

---

---

# A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE TIMEFRAMES.

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

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

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

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

13           (a) The [~~court shall order the~~] defendant [~~to~~] shall be  
14 committed to the custody of the director of health to  
15 be placed in an appropriate institution for custody,  
16 care, and treatment if the court finds that the  
17 defendant:



1           (i) Is affected by a physical or mental disease,  
2                    disorder, or defect;  
3           (ii) Presents a risk of danger to self or others; and  
4           (iii) Is not a proper subject for conditional release;  
5           provided that the director of health shall place  
6           defendants charged with misdemeanors or felonies not  
7           involving violence or attempted violence in the least  
8           restrictive environment appropriate in light of the  
9           defendant's treatment needs and the need to prevent  
10          harm to the person confined and others. The county  
11          police departments shall provide to the director of  
12          health and the defendant copies of all police reports  
13          from cases filed against the defendant [~~which~~] that  
14          have been adjudicated by the acceptance of a plea of  
15          guilty or [~~no contest,~~] nolo contendere, a finding of  
16          guilt, acquittal, acquittal pursuant to section  
17          704-400, or by the entry of a plea of guilty or [~~no~~  
18          ~~contest~~] nolo contendere made pursuant to chapter 853,  
19          so long as the disclosure to the director of health and  
20          the defendant does not frustrate a legitimate function  
21          of the county police departments[, ~~with the exception~~  
22          of]; provided that expunged records, records of or



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

12          (b) The ~~[court shall order the]~~ defendant ~~[to]~~ shall be  
13          granted conditional release with conditions as the  
14          court deems necessary if the court finds that the  
15          defendant is affected by physical or mental disease,  
16          disorder, or defect and that the defendant presents a  
17          danger to self or others, but that the defendant can be  
18          controlled adequately and given proper care,  
19          supervision, and treatment if the defendant is released  
20          on condition~~[, or]~~. For any defendant granted  
21          conditional release pursuant to this paragraph, and who  
22          was charged with a petty misdemeanor, misdemeanor, or



1           violation, the period of conditional release shall be  
2           no longer than one year; or

3           (c) The [~~court shall order the~~] defendant shall be  
4           discharged if the court finds that the defendant is no  
5           longer affected by physical or mental disease,  
6           disorder, or defect or, if so affected, that the  
7           defendant no longer presents a danger to self or others  
8           and is not in need of care, supervision, or treatment."

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

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

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



**Report Title:**

Conditional Release Time Frames

**Description:**

Specifies that any person acquitted on the grounds of a physical or mental defect and who was charged with a petty misdemeanor, misdemeanor, or violation can be granted conditional release for no more than one year. Effective July 1, 2011. (HB1070 CD1)

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

