

SB 2248, SD1

RELATING TO PUBLIC SAFETY

Description:

Requires the Hawaii paroling authority to establish a compassionate release program for inmates who are permanently and totally disabled, terminally ill, or have a serious debilitating and irreversible mental or physical condition, and pose no public safety risk. Requests the department of public safety to assess and refer inmates to the Hawaii paroling authority. Sets conditions for compassionate release. (SD1)



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

JODIE F. MAESAKA-HIRATA
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TESTIMONY ON SENATE BILL 2248 SD 1
RELATING TO PUBLIC SAFETY

by

Jodie F. Maesaka-Hirata, Director
Department of Public Safety

Senate Committee on Public Safety, Government, and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Tuesday, February 21, 2012; 2:45 P.M.
State Capitol, Conference Room 224

Chair Espero, and Vice Chair Kidani, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 2248 S.D. 1 and appreciates the Legislature's concerns with regards to providing a statutory compassionate release process in the best interest of our ill, geriatric, and disabled inmates. The Department presently provides for a similar "compassionate release" recommendation process and supports the intent of SB 2248 SD 1.

The Department requests the following amendments to the measure:

1. **Page 6 (line 1)** – Delete "or by an inmate or the inmate's representative."
2. **Page 7 (line 5)** – Delete paragraph (3) "A statement as to whether or not the department recommends compassionate release for the inmate and the reasons therefore; and." This paragraph is unnecessary as the Department will only be forwarding its recommendations for a compassionate release to the Hawaii Paroling Authority.
3. **Page 7 (line 8)** – relabel paragraph (4) to paragraph (3) "A compassionate release plan..."
4. **Page 7 (line 11)** – Delete section (c through d), ~~(e)~~ "If a request for compassionate release is made by an inmate or the inmate's representative, it

~~shall state the basis for the request and contain a statement as to: (1) Where the inmate will reside if released; (2) Who will care for the inmate; (3) How the inmate will remain self-sufficient; and (4) How the inmate will obtain medical insurance or pay for medical care. All requests initiated by an inmate shall be promptly referred to the department of public safety. Within twenty days of receiving such a request the department shall submit a report to the Hawaii paroling authority containing the information in paragraphs (1) to (3) and a recommendation from the director as to whether the inmate should be released or not. If the director recommends release, the report shall also contain a compassionate release plan that ensures continuity of care. (d) The department of public safety shall provide the inmate with all department reports pertaining to the request for compassionate release."~~

5. **Page 8 (line 8)** – Relabel section (e) to section (c) “The Hawaii paroling...”
6. **Page 8 (line 11 through 16)** – Delete “The inmate and the inmate’s representative shall be permitted to participate in the hearing and submit medical and other evidence in support of the request. ”
7. **Page 8 (line 17)** – Relabel section (f) to section (d) “The Hawaii paroling authority...”
8. **Page 9 (line 3)** – Relabel section (g) to section (e) “A denial of...”
9. **Page 9 (line 6)** – Relabel section (h) to section (f) “If the paroling...”
10. **Page 9 (line 10)** – Relabel section (i) to section (g) “The director...”
11. **Page 9 (line 14)** – Relabel section (j) to section (h) “All rules and ...”
12. **Page 9 (line 17)** – Relabel section (k) to section (i) “The Hawaii paroling...”

The Department believes that these amendments will clarify the recommendation process responsibilities. Persons in the custody of the Department become the patients of the Department and whose health care needs are provided by its physicians. As such, the Department’s physicians become these patients’ Primary Care Providers (PCP) and provide services in the best interest of their patient

irregardless of the patients' criminology. Compassionate release recommendations are presently made in the best interest of these patients and their families. The compassionate release criteria as defined by this measure will broaden the types of medical, geriatric, and disability cases that would receive Departmental recommendations.

This measure provides the inmate or inmate's representative with a formal compassionate release recommendation process, and will result in many recommendations that will exaggerate and misrepresent the patient's condition such that the submitted recommendation meets the compassionate release criteria. A formal inmate recommendation process as defined in this measure, would greatly increase the administrative costs and duties for both the Department and the Hawaii Paroling Authority (HPA). These recommendations which may be without merit will force the Department to divert its health care resources to deal with these recommendations that would otherwise be best utilized providing direct patient care.

Thank you for the opportunity to present this testimony.

