incapacitated – unable to move their arms and legs, unable to feed themselves, and even unaware of who they are and where they are. Compassionate release protects public safety by allowing those whose risk of recidivism is lowest, yet whose cost and care burden is highest, to be considered for release.

## **II. Best Practices and HB1628**

Hawai'i is the only state in the country whose compassionate release program is not governed by statute. HB1628 can transform Hawai'i from an outlier in compassionate release to a leader. Many sections in HB1628 are notable for their alignment with best practices and model provisions – several are discussed below.

### *Medical Eligibility Criteria*

Compassionate release programs can meet their stated goals of protecting public safety and lessening the strain on taxpayers when eligibility criteria are medically rooted. Every state in the country includes significant diagnoses, terminal illness, cognitive decline, and/or care the facility is unable to provide as eligibility criteria. HB1628's criteria have been thoughtfully designed in partnership with local medical specialists to ensure that providers who must carefully assess individuals for eligibility have clear guidance as to whether an individual's diagnoses qualify under the statute.

The medical criteria in the original bill matches the Department of Corrections and Rehabilitation's (DCR) already existing Policies and Procedures in COR.10.1G.11. In Chapter 10, Section G, DCR outlines the four categories listed in the bill:



DCR Policy	SB 2688 Criteria
Terminal illness	Terminal illness
Debilitating condition	Debilitating condition
Too ill or cognitively impaired to participate in rehabilitation or be aware of punishment	Too ill or cognitively impaired to participate in rehabilitation or be aware of punishment
Condition(s) that require a level of care DCR is unable to provide on a long-term basis	Condition(s) that require a level of care DCR is unable to provide on a long-term basis

Removing “debilitating condition” and “condition(s) that require care DCR is unable to provide on a long-term basis” with significantly undermine the cost- and burden-shifting purposes of the bill by reducing who is eligible. Individuals who are neither terminal nor lacking in lucidity are nonetheless uniquely taxing for DCR and the State. The below are examples of debilitating conditions that are burdensome for staff, or whose care is not possible for DCR to provide on a long-term basis:

- Stroke: An individual at Halawa recently had a stroke while at the facility. The stroke signs were missed due to significant understaffing. He is now paralyzed, and requires assistance with all activities of daily living, including walking, transferring, eating, showering, dressing, and personal hygiene.
- Paraplegia: Another gentleman at Halawa is paraplegic, and similarly requires total care.
- Intensive care: An individual in custody recently sustained a traumatic brain injury while in custody. He must now be on a ventilator for the rest of his life, as well as a feeding tube and a breathing tube. DCR does not have the capability to house someone on a ventilator long-term, including equipment, certifications, and staffing.

Though these individuals are not terminal and some are cognitively intact, their care is extremely burdensome from staff, and it is not feasible to provide this care on a long-term basis while still meeting the needs of others who are ill in custody.

**Recommendation:** Restore SB 2688’s original criteria, which matches DCR’s existing criteria. In 353(a).

- > (a) An incarcerated person may be considered for compassionate release if the incarcerated person:
  - (1) Has a terminal illness;
  - (2) Has a debilitating, chronic, or irreversible condition;
  - (3) Is too ill or cognitively impaired to participate in rehabilitation or to be aware of punishment; or
  - (4) Has a condition or combination of conditions that requires a complexity of treatment or level of care that the department is unable to provide on a long-term basis or the incarcerated person would otherwise be more appropriately managed in a community setting.



### *Sentence Eligibility Criteria*

HB1628's eligibility criteria in allowing anyone who meets the medical criteria to be considered for release are also best practice. The majority of states where Parole Boards make compassionate release decisions treat people serving mandatory and/or life without the possibility of parole (LWOP) sentences as eligible for consideration. Such states cross the geographic and political spectrum – just a few examples include Alabama, Georgia, Florida, Kentucky, Illinois, Idaho, New Mexico, Utah, District of Columbia, Vermont, Alaska, and more. This is because states all across the country recognize that this population is most costly and burdensome, and least likely to recidivate, and this is true irrespective of the sentence or conviction.

Criminal legal systems recognize retribution as a purpose of punishment and factor it in at sentencing. Compassionate release addresses circumstances that have developed since sentencing. This includes severe cognitive decline rendering an individual no longer capable of understanding retribution, and incapacitation such that an individual is incarcerated inside the confines of their own body. Further, HB1628 provides ongoing parole supervision of individuals granted compassionate release.

