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# A BILL FOR AN ACT

RELATING TO THE MEDICAL USE OF MARIJUANA.

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

1           SECTION 1. Chapter 329, Hawaii Revised Statutes, is  
2 amended by adding two new sections to part IX to be  
3 appropriately designated and to read as follows:

4           "§329-A Probationers; eligibility as qualifying patients.

5           (a) Any criminal defendant with a debilitating medical  
6 condition who is eligible to use medical marijuana pursuant to  
7 section 329-122 may request that the court confirm that the  
8 defendant is allowed to use medical marijuana while on  
9 probation.

10           (b) The court's decision and the reasons for the decision  
11 shall be stated on the record and an entry stating those reasons  
12 shall be made in the minutes of the court.

13           (c) During the period of probation, if a treating  
14 physician certifies the probationer for the medical use of  
15 marijuana, the probationer may request a modification of the  
16 conditions of probation to authorize the medical use of  
17 marijuana.



1        (d) The court's consideration of the modification request  
2 authorized by subsection (c) shall comply with the requirements  
3 of this part.

4        **§329-B Parolees; eligibility as qualifying patients.** (a)

5 Any person who is to be released on parole from a state  
6 correctional facility and who is eligible to use medical  
7 marijuana pursuant to section 329-122 may request that the  
8 person be allowed to use medical marijuana during the period the  
9 person is released on parole. A parolee's written conditions of  
10 parole shall reflect whether or not a request for a modification  
11 of the conditions of parole to use medical marijuana was made,  
12 and whether the request was granted or denied.

13        (b) During the period of the parole, if a treating  
14 physician certifies the parolee for the medical use of  
15 marijuana, the parolee may request a modification of the  
16 conditions of the parole to authorize the medical use of  
17 marijuana.

18        (c) Any parolee whose request to use medical marijuana  
19 while on parole was denied may pursue an administrative appeal  
20 of the decision. Any decision on the appeal shall be in writing  
21 and shall reflect the reasons for the decision.



1        (d) The administrative consideration of the modification  
2 request authorized by subsection (b) shall comply with the  
3 requirements of this part."

4        SECTION 2. Section 329-121, Hawaii Revised Statutes, is  
5 amended by amending the definition of "primary caregiver" to  
6 read as follows:

7        "'Primary caregiver" means a person, other than the  
8 qualifying patient and the qualifying patient's physician, who  
9 [~~is~~]:

- 10        (1) Is eighteen years of age or older [~~who has~~];
- 11        (2) Has agreed to undertake responsibility for managing  
12 the well-being of the qualifying patient with respect  
13 to the medical use of marijuana [~~-~~]; and
- 14        (3) Has, if convicted of a felony, been discharged from  
15 probation or parole not less than ten years  
16 immediately preceding the registration as a primary  
17 caregiver.

18 In the case of a minor or an adult lacking legal capacity, the  
19 primary caregiver shall be a parent, guardian, or person having  
20 legal custody."

21        SECTION 3. Section 706-624, Hawaii Revised Statutes, is  
22 amended by amending subsection (2) to read as follows:



1           "(2) Discretionary conditions. The court may provide, as  
2 further conditions of a sentence of probation, to the extent  
3 that the conditions are reasonably related to the factors set  
4 forth in section 706-606 and to the extent that the conditions  
5 involve only deprivations of liberty or property as are  
6 reasonably necessary for the purposes indicated in section 706-  
7 606(2), that the defendant:

- 8           (a) Serve a term of imprisonment not exceeding two years  
9           in class A felony cases under part IV of chapter 712,  
10           eighteen months in class B felony cases, one year in  
11           class C felony cases, six months in misdemeanor cases,  
12           and five days in petty misdemeanor cases; provided  
13           that notwithstanding any other provision of law, any  
14           order of imprisonment under this subsection that  
15           provides for prison work release shall require the  
16           defendant to pay thirty per cent of the defendant's  
17           gross pay earned during the prison work release period  
18           to satisfy any restitution order. The payment shall  
19           be handled by the adult probation division and shall  
20           be paid to the victim on a monthly basis;
- 21           (b) Perform a specified number of hours of services to the  
22           community as described in section 706-605(1)(d);



- 1 (c) Support the defendant's dependents and meet other
- 2 family responsibilities;
- 3 (d) Pay a fine imposed pursuant to section 706-605(1)(b);
- 4 (e) Work conscientiously at suitable employment or pursue
- 5 conscientiously a course of study or vocational
- 6 training that will equip the defendant for suitable
- 7 employment;
- 8 (f) Refrain from engaging in a specified occupation,
- 9 business, or profession bearing a reasonably direct
- 10 relationship to the conduct constituting the crime or
- 11 engage in the specified occupation, business, or
- 12 profession only to a stated degree or under stated
- 13 circumstances;
- 14 (g) Refrain from frequenting specified kinds of places or
- 15 from associating unnecessarily with specified persons,
- 16 including but not limited to the victim of the crime,
- 17 any witnesses, regardless of whether they actually
- 18 testified in the prosecution, law enforcement
- 19 officers, co-defendants, or other individuals with
- 20 whom contact may adversely affect the rehabilitation
- 21 or reformation of the person convicted;



- 1 (h) [~~Refrain~~] Except as provided in section 329-A, refrain  
2 from use of alcohol or any use of narcotic drugs or  
3 controlled substances without a prescription;
- 4 (i) Refrain from possessing a firearm, ammunition,  
5 destructive device, or other dangerous weapon;
- 6 (j) Undergo available medical or mental health treatment,  
7 including treatment for substance abuse dependency,  
8 and remain in a specified facility if required for  
9 that purpose;
- 10 (k) Reside in a specified place or area or refrain from  
11 residing in a specified place or area;
- 12 (l) Submit to periodic urinalysis or other similar testing  
13 procedure;
- 14 (m) Refrain from entering specified geographical areas  
15 without the court's permission;
- 16 (n) Refrain from leaving the person's dwelling place  
17 except to go to and from the person's place of  
18 employment, the office of the person's physician or  
19 dentist, the probation office, or any other location  
20 as may be approved by the person's probation officer  
21 pursuant to court order. As used in this paragraph,



1 "dwelling place" includes the person's yard or, in the  
2 case of condominiums, the common elements;  
3 (o) Comply with a specified curfew;  
4 (p) Submit to monitoring by an electronic monitoring  
5 device; or  
6 (q) Satisfy other reasonable conditions as the court may  
7 impose."

8 SECTION 4. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 5. In codifying the new sections added by  
12 section 1 of this Act, the revisor of statutes shall substitute  
13 appropriate section numbers for the letters used in designating  
14 the new sections in this Act.

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

18



**Report Title:**

Medical Use of Marijuana; Probationers; Parolees

**Description:**

Allows probationers and parolees who meet the requirements of qualifying patients to request that the terms of their probation or parole be modified to be allowed the medical use of marijuana. Clarifies definition of "primary caregiver" in medical marijuana law. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

