
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. Chapter 353, part II, Hawaii Revised Statutes,
2 is amended by designating sections 353-61 to 353-72 as subpart A
3 and inserting a title before section 353-61 to read as follows:

4 **"A. GENERAL PROVISIONS"**

5 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
6 amended by adding a new subpart to part II to be appropriately
7 designated and to read:

8 " . **MEDICAL RELEASE OF ILL AND DISABLED INMATES**

9 **§353-A Definitions.** For the purposes of this subpart,
10 unless the context clearly requires otherwise:

11 "Geriatric" means an inmate who is at least sixty-five
12 years of age and suffers from chronic infirmity, illness, or
13 disease related to aging that has progressed such that the
14 inmate is incapacitated to the extent that the inmate does not
15 pose a risk to public safety.

16 "Inmate" means any person sentenced to the custody of the
17 department.



1 "Medical release" means a program enabling the paroling
2 authority to release inmates who are permanently and totally
3 disabled, terminally ill, or geriatric.

4 "Medical release plan" means a comprehensive written
5 medical and psychosocial care plan that is specific to the
6 inmate and includes, at a minimum:

- 7 (1) The proposed course of treatment;
- 8 (2) The proposed site for treatment and post-treatment
9 care;
- 10 (3) Documentation that medical providers who are qualified
11 to provide the medical services identified in the
12 medical release plan are prepared to provide those
13 services; and
- 14 (4) The financial program in place to cover the cost of
15 this plan for the duration of the medical release,
16 which shall include eligibility for enrollment in
17 commercial insurance, medicare, or medicaid, or access
18 to other adequate financial resources for the duration
19 of the medical release.

20 "Paroling authority" means the Hawaii paroling authority.

21 "Permanently and totally disabled" means an inmate who, as
22 determined by a licensed physician, suffers from permanent and



1 irreversible physical incapacitation as a result of an existing
2 physical or medical condition that was unknown at the time of
3 sentencing or, since the time of sentencing, has progressed to
4 render the inmate permanently and totally disabled, to the
5 extent that the inmate does not pose a risk to public safety.

6 "Terminally ill" means an inmate who, as determined by a
7 licensed physician, has an incurable condition caused by illness
8 or disease that:

- 9 (1) Was unknown at the time of sentencing or, since the
10 time of sentencing, has progressed to render the
11 inmate terminally ill;
- 12 (2) Will likely produce death within six months; and
- 13 (3) Is debilitating to the extent that the inmate does not
14 pose a risk to public safety.

15 **§353-B Medical release program; authority to release;**
16 **rules.** The paroling authority shall establish a medical release
17 program for inmates and prescribe when and under what conditions
18 an inmate may be eligible for medical release, consistent with
19 section 353-E. The paroling authority may adopt rules in
20 accordance with chapter 91 to implement the medical release
21 program.



1 **§353-C Eligibility.** (a) Notwithstanding any other law to
2 the contrary and except as otherwise provided in this section,
3 an inmate is eligible to be considered for medical release if
4 the department determines that the inmate is:

5 (1) Diagnosed as permanently and totally disabled,
6 terminally ill, or geriatric under the procedure
7 described in section 353-D(b) (1); and
8 (2) Incapacitated to the extent that the inmate does not
9 pose a risk to public safety.

10 (b) Persons convicted of murder in the first degree,
11 murder in the second degree, attempted murder in the first
12 degree, attempted murder in the second degree, a class A or
13 class B felony, or an offense that requires registration under
14 chapter 846E shall not be eligible for release under this
15 subpart.

16 **§353-D Procedure for medical release.** (a) The paroling
17 authority shall consider an inmate for medical release upon
18 referral by the department. The department may base its
19 referral upon either a request or petition for release filed by
20 the inmate, the inmate's attorney, or the inmate's parent,
21 spouse, reciprocal beneficiary, child, or sibling, or upon a
22 recommendation from within the department.



1 (b) The referral shall include an assessment of the
2 inmate's medical and psychosocial condition and the risk the
3 inmate poses to society, as follows:

4 (1) A licensed physician designated by the department
5 shall review the case of each inmate who meets the
6 eligibility requirements for medical release set forth
7 in section 353-C. The physician shall prepare a
8 written diagnosis that includes:

9 (A) A description of any terminal conditions,
10 physical incapacities, and chronic conditions;
11 and

12 (B) A prognosis concerning the likelihood of recovery
13 from any terminal conditions, physical
14 incapacities, and chronic conditions;
15 and

16 (2) The department shall assess the risk for violence and
17 recidivism that the inmate poses to society and may
18 consider such factors as the inmate's medical
19 condition, the severity of the offense for which the
20 inmate is incarcerated, the inmate's prison record,
21 and the medical release plan.



1 (c) If the department determines that the inmate meets the
2 criteria for release, the department shall complete the risk
3 assessment and forward its referral and medical release plan for
4 the inmate to the paroling authority within forty-five days of
5 receiving a request, petition, or recommendation for release.

6 (d) The paroling authority shall determine whether to
7 grant medical release within fifteen days of receiving a
8 referral from the department for release of a terminally ill
9 inmate and within twenty days of receiving a referral from the
10 department for release of a permanently and totally disabled
11 inmate or a geriatric inmate. In making the determination, the
12 paroling authority shall independently assess the risk for
13 violence and recidivism that the inmate poses to society. The
14 paroling authority shall also provide the victim or victims of
15 the inmate or the victim's or victims' family or families with
16 an opportunity to be heard.