Rather than exclude classes of people, well-designed programs assess the risk of present threat by building a public safety screen into the assessment and decision-making processes, as is the case in HB1628. The best programs arm the decision-maker with the information, standards, and discretion needed to make informed judgments. Categorical prohibition of classes of people, rather than individualized consideration, defeats the humanitarian purposes and fiscal benefits of compassionate release.

Without a functional compassionate release pathway—including for those with life without parole and with mandatory minimums—Hawai'i will increasingly operate a correctional system that is forced into the role of a long-term care provider, at extraordinary cost, with staff and funding pulled away from urgent needs like psychiatric crisis response and suicide prevention.

**Recommendation:** Restore SB 2688's original criteria in 353(i).

- > Notwithstanding any law to the contrary, all persons incarcerated by the State, including but not limited to persons serving a mandatory minimum sentence **or persons sentenced to life without parole**, shall be eligible for compassionate release pursuant to this subpart. A mandatory minimum sentence **or sentence of life without parole** shall not preclude eligibility for compassionate release pursuant to this subpart.

### *Application Process*

Compassionate release recognizes that individuals with significant health impairments may need support engaging with the process. Those with serious medical conditions often find



compassionate release processes cognitively complex, feel too weak to apply, or lack the physical capabilities to move their hands to write.

Across the country, states recognize the vital role of medical staff, corrections officials, family, counsel, and other incarcerated people in identifying people who may be eligible. HB1628 includes a thorough review process and gives the DCR Director's authority to hold any clearly frivolous requests. HB1628 ensures that the compassionate release process is accessible to people with impairments; allows stakeholders who are most familiar with an individual's decline, such as medical staff and those housed alongside people who are sick to participate; and safeguards against missing eligible individuals by requiring the department to promptly identify persons who meet the bill's medical criteria. There are many safeguards to ensure there is no coercion or misidentification. This robust identification process fulfills the bill's central purpose of reducing the burden on DCR and the state by ensuring that the sickest and most incapacitated people in custody can be considered for release.

### *Decision-Making Timeline*

Compassionate release involves situations that require timely consideration. Those with critical and terminal illnesses are often in precarious health, with rapid downturn and death possible at a moment's notice. Delays prolong suffering and frustrate program goals. Best practices include straightforward processes and deadlines for decision-making.

HB1628 appropriately streamlines the steps and stakeholders in DCR and the Hawai'i Paroling Authority (HPA) involved in the compassionate release process. HB1628 further sets clear timelines for each step of the process, preventing the delays in assessing people that lead to deaths in custody before the reviewing and decision-making are completed. When the number of deaths in DCR custody has risen significantly, with nearly 8 times as many deaths in custody now than there were in 1990, this bill ensures that the decision-making process coheres with the inherent urgency of compassionate release in considering those who are deteriorating or nearing death.<sup>viii</sup>

DCR and HPA have an already-existing agreement with the prosecutor's offices in Hawai'i to provide for notification within 48 hours. During the PBS HB 1628 hearing on February 4<sup>th</sup>, at 1:51:10, [DCR testifies to the following](#):

***“We’ve got the prosecutors to agree to review the case and give us a response back within two days.”***

The bill in its original form does not preclude this extant notification process. However, the below language reflects the notification practice to which all of the prosecutor's offices have already agreed.

**Recommendation:** Align the language with HB 1628\_HD1 to specifically provide for the existing notification agreement in 353(e).



- > (e) The authority shall hold an administrative hearing to consider an application for compassionate release no later than ten business days after receiving an application for compassionate release from the director. **Forty-eight hours before an incarcerated person's hearing, the authority shall provide notice of the hearing to the prosecuting attorney of the applicable county.** The authority shall grant release in accordance with subsection (f).

### *Data Collection and Public Reporting*

Transparency is critical to ensuring a compassionate release program works as intended. Data collection and reporting help lawmakers and the public to assess whether the program meets the legislature's objectives. The metrics in HB1628 from DCR and HPA align with best practices and will provide a comprehensive picture of the compassionate release program's congruence with the legislature's intent.