NEIL ABERGROMBIE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 ALAKEA STREET, GROUND FLOOR
Honolulu, Hawaii 96813

BERT Y. MATSUOKA
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MEMBER

MICHAEL A. TOWN
MEMBER

TOMMY JOHNSON
ADMINISTRATOR

No. _____

TESTIMONY ON SENATE BILL 2248, SD1
RELATING TO PUBLIC SAFETY

BY

HAWAII PAROLING AUTHORITY
Bert Y. Matsuoka, Chairman

Senate Committee on Public Safety, Government Operations, and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Tuesday, February 21, 2012; 2:45 p.m.
State Capitol, Conference Room 224

Chair Espero, Vice Chair Kidani, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports the intent of SB 2248, SD1, but has concerns regarding the following areas:

1. **Page 3 (Line 14 through Line 17)** – The department of shall assess and refer inmates to the Hawaii Paroling Authority under the compassionate release program established by the [~~Hawaii paroling authority~~] department under.....”

Compassionate release is basically a medical issue and therefore, should be provided for in departmental policy, not codified in statute. Also, a compassionate release hearing is an expedited parole consideration hearing process, and not a separate program that needs to be enacted into law. .

2. **Page 5 (Line 5 through Line7)** – (a) An inmate in the custody of the department of public safety shall be eligible to be considered for compassionate release as determined by the department of public safety medical director and endorsed by the director if the inmate:.....

3. Page 5 (Line 20 through Page 7 Line 2) – (b) All requests for compassionate release shall be in writing and shall be made to the Hawaii paroling authority. Requests may be made by the director of public safety [~~or by an inmate or the inmate's representative~~].

The department should determine the eligibility criteria and it is the department that should make the recommendation to the Hawaii paroling authority.

4. Page 6 (Line 3) – [~~If~~] **When** a request for compassionate release of an inmate is made.....

5. Page 7 (Line 11 through Page 8 Line 4) – (c) Delete entire subparagraph.

The department should make all compassionate release recommendations to the Hawaii paroling authority. It is the department that is solely responsible for the custody and care of the inmate and the department's medical doctors are the primary care physicians of the inmate.

6. Page 8 (Line 8 through Line 9) – (e) The Hawaii paroling authority shall conduct a hearing on all requests **received from the director of the department of public safety** for compassionate release. The hearing shall be held within [~~fifteen~~] **thirty** days of receiving a compassionate release report from the department of public safety.

The Hawaii paroling authority is required by HRS §706-670 and HAR §23-700-31 to provide the department of public safety, the department of the prosecuting attorney, the victim(s) and/or the victim(s) surviving family member(s), the inmate and the inmate's attorney with reasonable written notice prior to conducting a hearing to consider reducing the minimum term of an inmate or to consider an inmate for release on parole. Given the workload of the authority and the requirement to provide written notice to concerned parties, as written, the fifteen day hearing requirement is neither feasible nor practical.

The HPA believes the recommended amendments to this measure addresses needed technical changes while simultaneously clarifies the affected areas.

Thank you for this opportunity to provide testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454 / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Tuesday, February 21, 2012

2:45 p.m.

Room 224

STRONG SUPPORT SB 2248 with new SD2 - COMPASSIONATE RELEASE

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars, always mindful that almost 1,800 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SD 2248 requires the Hawaii paroling authority to establish a compassionate release program for inmates who are permanently and totally disabled, terminally ill, or have a serious debilitating and irreversible mental or physical condition, and pose no public safety risk.

Community Alliance on Prisons is in strong support of compassionate release as is the medical community, research organizations, and the Bureau of Justice. We are respectfully asking that the SD2 version of the bill emerge from this committee as a drafting error was made in the SD1. The version that the HMS/HTH committees voted on was not the SD1 version, but the one in the SD2. We have spoken with the Chair of Human Services who has agreed to fix the mistake with an SD2.

Community Alliance on Prisons, therefore, respectfully asks the committee to pass the SD2 version of this measure.

