

SB3071

Measure Title:
RELATING TO CONDITIONAL RELEASE.

Report Title:
Conditional Release

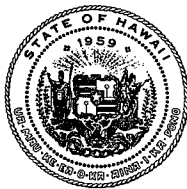
Description:
Grants the Director of the Department of Health (DOH) the authority to apply for discharge from conditional release (CR) or modification of the CR order for any patient in a mental health facility served by the DOH directly or through a contracted provider.

Package:
Governor

Companion:
HB3149

Introducer(s):
HANABUSA (BR)

Current Referral:
HTH, JDL



STATE OF HAWAII
DEPARTMENT OF HEALTH
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In reply, please refer to:
File:

Senate Committee on Health

S.B. 3071, RELATING TO CONDITIONAL RELEASE

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 11, 2008, 1:15 p.m.

1 **Department's Position:** The department strongly supports this Administration-sponsored measure.

2 **Fiscal Implications:** No general fund expenditure.

3 **Purpose and Justification:** This proposal is based on a recommendation by the task force organized
4 as a result of Senate Concurrent Resolution 117, Session Laws of Hawaii 2006.

5 This measure will enable the Director of the Department of Health (DOH) to petition the court in
6 appropriate cases, on behalf of any individual served by the DOH, for legal discharge from conditional
7 release (CR). Persons on CR are released by the courts to be discharged from the custody of the
8 Department of Health, including but not limited to Hawaii State Hospital, back into the community. In
9 the community, persons on CR continue to be supervised jointly by both the Adult Mental Health
10 Division of the DOH and the Adult Client Services Branch of the Judiciary. Currently, the State of
11 Hawaii has more than 400 people in the community on CR. To include CR consumers who are in a
12 hospital setting, the number balloons to more than 500. This is the largest number of CR consumers per
13 capita in the nation. Only one other state, Ohio with 550, has been identified as more consumers total on
14 CR than Hawaii.

15 In Hawaii, there is no time limit for CR. A person can, and often is, on CR for the rest of his or
16 her life. More than half of the states with CR statutes similar to Hawaii's have a time limit on CR.

1 Some states have a prescribed limit (no more than 5 years, for example) while others have a time frame
2 equivalent to the maximum time they would have otherwise served in jail or probation. However, in
3 Hawaii, CR is an indefinite commitment. For example, 3% of Hawaii's misdemeanor CR cases have
4 been on CR for more than 20 years—crimes that would have otherwise carried a sentence of no more
5 than one year. Many people remain on CR indefinitely and under unnecessary supervision.

6 There is no mechanism for the director to petition the courts when the clinical staff determines
7 that an individual is clinically ready for discharge from conditional release. By allowing the Director of
8 Health to apply for discharge from conditional release for those who no longer are appropriate for
9 conditional release:

- 10 1) The effectiveness of forensic coordinators and available community resources is
11 enhanced as time and energies are focused on appropriate individuals who need higher
12 levels of support and supervision;
- 13 2) Limits an individual's exposure to court-directed hospitalization, which in many cases
14 results in extended hospitalization considerably beyond what is clinically determined
15 to be necessary. When a person is on conditional release, it is possible for him or her
16 to be readmitted to inpatient case based on violations of conditional release orders
17 which are no longer clinically necessary. In such instances, individuals do not need,
18 nor meet clinical criteria for, inpatient hospital care, but will remain hospitalized for
19 the duration of the legal proceedings. The hospitalization of these individuals thereby
20 contributes to a higher inpatient census.

21 Thank you for the opportunity to testify on this important measure.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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The Twenty Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Health
Committee on Judiciary and Labor

Testimony by
HGEA/AFSCME, Local 152, AFL-CIO
February 11, 2008

S.B. 3071 - RELATING TO **CONDITIONAL RELEASE**

The Hawaii Government Employees Association, Local 152, AFL-CIO supports S.B. 3071. This bill proposes to allow the Director of Health to apply to the courts for a person's discharge and modification of the order granting conditional release, provided the person receives community-based mental health services. The Director must have determined that the person is no longer affected by the physical or mental disease, disorder or defect, and, therefore, is not a danger to himself or the public.

Granting the Director of Health this authority would help ease the overcrowding and dangerous conditions at the Hawaii State Hospital which has lead to health and safety issues for the staff.

We respectfully request passage of S.B. 3071 from your committee. Thank you for the opportunity to submit our testimony.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Nora A. Nomura', is written over a horizontal line.

Nora A. Nomura
Deputy Executive Director