### **III. Impact of HB1628**

In addition to the cost savings for taxpayers, the burden alleviation for corrections, and the promotion of public safety, HB1628 will have meaningful impacts on the lives of Hawaiians. Native Hawaiians are disproportionately represented among the incarcerated population. Whereas Native Hawaiians represent 10% of the population in Hawai'i, they represent 44% of pa'ahao (incarcerated individuals).<sup>ix</sup> This longstanding crises for Hawaiians disrupts pono (righteousness) and the perpetuation of ola (healing) through the strength of Hawaiian 'ohana (family).<sup>x</sup> Compassionate release is rooted in humanitarian principles and aligned with Native Hawaiian values of aloha, mālama (care), and kuleana (responsibility to one another).<sup>xi</sup> Compassionate release provides a pathway to address the significant overrepresentation of Native Hawaiian pa'ahao.

Individuals and families, along with taxpayers and the correctional system, experience the barriers created by the lack of this bill. For example, Paul was a Vietnam War veteran who developed multiple sclerosis while incarcerated. The disease gradually progressed to the point where Paul's muscles atrophied, his feet curled, he lost control of his bowels and bladder, and he could only move his right arm a few inches. He was unable to even hold a telephone handset to his ear so he could to speak to his only daughter when she called. He had a urinary catheter and diapers, and had to be turned frequently to prevent bed sores. He was a full-time resident of the infirmary, and when the staff changed his bedding, they had to raise him up on a sling while the fresh bedding was put on. He had to be fed by hand, sponge bathed. He often choked his food, he could not wipe his nose when it ran, and his diapers had to be changed regularly. His care was tremendously time-intensive for medical staff, and painful for staff to see his condition. It was scary it was for his daughter to know of his decline and be unable to take care of him while he was incarcerated. Because of the barriers in the process, it took over a year for Paul to be granted compassionate release, and by the time he was home, he was barely alive enough to see his daughter's face again.



For Maria, a Native-Hawaiian woman who developed kidney failure due to diabetes, both of her legs had been amputated below the knee and she needed dialysis 3 times a week. This meant that two correctional officers had to take her to dialysis outside of the facility, spending time driving to and from, and waiting 3-4 hours each time for the dialysis to be completed. This took correctional officers away from their important duties at the facility, leaving other officers short staffed and increasing the stress staff experience.

Over the course of FAMM's collaboration with agencies in Hawai'i, we have personally visited Halawa Correctional Facility on numerous occasions. In October, I visited on a Monday and I saw a gentleman laying in the only hospice room in the entire facility. His temples were concave because of his complete deterioration. The lone hospice room is on the psychiatric wing of the prison, where people experiencing mental health crises were yelling and banging on the cells, which was not a peaceful place for this gentleman's final breaths. Even though he had family to support him and medical staff did everything they could to move him through the process in time, by the time I returned to Halawa that Wednesday, he had passed. His family and the medical staff hope that this effort can in some small way honor his life, and prevent this from happening again.

Thank you for your leadership in introducing this bill, and for the opportunity provide comments. FAMM respectfully urges the legislature to make amendments to HB1628, which would allow the bill to fulfill its purposes of reducing costs, supporting staff, providing dignity, and protecting public safety.

Thank you,

Molly Crane  
FAMM  
[Mcrane@famm.org](mailto:Mcrane@famm.org)  
(202) 822-6703



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<sup>i</sup> Department of Public Safety, “FY 23,” n.d., [https://budget.hawaii.gov/wp-content/uploads/2021/12/25.-Department-of-Public-Safety-FY-23-SUPP.Mn5\\_.pdf](https://budget.hawaii.gov/wp-content/uploads/2021/12/25.-Department-of-Public-Safety-FY-23-SUPP.Mn5_.pdf).

<sup>ii</sup> KFF, “Medicaid in Hawaii,” May 2025, <https://files.kff.org/attachment/fact-sheet-medicaid-state-HI>.

<sup>iii</sup> Hawai‘i Public Radio, “Hawai‘i still struggling to fill correctional officer vacancies,” January 9, 2026, <https://www.hawaiipublicradio.org/local-news/2026-01-09/hawaii-continues-to-struggle-filling-correctional-officer-vacancies>.

<sup>iv</sup> Hawaii Correctional System Oversight Commission, “Correctional Staff Survey, Findings, & Recommendations,” January 22, 2025, <https://hcsoc.hawaii.gov/wp-content/uploads/2025/01/Correctional-Staff-Survey-Findings-and-Recommendations-FINAL-1.pdf>.

<sup>v</sup> Hawaii Correctional System Oversight Commission, “Correctional Staff Survey, Findings, & Recommendations,” January 22, 2025, <https://hcsoc.hawaii.gov/wp-content/uploads/2025/01/Correctional-Staff-Survey-Findings-and-Recommendations-FINAL-1.pdf>.