The Annals of Internal Medicine¹

"Compassionate release consists of two entwined but distinct elements: eligibility (based on medical evidence) and approval (based on legal and correctional evidence) (4). We argue that the medical eligibility criteria of many compassionate-release guidelines are clinically flawed because of their reliance on the inexact science of prognostication, and additional procedural barriers may further limit rational application. Given that early release is politically and socially charged and that eligibility is based largely on medical evidence, it is critical that such medical evaluation be based upon the best

¹ Balancing Punishment and Compassion for Seriously Ill Prisoners. Brie A. Williams, MD; Rebecca L. Sudore, MD; Robert Greifinger, MD; and R. Sean Morrison, MD
<http://www.annals.org/content/early/2011/05/31/0003-4819-155-2-201107190-00348.full>

possible scientific evidence and that the medical profession help minimize medical-related procedural barriers.”

Human Rights Watch²

“Life in prison can challenge anyone, but it can be particularly hard for people whose bodies and minds are being whittled away by age. Prisons in the United States contain an ever growing number of aging men and women who cannot readily climb stairs, haul themselves to the top bunk, or walk long distances to meals or the pill line; whose old bones suffer from thin mattresses and winter’s cold; who need wheelchairs, walkers, canes, portable oxygen, and hearing aids; who cannot get dressed, go to the bathroom, or bathe without help; and who are incontinent, forgetful, suffering chronic illnesses, extremely ill, and dying.”

Bureau of Justice Statistics³

The Bureau of Justice Statistics reports found that between 1995 and 2010, the number of state and federal prisoners age 55 or older nearly quadrupled (increasing 282 percent), while the number of all prisoners grew by less than half (increasing 42 percent). There are now 124,400 prisoners age 55 or older.

Our prisons and those with whom we contract are not equipped to handle this aging or ill population. We know of cases where inmates have been denied wheelchairs and have had to crawl to receive medication. This is absolutely inhumane and should be intolerable.

The California prison system recently opened a prison hospice in Vacaville because of the number of aging and chronically ill incarcerated individuals serving sentences. This is part of the reason that their prison health care system was under consent decree from the federal government.

National Public Radio⁴

A January 30, 2012 public radio story reported in a story entitled, “End To California Prison Healthcare Receivership In Works”

“SACRAMENTO, Calif. (AP) — The court-appointed receiver overseeing California's prison health care system said Friday **the state must keep its promise to spend more than \$2 billion for new medical facilities before the federal courts can end an oversight role that has lasted six years.**

California has committed to spending \$750 million to upgrade existing medical facilities, building a new medical center and converting juvenile lockups. So far, only the new medical center in Stockton is being built. ...”

Department of Public Safety Compassionate Release Statistics⁵

37 Compassionate Releases Recommended
22 Compassionate Releases Approved
14 Actual Compassionate Releases

² OLD BEHIND BARS The Aging Prison Population in the United States, January 2012, http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf

³ Bureau of Justice Statistics, Prisoner Series, 1995-2010. Based on number of sentenced prisoners under jurisdiction of federal and state correctional authorities with sentences of more than one year.

⁴ “End To California Prison Healthcare Receivership In Works”

<http://www.capradio.org/articles/2012/01/30/end-to-california-prison-healthcare-receivership-in-works>

⁵ Department of Public Safety 2009 -2011 Compassionate Release Statistics

Community Alliance on Prisons sees compassionate release for chronically ill or geriatric individuals as something that should happen before they are on life-support. We have heard many heart-breaking stories about the treatment some terminally ill individuals have received in our prison infirmaries.

We have also been told that there are some elderly inmates in one of our prisons who have been paroled yet are still incarcerated because they have nowhere else to go since their families are all deceased and there are no community facilities willing to take them.

Community Alliance on Prisons respectfully asks the committee to pass the SD2 version, the correct draft that was passed out of the HMS/HTH committee.

Mahalo for this opportunity to testify.



DAPHNE E. BARBEE

ATTORNEY AT LAW

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TESTIMONY IN SUPPORT OF SB 2248/ SD2, COMPASSIONATE RELEASE

COMMITTEE ON PUBLIC SAFETY:

Sen. Will Espero, Chair

Sen. Michele Kidani, Vice Chair

Tuesday Feb. 21, 2012

2:45 PM., Room 224

Dear Chair and Vice Chair and Committee Members:

My name is Daphne Barbee-Wooten and I am an attorney in private practice in Hawaii. I very much support compassionate release of inmates who are disabled, permanently infirmed and have a debilitating illness or disease. SD2 seeks to streamline and define the conditions for compassionate release, which is much needed in Hawaii. Other State's have compassionate release for ill and disabled and elderly inmates and have successfully used the releases. See attached news articles. However, unchecked discretion to the Hawaii Paroling Authority, inability to appeal and to obtain an independent medical exam are a concern. I urge you to add provisions allowing an appeal and ability for an independent medical exam. If an inmate's request for compassionate release is denied, there should be an explanation and an ability to appeal or reconsider.

