

JAN 18 2008

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature, Regular Session 2006, adopted
2 Senate Concurrent Resolution No. 117, SD1, HD1, which requested
3 the Governor to convene a task force to evaluate and recommend
4 possible procedural, statutory, and public policy changes to
5 minimize the census at Hawaii state hospital and to promote
6 community-based health services for forensic patients.

7 After two years of considerable research and evaluation,
8 the S.C.R. 117 Task Force submitted its recommendations to the
9 legislature. These recommendations focus on the importance of
10 ensuring that improved mental health services are provided to
11 those in need and to efficiently graduate those who have
12 successfully benefited from the services provided.

13 The purpose of this Act is to effectuate the S.C.R. 117
14 Task Force recommendation to increase procedural efficiency for
15 conditional release discharge by authorizing the director of
16 health to apply for the discharge from conditional release for a
17 person who is no longer affected by a physical or mental



1 disease, disorder, or defect and may be discharged without
2 danger to the person or to others.

3 SECTION 2. Section 704-413, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§704-413 **Conditional release; application for**
6 **modification or discharge; termination of conditional release**
7 **and commitment.** (1) Any person released pursuant to section
8 704-411 shall continue to receive mental health or other
9 treatment and care deemed appropriate by the director of health
10 until discharged from conditional release. The person shall
11 follow all prescribed treatments and take all prescribed
12 medications according to the instructions of the person's
13 treating mental health professional. If any mental health
14 professional treating any conditionally released person believes
15 either the person is not complying with the requirements of this
16 section or there is other evidence that hospitalization is
17 appropriate, the mental health professional shall report the
18 matter to the probation officer of the conditionally released
19 person. The probation officer may order the conditionally
20 released person to be hospitalized for a period not to exceed
21 seventy-two hours if the probation officer has probable cause to
22 believe the person has violated the requirements of this



1 subsection. No person shall be hospitalized beyond the seventy-
2 two hour period, as computed pursuant to section 1-29, unless a
3 hearing has been held pursuant to subsection [~~(3)~~] (4).

4 (2) If the director of health is of the opinion that any
5 conditionally released person is no longer affected by a
6 physical or mental disease, disorder, or defect and may be
7 discharged, or the order may be modified, without danger to the
8 person or to others, the director shall apply for the discharge
9 of the conditional release of the person in a report to the
10 court ordering the conditional release. A copy of the
11 application and report shall be submitted to the prosecuting
12 attorney of the county from which the person was committed. The
13 person shall be given notice of the application.

14 [~~(2)~~] (3) Any person released pursuant to section 704-411
15 may apply to the court ordering the conditional release for
16 discharge from, or modification of, the order granting
17 conditional release on the ground that the person is no longer
18 affected by a physical or mental disease, disorder, or defect
19 and may be discharged, or the order may be modified, without
20 danger to the person or to others. The application shall be
21 accompanied by a letter from or supporting affidavit of a
22 qualified physician or licensed psychologist. A copy of the



1 application and letter or affidavit shall be transmitted to the
2 prosecuting attorney of the circuit from which the order issued
3 and to any persons supervising the release, and the hearing on
4 the application shall be held following notice to such persons.
5 If the determination of the court is adverse to the application,
6 the person shall not be permitted to file further application
7 until one year has elapsed from the date of any preceding
8 hearing on an application for modification of conditions of
9 release or for discharge.

10 [~~3~~] (4) If, at any time after the order pursuant to
11 section 704-411 granting conditional release, the court
12 determines, after hearing evidence, that:

13 (a) The person is still affected by a physical or mental
14 disease, disorder, or defect, and the conditions of
15 release have not been fulfilled; or

16 (b) For the safety of the person or others, the person's
17 conditional release should be revoked,
18 the court may forthwith modify the conditions of release or
19 order the person to be committed to the custody of the director
20 of health, subject to discharge or release only in accordance
21 with the procedure prescribed in section 704-412."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Randy H. Bell
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Report Title:

Director of Health; Conditional Release; Discharge

Description:

Authorizes the director of health to apply for the discharge, or modification, of an order granting conditional release to a person who is no longer affected by a physical or mental disease, disorder, or defect.