<sup>vi</sup> Prison Policy Initiative, “The Aging Prison Population: Causes, Costs, And Consequences,” August 2, 2023, <https://www.prisonpolicy.org/blog/2023/08/02/aging/>.

<sup>vii</sup> Interagency Council on Intermediate Sanctions, “State of Hawaii 2019 Recidivism Update,” March 2021, <https://icis.hawaii.gov/wp-content/uploads/2021/05/2019-Hawaii-Recidivism-Update.pdf>; Vera Institute of Justice, “Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations,” December 2017, <https://vera-institute.files.svdcdn.com/production/downloads/publications/Using-Compassionate-Release-to-Address-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%9494Full-Report.pdf?dm=1568745464>.

<sup>viii</sup> Estimates provided by the Hawaii Correctional System Oversight Commission.

<sup>ix</sup> Prison Policy Initiative, “Hawaii Profile,” n.d., <https://www.prisonpolicy.org/profiles/HI.html>.

<sup>x</sup> Native Hawaiian Legal Corporation, “Kalana Ola Coalition for Compassionate Release,” n.d., <https://nativehawaiianlegalcorp.org/services/kalana-ola-coalition-for-compassionate-release/>.

<sup>xi</sup> Native Hawaiian Legal Corporation, “Kalana Ola Coalition for Compassionate Release,” n.d., <https://nativehawaiianlegalcorp.org/services/kalana-ola-coalition-for-compassionate-release/>.

Dennis M. Dunn  
Kailua, HI 96734

**TO: Senator Donovan M. Dela Cruz, Chair**

**Senator Sharon Y. Moriwaki, Vice Chair**

**Senate Committee on Ways and Means**

**Senator Karl Rhoads, Chair**

**Senator Mike Gabbard, Vice Chair**

**Senate Committee on Judiciary**

**RE: House Bill 1628, H.D. 2, S.D. 1, Relating to Compassionate Release**

**HEARING: Wednesday, April 8, 2026, 10:15 a.m.  
Conference Room 211**

Good morning, Chairs Dela Cruz and Rhoads and Vice Chairs Moriwaki and Gabbard, and Members of the Senate Committees on Ways and Means and Judiciary. My name is Dennis Dunn, and I am the former Director of the Victim Witness Kokua Services in the Honolulu Prosecuting Attorney's Office, having retired at the end of 2022 after 44 years of service with the program. I am testifying today in opposition to H.B. 1628, H.D. 2, which proposes to establish a protocol for the release of certain ill or seriously debilitated incarcerated persons.

**I oppose this measure for the following reasons:**

1. There appears to be no provisions for identification or consideration of the concerns of the victims of the incarcerated persons or that they be addressed prior to the Compassionate Release. In some situations, the proposed release location might be problematic for the victim. For example, the victim's residence or workplace may be near the release location. This may even include circumstances in which the victim and the offender are members of the same family, which should be always considered when an application for release is being reviewed. Similarly, for even the most serious offenders such as serial sex offenders, murderers, attempted murderers, or arsonists there appears to be no role for the concerns of the safety of the public or how that can be addressed.
2. The proposed procedures seem to ignore minimum sentences required by law, invoked by the judge at sentencing, or established by the Paroling Authority.

3. Although victim notification is included in the current language, there is nothing specifying the timing of the notification or the way it is to take place. Thus, these releases may subject survivors to the unpleasant and potentially traumatizing experience of seeing their perpetrator in the community without adequate prior notification.
4. The Proposed Working Group, as so often is the case, does not include any members who represent or have experience representing the interests of crime victims, which makes me assume that the proposed Administrative Rules emanating from the proposed Working Group is unlikely to include any accommodations for victims.

It may be possible to amend this measure to address some or all these concerns, however **without the necessary changes I oppose H.B. 1628 H.D. 2, S.D. 1.** Mahalo for your time and consideration.

**HB-1628-SD-1**

Submitted on: 4/6/2026 5:52:20 PM

Testimony for JDC on 4/8/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Polk	Individual	Support	Written Testimony Only

Comments:

Aloha. There is no reason to hold a seriously ill or debilitsted person in prison or jail. This should be a no brainer. Please pass HB1628HD2.