I am familiar with inmates who are suffering serious debilitating illnesses requiring dialysis and chemotherapy who are at Halawa Correctional Facility. I also know of inmates from Hawaii who are suffering serious illnesses such as cancer at Saguaro Correctional Facility. I also am aware of inmates who are elderly. Inmates are disabled in wheelchairs, bedridden and unable to care for themselves without medications, injections of insulin, chemotherapy and other forms of life sustaining medical needs.

There are no checks and balances, as it leaves the decision to persons who may not have medical knowledge about the illness and how debilitating it is on the inmate. For example, how many lay persons know the affect dialysis has on the body or chemotherapy. Doctors specialize in various medical conditions. There is nothing in this bill that states a doctor who specializes in the specific disease or medical condition should be consulted. An inmate should be able to select a physician of their choosing as an Independent Medical Examiner if the DPS Doctor opines that the medical condition is not debilitating. Please add provisions for an independent medical exam and appeal process for inmates who apply for compassionate release in this bill. Thank you.


Daphne Barbee-Wooten

COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, & MILITARY
AFFAIRS

Honorable Sen. Will Espero, Chair
Honorable Sen. Michelle Kidani, Vice Chair
Tuesday, February 21, 2012
2:45 p.m.
Room 224

STRONG SUPPORT SB 2248 with new SD2 - COMPASSIONATE RELEASE

I STRONGLY SUPPORT this measure for the parole office to provide compassionate release for seriously ill and incapacitated incarcerated people who are no risk to the community.

This is a common sense measure that benefits not only the ill imprisoned people that the prisons are not capable of caring for, but it should also help decrease our alarmingly high annual prisons and corrections budgets. Corrections funds would clearly be better spent on education and criminal desistance efforts instead of keeping ill and incapacitated people locked up.

I have worked in the Hawai'i justice system for over 30 years and have done research on programs promoting criminal desistance, victim advocacy, and violence prevention. I have worked with imprisoned people, their families, prison staff, and the courts. As a deputy attorney general I also represented the state in civil claims and criminal fraud prosecutions. Later I worked as a court appointed criminal defense attorney in family court. All of my experience informs my support for this measure. Please see www.lorennwalker.com for more information on my research and work.

Please vote for this measure to allow the release of incapacitated and ill imprisoned people. It is the humane and reasonable approach to a sad problem.

Robert K. Merce
2467 Aha Aina Place
Honolulu, Hawai'i 96821
February 1, 2012

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS,
AND MILITARY AFFAIRS**

Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair
Tuesday, February 21, 2012
Conference Room 224
2:45 p.m.
HB2248 SD1

SUPPORT WITH AMENDMENTS

Dear Chair Espero, Vice Chair Kidani, and Committee Members:

My name is Robert Merce. I practiced law in Hawai'i for over 20 years before retiring in 2007. Last year I worked as a volunteer on a case in which the Native Hawaiian Legal Corporation obtained compassionate release for a 67-year old Hawaiian man who was suffering from a terminal liver disease. The process took almost six months (from May 12, 2011 to October 28, 2011). During that process I learned, among other things, that many of the most basic compassionate release issues – such as **who** can initiate a compassionate request, **how** is it initiated, **when** it can be initiated, and **to whom** a request submitted - are not covered by Department of Public Safety (DPS) policies or Hawaii Paroling Authority's (HPA) rules.

I also learned that when DPS and HPA had policies on the same subject, the policies were often at odds with one other and that the DPS often approached compassionate release from a totally different perspective than the Paroling Authority.

It was a dysfunctional process. Prison doctors, DPS employees, and HPA administrators were pretty much free to do whatever they wanted because they were not operating under clearly defined rules or regulations. The process was not transparent and could easily be abused, stalled, or manipulated by prison officials.

When our client was finally released I resolved that I would do all I could to have the compassionate release policy clarified by statute, and I subsequently drafted a bill that addressed the problems that I had encountered. A copy of that bill is attached. It was earlier provided to the Senate Committee on Health and the Senate Committee on Human Services which intended for it to serve SD1 to SB2248, but there was an error in drafting and the wrong bill became SD1.