17 (e) A denial of medical release by the paroling authority
18 shall not affect an inmate's eligibility for any other form of
19 parole or release under applicable law.

20 (f) If the department determines that an inmate should not
21 be considered for release under this subpart or the paroling
22 authority denies medical release under this subpart, the inmate



1 may not reapply or be reconsidered unless there is a
2 demonstrated change in the inmate's medical condition.

3 **§353-E Conditions of medical release.** (a) The paroling
4 authority shall set reasonable conditions on an inmate's medical
5 release that shall apply through the date upon which the
6 inmate's sentence would have expired. These conditions shall
7 include the following:

- 8 (1) The released inmate's care shall be consistent with
9 the care specified in the medical release plan as
10 approved by the paroling authority;
- 11 (2) The released inmate shall cooperate with and comply
12 with the prescribed medical release plan and with
13 reasonable requirements of medical providers to whom
14 the released inmate is to be referred for continued
15 treatment;
- 16 (3) The released inmate shall be subject to supervision by
17 the paroling authority and shall permit officers from
18 the paroling authority to visit the inmate at
19 reasonable times at the inmate's home or elsewhere;
- 20 (4) The released inmate shall comply with any conditions
21 of release set by the paroling authority; and



1 (5) The paroling authority shall receive periodic
2 assessments from the inmate's treating physician.

3 (b) The paroling authority shall promptly order an inmate
4 returned to the custody of the department to await a revocation
5 hearing if the paroling authority receives credible information
6 that an inmate has failed to comply with any reasonable
7 condition set upon the inmate's release. If the paroling
8 authority subsequently revokes an inmate's medical release for
9 failure to comply with conditions of release, the inmate shall
10 resume serving the balance of the sentence, with credit given
11 only for the duration of the inmate's medical release served in
12 compliance with all reasonable conditions set forth pursuant to
13 subsection (a). Revocation of an inmate's medical release for
14 violating a condition of release shall not affect an inmate's
15 eligibility for any other form of parole or release provided by
16 law but may be used as a factor in determining eligibility for
17 such parole or release.

18 **§353-F Change in medical status.** (a) If a periodic
19 medical assessment reveals that an inmate released on medical
20 release has improved to an extent that the inmate would not be
21 eligible for medical release if such release were being
22 considered at that time, the paroling authority shall order the



1 inmate returned to the custody of the department to await a
2 revocation hearing. In determining whether to revoke medical
3 release, the paroling authority shall consider the most recent
4 medical assessment of the inmate and a risk assessment of the
5 inmate conducted pursuant to section 353-D(b)(2). If the
6 paroling authority revokes the inmate's medical release, the
7 inmate shall resume serving the balance of the sentence, with
8 credit given for the duration of the medical release.

9 (b) Revocation of an inmate's medical release due to a
10 change in the inmate's medical condition shall not affect an
11 inmate's eligibility for medical release in the future or for
12 any other form of parole or release provided by law."

13 SECTION 3. Chapter 353, Hawaii Revised Statutes, is
14 amended by adding a new section to part I to be appropriately
15 designated and to read as follows:

16 "§353- Medical release program. The department shall
17 assess and refer inmates to the Hawaii paroling authority under
18 the medical release program established by the Hawaii paroling
19 authority under subpart of part II."

20 SECTION 4. Section 353-62, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) In addition to any other responsibility or duty
2 prescribed by law for the Hawaii paroling authority, the
3 paroling authority shall:

4 (1) Serve as the central paroling authority for the State;

5 (2) In selecting individuals for parole, consider for
6 parole all committed persons, except in cases where
7 the penalty of life imprisonment not subject to parole
8 has been imposed, regardless of the nature of the
9 offense committed;

10 (3) Determine the time at which parole shall be granted to
11 any eligible individual as that time at which maximum
12 benefits of the correctional institutions to the
13 individual have been reached and the element of risk
14 to the community is minimal;

15 (4) Establish rules of operation to determine conditions
16 of parole applicable to any individual granted parole;

17 (5) Provide continuing custody, control, and supervision
18 of paroled individuals;

19 (6) Revoke or suspend parole and provide for the
20 authorization of return to a correctional institution
21 for any individual who violates parole or any
22 condition of parole when, in the opinion of the Hawaii



1 paroling authority, the violation presents a risk to
2 community safety or a significant deviation from any
3 condition of parole;

4 (7) Discharge an individual from parole when supervision
5 is no longer needed;

6 (8) Interpret the parole program to the public [~~in order~~]
7 to develop a broad base of public understanding and
8 support; [~~and~~]

9 (9) Establish the medical release program under
10 subpart ; and

11 [~~(9)~~] (10) Recommend to the legislature sound parole
12 legislation and recommend to the governor sound parole
13 administration."

14 SECTION 5. In codifying the new sections added by section
15 2 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

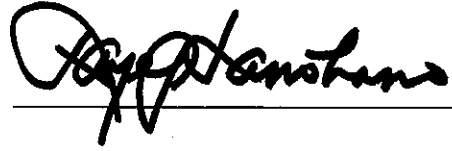
18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



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

2

INTRODUCED BY:



JAN 21 2011



Report Title:

Paroling Authority; Medical Release of Ill and Disabled Inmates

Description:

Requires the Hawaii Paroling Authority to establish a medical release program for inmates who are permanently and totally disabled, terminally ill, or geriatric and pose no public safety risk. Requires the Department of Public Safety to assess and refer inmates to the Hawaii Paroling Authority. Sets conditions for medical release.

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