Robert K. Merce  
2467 Aha Aina Place  
Honolulu, Hawai'i 96821

TO: Committee on Ways and Means and Committee on Judiciary  
RE: HB 1628 HD2, SD 1  
HEARING: April 8, 2026  
TIME: 10:15 a.m.  
ROOM: Conference Room 211  
POSITION: Comments

Aloha Chair Dela Cruz and Vice Chair Moriwaki, Chair Rhoads and Vice Chair Gabbard, and Members of the Committees on Ways and Means and Judiciary:

Thank you for allowing me to testify on HB 1628 HD 2, SD 1. My name is Bob Merce. I am a retired lawyer, and for more than a decade, I have assisted terminally ill and severely debilitated individuals who are seeking compassionate release.

I respectfully request that you make the following amendments to HB 1628 HD2, SD 1:

- 1. Restore the original categories of medical eligibility:** the original categories in HB 1628 are essentially the same as the categories in DCR Policy COR.10.1G.11, December 29, 2014. <https://dcr.hawaii.gov/wp-content/uploads/2024/06/COR.10.G.11-Medical-Releases.pdf>. The DCR policies have worked well over the years and reflect best practices. There is no good reason to change them. Without this amendment, the Department of Corrections and Rehabilitation and the Hawaii Paroling Authority will not be able to release severely ill patients who require a higher level of care than DCR is able to provide, and this will expose the DCR medical staff and the State to medical malpractice lawsuits and potentially large judgments based on *Slingluff v. State*, 131 Haw. 239, 317 P.3d 683 (2013) (holding that incarcerated individuals are entitled to the same standards of care as the general public).
- 2. Restore eligibility of all sentence lengths:** this matches national trends and is vital to the fiscal savings of the bill. Without this amendment, the cost savings estimated by the bill would be **decreased by millions of dollars.**
- 3. Provide an effective date:** this will ensure the bill is implemented promptly as the legislature intends.

Thank you for allowing me to comment on this bill.

COMMITTEE ON WAYS AND MEANS  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

HEARING:

Wednesday, April 8, 2026 at 10:15 am  
Conference Room 211 and Videoconference

**COMMENTS ON HB 1628, HD2, SD1 - RELATING TO COMPASSIONATE RELEASE.**

Aloha Chair Dela Cruz, Chair Rhoads, Vice Chair Moriwaki, Vice Chair Gabbard, Senator Hashimoto for my district on Maui, Senator DeCoite of Maui, and Members of the Committee,

My name is Christine Andrews and I am a long-term resident of Wailuku, Maui. I am also an attorney licensed in the state of Hawaii for over 25 years. I am writing today in **strong support of the original intention of HB 1628**, Relating to Compassionate Release, with **comments requesting this Committee make amendments to:**

- Return to the original **medical eligibility** language
- Return to the original **sentence eligibility** language
- Provide an **effective date** for the bill.

Compassionate release allows elderly, seriously ill, or incapacitated people to be released **when they no longer pose a public safety risk**. This measure promotes human dignity, especially for people facing terminal illness or severe disability. This is not only compassionate and rooted in Hawaiian values of restorative justice, it also benefits Native Hawaiian and Pacific Islander communities, which are disproportionately represented in the justice system. It is a compassionate means of alleviating structural inequities in our criminal justice system.

Hawaii's correctional health care system is already overburdened. House Bill 1628, with the requested amendments, is an efficient and cost-saving measure as well as a compassionate one. Hawaii spends significant resources incarcerating people who are elderly or gravely ill, often at high medical cost without public benefit. Compassionate release is one way to alleviate the lack of resources for health care presented by our geographic isolation in Hawai'i.

Compassionate release as provided by HB 1628 with the requested amendments can:

- Reduce overcrowding
- Save taxpayer money
- Allow families to reunite during critical moments

The language of HB 1628, with the amendments requested above, aligns with best practices and I encourage the Committee to advance the bill with the requested amendments to return it to its original form and intent. Public safety can still be protected through careful review standards, eligibility requirements, and judicial or administrative oversight. House Bill 1628 has an accelerated timeline because many eligible individuals are currently seriously ill or dying. Certain standard procedures (such as the typical 60-day waiting period for victim notification) may be waived to prevent unnecessary delay, while still respecting victims' rights and public safety considerations.

