

ACT 99

H.B. NO. 1070

A Bill for an Act Relating to Conditional Release Timeframes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the law to establish a specific time frame for an order of post-acquittal conditional release when the defendant is charged with a petty misdemeanor, misdemeanor, or violation.

SECTION 2. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court, on the basis of the report made pursuant to section 704-404, if uncontested, or the medical or psychological evidence given at the trial or at a separate hearing, shall ~~make an order as follows:~~ order that:

- (a) The ~~court shall order the~~ defendant ~~to~~ shall be committed to the custody of the director of health to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant:
 - (i) Is affected by a physical or mental disease, disorder, or defect;
 - (ii) Presents a risk of danger to self or others; and
 - (iii) Is not a proper subject for conditional release;
 provided that the director of health shall place defendants charged with misdemeanors or felonies not involving violence or attempted violence in the least restrictive environment appropriate in light of the defendant’s treatment needs and the need to prevent harm to the person confined and others. The county police departments shall provide to the director of health and the defendant copies of all police reports from cases filed against the defendant ~~which that~~ that have been adjudicated by the acceptance of a plea of guilty or ~~[no contest,]~~ nolo contendere, a finding of guilt, acquittal, acquittal pursuant to section 704-400, or by the entry of a plea of guilty or ~~[no contest]~~ nolo contendere made pursuant to chapter 853, so long as the disclosure to the director of health and the defendant does not frustrate a legitimate function of the county police departments[, with the exception of]; provided that expunged records, records of

or pertaining to any adjudication or disposition rendered in the case of a juvenile, or records containing data from the United States National Crime Information Center~~[-]~~ shall not be provided. The county police departments shall segregate or sanitize from the police reports information that would result in the likelihood or actual identification of individuals who furnished information in connection with the investigation ~~[of]~~ or who were of investigatory interest. Records shall not be re-disclosed except to the extent permitted by law;

- (b) The ~~[court shall order the]~~ defendant ~~[to]~~ shall be granted conditional release with conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that the defendant presents a danger to self or others, but that the defendant can be controlled adequately and given proper care, supervision, and treatment if the defendant is released on condition~~[-or]~~. For any defendant granted conditional release pursuant to this paragraph, and who was charged with a petty misdemeanor, misdemeanor, or violation, the period of conditional release shall be no longer than one year; or
- (c) The ~~[court shall order the]~~ defendant shall be discharged if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect or, if so affected, that the defendant no longer presents a danger to self or others and is not in need of care, supervision, or treatment.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2011.

(Approved June 9, 2011.)