On Sunday morning, February 19, I received an email from Senator Suzanne Chun-Oakland confirming that it was the intention of the committees to include the bill that I submitted – the one that I am today forwarding to you today - as SD1. I hope you will concur with the

recommendation of the Senate Committee on Health and the Senate Committee on Human Services and pass the attached bill (2-5-12 draft comp. rel. bill.pfd) as SD2.

Let me highlight a few of the most important provisions of the bill:

1. In May 2011 a distinguished group of physicians co-authored an article on compassionate release that was published in the prestigious *Annals of Internal Medicine*, the journal of the American College of Physicians¹. It was the first time in many years that the subject was treated in-depth from the perspective of the medical-legal community. After reviewing the available literature, examining state and federal compassionate release laws, and acknowledging the failure of almost all of the presently existing laws to function in a manner that serves the interest of society or prisoners, the authors made several key recommendations:

1. Compassionate release procedures should be evidence based;
2. There should be a completely transparent compassionate release process
3. An advocate should be appointed to help inmates navigate the process and represent incapacitated prisoners;
4. There should be a "fast-track" option for the evaluation of rapidly dying prisoners; and
5. There should be a well-described and well-disseminated application procedure.

The bill I am submitting incorporates all of the foregoing recommendations.

2. The bill I am submitting has a process by which the Department of Public Safety evaluates all compassionate release requests and makes a written recommendation to the Hawai'i Paroling Authority. The Authority then decides whether or not the inmate should be released. The HPA makes its decision after a hearing in which the inmate has an opportunity to challenge the Department's recommendations if he chooses and to present evidence of his own. This ensures that the process is completely transparent and fair and that all sides are heard and all relevant evidence is considered.

3. The process in the bill that I am submitting asks physicians to determine whether an inmate meets the *medical* criteria for compassionate release and for DPS officials to determine whether the inmate *poses a danger to society*. Health and safety are evaluated separately by the professionals who have the knowledge and training to make the evaluation. If an inmate meets the **medical criteria** for release, he would be evaluated separately and independently to determine whether he poses a risk to public safety. If he poses a risk to public safety he would not be released, irrespective of his medical condition.

¹ BA Williams, RL Sudore, R Greifinger, and RS Morrison. Balancing Punishment and Compassion for Seriously Ill Prisoners. *Ann Intern Med.* 2011;155:122-126.

I believe that the bill I am forwarding to you - and that the Senate Health and Human Services Committees intended as SD1 - provides a fair and open process for terminally ill prisoners and prisoners with debilitating and irreversible conditions to be compassionately released while at the same time protecting the public from an unreasonable risk of harm.

Thank you for allowing me to testify.

Robert K. Merce

DRAFT

TWENTY-SEVENTH LEGISLATURE, 2012
STATE OF HAWAI'I

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I

SECTION 1. An ever increasing number of men and women are entering prison with serious medical illnesses, and many of those in custody are at increasing risk of developing a serious illness or disability due to the long terms of incarceration that are being imposed through mandatory minimum sentencing. Longer sentences and an aging population mean that correctional facilities in Hawai'i and across the United States are housing a growing number of elderly inmates who often have extensive and costly medical needs that are driving up the cost of incarceration. Concern over how society should deal with the aging and seriously ill prison population has led policy makers in many states to endorse early release for older and seriously ill prisoners who pose a low risk to public safety. As of 2009, the U.S. Federal Prison System and 39 states had laws governing medical or compassionate release.

Compassionate release programs function on 2 premises: It is ethically and legally justifiable to release a subset of prisoners with life-limiting illnesses, and the financial costs to society of continuing to incarcerate such persons outweigh the benefits.

Compassionate release provides physicians and other medical professionals with an opportunity to use their unique expertise and knowledge of prognosis, geriatrics, cognitive and functional decline, and palliative medicine to ensure that medical criteria for compassionate release are appropriately evidence-based. Using this medical foundation, criminal justice professionals can balance the need for punishment with an eligible individual's appropriateness for release.

Compassion is an integral part of the Aloha spirit. The purpose of this Act is to create a medical or “compassionate” release program for the State’s ill, disabled, and geriatric inmates who pose a low risk to public safety.

