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## A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE.

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

1           SECTION 1. Section 704-413, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§704-413 Conditional release; application for**  
4 **modification or discharge; termination of conditional release**  
5 **and commitment.** (1) Any person [~~released~~] granted conditional  
6 release pursuant to section 704-411, or section 704-412, shall  
7 continue to receive mental health or other treatment and care  
8 deemed appropriate by the director of health until discharged  
9 from conditional release. The person shall follow all  
10 prescribed treatments and take all prescribed medications  
11 according to the instructions of the person's treating mental  
12 health professional. If [~~any~~] a mental health professional who  
13 is treating [~~any conditionally released~~] a person granted  
14 conditional release believes either the person is not complying  
15 with the requirements of this section or there is other evidence  
16 that hospitalization is appropriate, the mental health  
17 professional shall report the matter to the probation officer of  
18 the [~~conditionally released person-~~] person granted conditional



1 release. The probation officer may order the [~~conditionally~~  
2 ~~released~~] person granted conditional release to be hospitalized  
3 for a period not to exceed seventy-two hours if the probation  
4 officer has probable cause to believe the person has violated  
5 the requirements of this subsection. No person shall be  
6 hospitalized beyond the seventy-two hour period, as computed  
7 pursuant to section 1-29, unless a hearing has been held  
8 pursuant to subsection [~~(3)-~~] (4).

9 (2) The director of health may apply to the court ordering  
10 any persons released pursuant to chapter 704, for the person's  
11 discharge from, or modification of, the order granting  
12 conditional release; provided that the person receives  
13 community-based mental health services from or contracted by the  
14 department of health, and the director is of the opinion that  
15 the person on conditional release is no longer affected by a  
16 physical or mental disease, disorder, or defect and may be  
17 discharged or the order may be modified, without danger to the  
18 person or to others. The director shall make application for  
19 the discharge from, or modification of, the order of conditional  
20 release in a report to the court. The director shall transmit a  
21 copy of the application and report to the prosecuting attorney  
22 of the county from which the conditional release order was made,



1 to the person's treating mental health professionals, and to  
2 the probation officer supervising the conditional release. The  
3 person on conditional release shall be given notice of the  
4 application.

5       [~~(2)~~] (3) Any person [~~released~~] granted conditional  
6 release pursuant to section 704-411, or section 704-412, may  
7 apply to the court ordering the conditional release for  
8 discharge from, or modification of, the order granting  
9 conditional release on the ground that the person is no longer  
10 affected by a physical or mental disease, disorder, or defect  
11 and may be discharged, or the order may be modified, without  
12 danger to the person or to others. The application shall be  
13 accompanied by a letter from or supporting affidavit of a  
14 qualified physician or licensed psychologist. A copy of the  
15 application and letter or affidavit shall be transmitted to the  
16 prosecuting attorney of the circuit from which the order issued,  
17 to the person's treating mental health professionals, and to  
18 [~~any persons~~] the probation officer supervising the conditional  
19 release, and the hearing on the application shall be held  
20 following notice to such persons. If the [~~determination of the~~]  
21 court [~~is adverse to~~] denies the application, the person shall  
22 not be permitted to file [~~further~~] another application for



1 either discharge or modification of conditional release until  
2 one year [~~has elapsed from~~] after the date of [~~any preceding~~  
3 ~~hearing on an application for modification of conditions of~~  
4 ~~release or for discharge.~~] the denial.

5 [+3+] (4) If, at any time after the order pursuant to  
6 section 704-411, or section 704-412, granting conditional  
7 release, the court determines, after hearing evidence, that:

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

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

17 SECTION 2. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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



**Report Title:**

Conditional Release

**Description:**

Grants the director of health the authority to apply for discharge from conditional release (CR) or modification of the CR order for any patient in a mental health facility served by the DOH directly or through a contracted provider. (SD2)

