

JAN 18 2012

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
2 year~~[7]~~, 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
7 pending the hearing upon the motion and the
8 decision of the court. The period of
9 tolling shall be computed from the filing
10 date of the motion, through and including
11 the filing date of the written order of the
12 court concerning the motion, for purposes of
13 computation of the remaining period of
14 conditional release, if any. During the
15 period of tolling of conditional release,
16 the defendant shall remain subject to all
17 terms and conditions of conditional release,
18 except as otherwise provided by this
19 chapter; and

20 (ii) If the court, following hearing, refuses to
21 revoke the conditional release or grant the
22 requested modification, the defendant may be



S.B. NO. 2055

Report Title:

Judiciary Package; Conditional Release; Tolling

Description:

Requires tolling of one-year conditional release period upon filing of motion for revocation of conditional release or motion to modify conditions.

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