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

“ A. GENERAL PROVISIONS”

SECTION 3. Chapter 353, Hawai`i Revised Statutes, is amended by adding a new subpart to part II to be appropriately designated and to read:

“. MEDICAL RELEASE OF ILL AND ELDERLY INMATES

§353-A Definitions. For the purpose of this subpart, unless the context clearly requires otherwise:

“Continuity of care” means an integrated system that ensures that a patient’s medical needs are met as the patient transitions from one health care provider to another, from one setting to another, and from one level of care to another.

“Inmate” means any person sentenced to the custody of the Department of Public Safety.

“Medical release” means the release of an inmate before the expiration of his or her sentence due to the patient’s medical condition.

“Medical release plan” means a comprehensive written medical and psychosocial care plan that is specific to the inmate and includes, at a minimum:

- (1) A recommended course of treatment for the inmate; and
- (2) A plan to provide continuity of care as the inmate transitions from prison to the community.

“Paroling Authority” means the Hawai`i Paroling Authority.

“Reasonable medical probability” means that a medical outcome is more likely to occur than to not occur.

§353-B Medical release program; authority to release; rules. (a) An inmate in the custody of the Department of Public Safety shall be eligible to be considered for medical release if the inmate:

(1) Has an illness, disease, or medical condition with a prognosis to a reasonable medical probability that death will occur within 1 year; or

(2) Has a seriously debilitating and irreversible mental or physical condition that impairs the inmate’s functional ability and that can be managed more appropriately in a community setting; or

(3) Suffers from a serious, debilitating and irreversible physical or mental condition related to aging that impairs the inmate’s functional ability and is expected to require costly or complex care, treatment, or management.

(b) All requests for medical release shall be in writing and shall be made to the Hawaii Paroling Authority. Requests may be made by the Director of the Department of Public Safety or by an inmate or an inmate’s representative.

(c) If a request is made by the Department of Public Safety it shall contain the following information:

(1) A report from a Department of Public Safety physician stating whether or not the inmate meets the criteria for medical release and the basis for the physician’s opinion. The report shall state each diagnosis that applies to the inmate and the prognosis for each condition to a reasonable medical probability. Where practicable the physician shall discuss the results of any tests, studies or physical findings that support the diagnosis and prognosis and the nature and extent of the medical treatment that will most likely be required to manage the inmate’s condition in prison within the standard of care. Where appropriate, the physician shall provide citations to relevant medical literature.

(2) A report on the risk for violence and recidivism, if any, that the inmate poses to society in light of such factors as the inmate's medical condition, the severity of the offense for which the inmate is incarcerated, the inmate's prison record, and the medical release plan, if any.

(3) A statement as to whether or not the Department recommends medical release for the inmate and the reasons therefore; and

(4) A medical release plan that provides for continuity of care if the inmate meets the criteria for medical release.

(d) If a request is made by an inmate or his representative it shall state the grounds for the requested release and shall contain a statement as to where the inmate will reside if released, who will care for the inmate, and how the inmate plans to obtain medical care.

All requests initiated by an inmate shall be referred to the Department of Public Safety immediately. Within 20 days of receiving such a request the Department of Public Safety shall submit a report to the Paroling Authority containing the information in sub paragraphs (1)-(3) of §353-B)(c) above. If the Director recommends release, the report shall also contain a medical release plan. The Department of Public Safety shall provide the inmate with a copy of the report it submits to the Hawai'i Paroling Authority.

(e) The Hawaii Paroling Authority shall conduct a hearing on all requests for medical release. The hearing shall be held within 5 days of receiving a medical release report from the Department of Public Safety. The inmate and the inmate's representative shall be permitted to participate in the hearing and submit medical and other evidence in support of the request. The Authority shall independently determine whether the inmate meets the criteria for medical release and shall independently assess the risk for violence and recidivism, if any, that the inmate poses to society. The Paroling Authority shall also provide the victim or victims of the inmate or the victim's or victims' family or families with the opportunity to be heard. The Authority shall not release any inmate who poses a danger to society. The Authority shall grant or deny the request within 2 days of the hearing.

(f) A denial of medical release by the Paroling Authority shall not affect an inmate's eligibility for any other form of parole or release under applicable law.