I urge your **strong support of HB 1628 with the requested amendments.**

Christine Andrews, J.D.  
Wailuku, Maui



**Carrie Ann Shirota**  
**Attorney at Law**

**LATE**

Senate Committee on Judiciary  
Chair Karl Rhoads  
Vice Chair Mike Gabbard  
Hearing: Wed., April 8, 2026  
2:00 P.M. in Conference Room 211

Senate Committee on Ways & Means  
Chair Donovan Dela Cruz  
Vice Chair Sharon Moriwake

**COMMENTS: H.B.1628 SD1 Compassionate Release  
with Proposed Amendments**

Dear Chairs Rhoads and Dela Cruz, Vice Chairs and Committee Members:

My name is Carrie Ann Shirota, and I am writing to provide comments regarding **H.B. 1628 HD2 SD1 Relating to Compassionate Release**. While the legislative intent is commendable, the current language contains critical deficiencies that undermine its purpose. Most notably, the measure fails to align with established best practices and would actually restrict eligibility further than existing Department of Corrections and Rehabilitation's current policies and procedures. To ensure this bill achieves its medical, humanitarian, and fiscal goals, I urge your adoption of four essential amendments.

**Proposed Amendments**

***Amendment # 1: Provide an effective date.***

SECTION 6. This Act shall take effect ~~on July 1, 2050~~ **upon its approval.**

***Amendment #2: Restore categories of medical eligibility.***

**Rationale:** Restoration of these categories included in the original Compassionate Release bill and HD2 aligns with best practices and is currently reflected in DCR's policies and procedures.

Section 353- Compassionate release; authority to release; process:

(a) An incarcerated person may be considered for compassionate release if the incarcerated person:

- (1) Has a terminal illness;
- (2) Has a debilitating, chronic or irreversible condition;**
- (3) Is too ill or cognitively impaired to participate in rehabilitation or to be aware of punishment; or

- (4) Has a condition or combination of conditions that requires a complexity of treatment or level of care that the department is unable to provide on a long term basis or the incarcerated person's medical needs would otherwise be more appropriately management in community setting<sup>1</sup>;

***Amendment #3: Restore eligibility of all sentence lengths.***

**Rationale:**

- Best practices within Compassionate Medical Release allows for eligibility for all persons who meet the medical criteria regardless of the nature of their conviction.
- The proposed measure explicitly ensures that persons granted release will remain under parole supervision and are required to follow supervisory terms and conditions.

(j) Notwithstanding any law to the contrary, all persons incarcerated by the State, ~~except persons sentenced to life without possibility of parole,~~ shall be eligible for compassionate release pursuant to this subpart. **A person sentenced to life without possibility of parole or** mandatory minimum sentence shall not preclude eligibility for compassionate release pursuant to this subpart.

***Amendment #4: Remove the appropriation as it is unnecessary.***

**Rationale:**

- An appropriation is unnecessary as an increase in compassionate release cases will reduce the workload and burden on DCR's medical team given the complex care required for a limited number of incarcerated persons.
- To date, a few attorneys have assisted with compassionate release on a pro bono basis. More attorneys are interested in providing pro bono support to effectuate compassionate release cases which makes the proposed appropriation unnecessary.
- However, even if your Committees are inclined to retain the unspecified appropriation, this bill would cause cost saving given the astronomical costs of providing complex care to persons under DCR's custody.

~~SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2026-2027 for the department of corrections and rehabilitation to implement the compassionate~~

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<sup>1</sup> This eligibility criterion aligns with Hawai'i caselaw, specifically, *Slingluff v. State* 317 P.3d 683 (Haw. Ct. App. 2013); 131 Haw. 239 Decided Dec 31, 2013.  
<https://hcsoc.hawaii.gov/wp-content/uploads/2024/01/Slingluff-v.-State.pdf>

~~release requirements established by section 2 of this Act and for adequate healthcare facility placements.~~

~~—The sum appropriated shall be expended by the department of corrections and rehabilitation for the purposes of this Act.~~

### ***Why is Compassionate Release Important***

Hawaii's correctional system lacks adequate health care staffing and infrastructure to meet the medical needs of our growing elderly population and persons with terminal illness, debilitating chronic conditions and severe cognitive impairments. For the humanitarian and practical reasons outlined below, I strongly support Compassionate Medical Release.

### ***The Principles of Humanity and Justice***

Upholding compassionate release is a matter of fundamental justice and human dignity. This measure does not minimize the gravity of any crime, nor does it diminish the experiences of victims. Rather, it acknowledges a simple truth: when punishment is fundamentally altered by terminal illness or severe incapacitation, continued incarceration serves no penological purpose. Maintaining carceral custody in these final stages is needlessly cruel, fiscally irresponsible, and fails to promote public safety.

