
A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE.

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

1 SECTION 1. The purpose of this Act is to establish a
2 tolling provision when a defendant charged with a petty
3 misdemeanor, misdemeanor, or violation is granted conditional
4 release on grounds of physical or mental defect.

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 order that:

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

17 (i) Is affected by a physical or mental disease,
18 disorder, or defect;



- 1 (ii) Presents a risk of danger to self or others;
- 2 and
- 3 (iii) Is not a proper subject for conditional
- 4 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 that have been
14 adjudicated by the acceptance of a plea of guilty or
15 nolo contendere, a finding of guilt, acquittal,
16 acquittal pursuant to section 704-400, or by the entry
17 of a plea of guilty or nolo contendere made pursuant
18 to chapter 853, so long as the disclosure to the
19 director of health and the defendant does not
20 frustrate a legitimate function of the county police
21 departments; provided that expunged records, records
22 of or pertaining to any adjudication or disposition



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

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



1 conditional release shall be no longer than one year[+
2 ~~or~~], subject to the following tolling provisions:

3 (i) Upon the filing of a motion to revoke
4 conditional release or a motion to modify
5 the conditions imposed thereby, the period
6 of conditional release shall be tolled for
7 ninety days. The period of tolling shall be
8 computed from service of the motion for
9 purposes of computation of the remaining
10 period of conditional release, if any.
11 During the period of tolling of conditional
12 release, the defendant shall remain subject
13 to all terms and conditions of conditional
14 release, except as otherwise provided by
15 this chapter; and

16 (ii) If the court, following hearing, refuses to
17 revoke the conditional release or grant the
18 requested modification, the defendant shall
19 be granted the period of tolling of
20 conditional release for purposes of
21 computation of the remaining conditional
22 release, if any; or



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

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on January 7, 2059.



Report Title:

Judiciary Package; Conditional Release; Tolling

Description:

Requires tolling of one-year conditional release for a ninety day period commencing upon service of a motion for revocation of conditional release or motion to modify conditions. Effective January 7, 2059. (HB1797 HD1)

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