(g) If the paroling authority denies medical release under this subpart, the inmate may not reapply or be reconsidered unless there is a demonstrated change in the inmate's medical condition.

(h) The Director of the Department of Public Safety shall appoint an advocate for any inmate who requests compassionate release and is too incapacitated or debilitated to advocate for himself or herself.

(i) The Department of Public Safety and the Hawaii Paroling Authority shall adopt rules for a fast track procedure for the evaluation and release of rapidly dying prisoners;

(j) All rules, regulations and procedures pertaining to compassionate release shall be published on the websites of the Department of Public Safety and Hawaii Paroling Authority;

(k) The Hawaii Paroling Authority and the Department of Public Safety shall adopt rules in accordance with chapter 91 to implement the medical release program.

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

(1) The released inmate shall be subject to supervision by the paroling authority and shall permit officers from the paroling authority to visit the inmate at reasonable times at the inmate's home or elsewhere; and

(2) The released inmate shall comply with all conditions of release set by the paroling authority.

(b) The paroling authority shall promptly order an inmate returned to custody of the department to await a revocation hearing if the paroling authority receives credible information that an inmate has failed to comply with any reasonable condition set upon the inmate's release. If the paroling authority subsequently revokes an inmate's medical release for failure to comply with conditions of release, the inmate shall resume serving the balance of the sentence, with credit given only for the duration of the inmate's medical release served in compliance with all reasonable conditions set forth pursuant to subsection (a). Revocation of an inmate's medical

release for violating a condition of release shall not affect an inmate's eligibility for any other form of parole or release provided by law but may be used as a factor in determining eligibility for such parole or release.

From: J. Knight [foodandwine@psahawaii.com]
Sent: Monday, February 20, 2012 6:02 PM
To: PGM Testimony
Subject: I Support SD2 version of SB 2248 (Compassionate Release Bill)

To Whom It May Concern:

I am writing in support of the Compassionate Release Bill - SB 2248 with SD2. My father is 60 years old, and serving a life sentence at Saguaro. He often complains about the poor -- and sometimes lack of -- medical treatment he receives there. Fortunately he's in fairly good health right now, but I worry about him and other inmates of his generation, who will need greater medical attention as they age. Based on what he tells me, the facility seems unable or unwilling to provide adequate levels of medical care. I strongly urge the legislature to support this bill, as it's passage could mean the difference between life and death for my father, and others.

Please pass the SD2 version of this bill in the interest of compassion.

Sincerely,

Jason Knight

Aiea, Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 18, 2012 7:16 PM
To: PGM Testimony
Cc: shannonkona@gmail.com
Subject: Testimony for SB2248 on 2/21/2012 2:45:00 PM

Testimony for PGM 2/21/2012 2:45:00 PM SB2248

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Shannon Rudolph
Organization: Individual
E-mail: shannonkona@gmail.com
Submitted on: 2/18/2012

Comments:
SD2

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 17, 2012 5:57 PM
To: PGM Testimony
Cc: Walkman10@verizon.net
Subject: Testimony for SB2248 on 2/21/2012 2:45:00 PM

Testimony for PGM 2/21/2012 2:45:00 PM SB2248

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Ken Brandt
Organization: Individual
E-mail: Walkman10@verizon.net
Submitted on: 2/17/2012

Comments:

It is a good idea to release people who are sick and pose no danger to society.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 19, 2012 2:13 PM
To: PGM Testimony
Cc: maukalani78@hotmail.com
Subject: Testimony for SB2248 on 2/21/2012 2:45:00 PM

Testimony for PGM 2/21/2012 2:45:00 PM SB2248

Conference room: 224
Testifier position: Support
Testifier will be present: Yes
Submitted by: elaine funakoshi
Organization: Individual
E-mail: maukalani78@hotmail.com
Submitted on: 2/19/2012

Comments:
Chair Espero, Vice Chair Kidani, and Members of the Committee:

I support SD2 version of SB2248, Relating to Public Safety.

As the general public is aging, so are those incarcerated at a greater rate; and like so many of us, some not so gracefully and are in need of medical help beyond what the prisons can offer. Others have just reached a point in their lives where they need to be among family members to spend time with before they leave this planet.

Most of us have aging parents and many of us give up working to care for them. If they were incarcerated, we cannot give them the care that every human being deserve.

Thank you for the opportunity to provide my support for SB 2248, SD2.