### ***Fiscal Responsibility***

Housing and treating individuals with chronic and terminal illnesses in a correctional setting is extraordinarily expensive, often reaching several times the cost of care in a community setting. Please consider these facts:

#### **DCR's Health Care Budget**

- In 2023, the Department of Corrections and Rehabilitation (DCR) reported an operating cost of healthcare alone of \$33,271,024<sup>2</sup>, a significant increase from 2022.
- DCR's healthcare budget of over \$30 million is primarily for staffing, including salaries and overtime.
- Spending for outside patient visits, medications, hospitalizations, transportation, and more comes from DCR's healthcare operational budget, which is approximately \$13-14 million. This budget is also used for filling healthcare vacancies, which leaves DCR in the position of choosing between filling positions and funding medical care, such as durable medical equipment and medications for patients

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<sup>2</sup> Department of Public Safety, "FY 23," n.d., [https://budget.hawaii.gov/wp-content/uploads/2021/12/25.-Department-of-Public-Safety-FY-23-SUPP.Mn5\\_.pdf](https://budget.hawaii.gov/wp-content/uploads/2021/12/25.-Department-of-Public-Safety-FY-23-SUPP.Mn5_.pdf).

- The small number of critically ill individuals contribute an outsized amount to these rising costs.

### **Incarceration Costs for Persons Requiring Complex Medical Care**

- The average cost of housing an incarcerated person in Hawai'i is **\$307 per day or \$112,055 per year.**
- For those eligible for compassionate release, the estimated total annual taxpayer cost per high-acuity, medically complex incarcerated patient is **six to eight times higher at \$650,000 to \$900,000 per year**, even before accounting for the opportunity-cost of what that same staffing and funding could provide elsewhere in the system.
- **Direct Medical Costs** - specialty appointments, medical equipment, non-formulary prescriptions, labs and imaging, surgeries, Medevac flights, emergency room admissions, and hospitalizations.
- **Indirect Medical Costs** - including transportation to and from appointments, and extensive overtime pay for corrections officers who must accompany incarcerated individuals 24/7 when off-site for care. Examples of the additional costs of critically ill incarcerated individuals in Hawai'i include:
  - **Gurney transport and security movement** - estimated **\$4,000 per patient per week for patients requiring frequent off-site care**, or \$208,000 per person per year;
  - **Medication costs** - costs approximately **\$20,000 per patient per month, or \$240,000 per person per year;**
  - **Hospitalizations and emergency department transfers** - conservatively costs **\$50,000– \$150,000 per patient per year**, with far higher costs for inpatients needing ICU-level
  - **Medevac flights** - costs approximately **\$20,000-\$30,000 per flight between islands and \$90,000-\$200,000 per flight from Arizona to Hawai'i**, depending on urgency and in-flight needs;
  - **Additional staffing costs** - such as nursing labor diverted to total-care demands, overtime/coverage impacts, and additional custody staffing for escort/supervision, **adding approximately \$150,000–\$300,000 per year**

**for a single high-needs patient**, depending on acuity and frequency of outside care.

By transitioning individuals with terminal illness, debilitating or incapacitating conditions, or cognitive impairment to community-based care—such as hospice, nursing facilities or their families’ homes - the state can significantly reduce correctional health costs and reallocate those resources to improve safety and programs for the general population.

### **Notification to Victims/Survivors**

The proposed statute requires the Paroling Authority to provide notice of consideration of compassionate release to the Prosecuting Attorneys’ office 48 hours in advance of the HPA administrative hearing.<sup>3</sup> This requirement aligns with the current practice between HPA and the DPA, and takes into consideration requests by law enforcement and victim/survivor organizations to codify notification into the statute.

### **Professional Medical Evaluations Are Required**

Some opponents of this measure have wholly ignored the fact that **eligibility for compassionate release involves a medical determination**. Persons are not able to self-certify that they are terminally ill or have chronic debilitating conditions. Rather, trained medical professionals conduct evaluations with their patients and make individualized determinations that a person meets the eligibility criteria for compassionate release - which is more appropriately framed as Medical Release.

### **DCR’s Opposition to Compassionate Release Contravenes its Mission and is an Outlier Position Compared to Other Jurisdictions**

The Department of Corrections and Rehabilitation (DCR) has consistently opposed both HB1628 and its companion bill SB2688. Quizically, this opposition directly contravenes DCR's own mission and the very intent behind its rebranding from the Department of Public Safety to the Department of Corrections and Rehabilitation.

The legislative intent of the proposed Compassionate Release bill and incorporation of compassionate medical release best practices aligns with DCR’s Mission, vision, values, goals and responsibilities displayed on its website<sup>4</sup> and incorporated below:

#### **Our Mission**

The mission of the Department of Corrections and Rehabilitation (DCR) is to provide a secure correctional environment for comprehensive rehabilitative,

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<sup>3</sup> (e) The authority shall hold an administrative hearing to consider an application for compassionate release no later than ten business days after receiving an application for compassionate release from the director. At least forty-eight hours before an incarcerated person's hearing, the authority shall provide notice, including electronically, of the hearing to the prosecuting attorney of the applicable county, for the purposes of notifying victims. The authority shall grant release in accordance with subsection (f).

<sup>4</sup> <https://dcr.hawaii.gov/about/>

holistic, and wraparound re-entry services, including culturally based approaches, to persons sentenced to our custody and care with professionalism, integrity, respect, and fairness. Our goal is to reduce recidivism and enhance the safety and security of our communities.

### **Our Vision**

To transform Hawaii's unified correctional system, which has been historically perceived as a punitive model, into a rehabilitative, restorative, and reentry focused system, that reduces recidivism and promotes safer communities.

### **Our Values**

Rehabilitative sustainability through evidence-based programs, including culturally based approaches, to rebuild and restore lives and the community. Transparency and accountability will remain the hallmark of the department to inspire trust in our employees, from those in our custody and care, and the community we serve.

### **Our Goals**

To protect members of the community and their property from victimization, caused through criminal actions, by managing secure institutions to detain individuals ordered into our custody and care, and provide a safe and humane correctional setting for our employees and offenders. Also, to provide rehabilitative, holistic and reach-in wraparound reentry services to reduce recidivism and achieve better outcomes for offenders. To reach these goals, the DCR will coordinate legislation as necessary to collaborate with community and cultural organizations and where appropriate, to compensate victims of crime.

### **Our Responsibilities**

Over 95% of those who come to our correctional facilities will eventually be released. Most have challenging backgrounds, but they all have great potential. We strive to make the best use of the time we have with them. We want them to see the possibilities for their lives.

At first, these individuals may not see in themselves what we can see, but our hope is that each one makes that pivotal course correction, begins to turn their life around, and be ready to seize every opportunity to lift themselves to a new place, rejoin their families, and start their lives afresh.

That's why we assess each individual in our care, devise personalized plans, and provide holistic support services, all to ensure a successful re-entry into the community. We offer a spectrum of services and opportunities, and with ongoing support from the state, we can continue to invest in their lives. Better physical facilities, expanded programs, and additional supportive services are all important to create an optimal environment to help them flourish."

Unsubstantiated, DCR has consistently argued that the proposed Compassionate Release measure violates Hawaii's Constitution and conflicts with other Hawai'i laws. However, DCR has failed to cite any caselaw, treatise, law review article, or legal opinion from the Department of the Attorney General to support its extraordinary claim. **Notably, the Department of the Attorney General's written and oral testimony regarding this bill does not raise any constitutional concerns.**

Finally, DCR's position is a significant outlier compared to correctional agencies nationwide. **Research conducted across all 49 states shows that, where data is available, nearly every Department of Corrections is neutral or actively in support of compassionate release legislation.** This consensus spans the political and geographic spectrum, with Departments of Correction testifying in support in states including Kansas, Louisiana, Michigan, North Dakota, Washington, Wisconsin, DC, California, and Colorado.

In closing, the time has come for Hawaii's Legislature, with the support of Governor Josh Green, to enact a Compassionate Release measure that reflects our shared values. By adopting these best practices, we honor the Native Hawaiian principles of aloha, mālama, and kuleana—and allow 'ohana to spend time with their loved ones during their final days with dignified care - not behind bars or shackled with handcuffs.

The overwhelming medical, humanitarian, and fiscal evidence demands action. I strongly urge the passage of **H.B. 1628 HD2 SD1 Relating to Compassionate Release** with the proposed amendments to ensure a more just and fiscally responsible future for Hawai'i.

Thank you for your consideration.

Sincerely,

*Carrie Ann Shirota*

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