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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1           SECTION 1. An ever increasing number of men and women are  
2 entering prison with serious medical illnesses, and many face  
3 the risk of developing a serious illness or disability,  
4 particularly prisoners with long mandatory sentences. Long  
5 sentences and an aging population mean that correctional  
6 facilities in this State and across the United States are  
7 housing a growing number of elderly inmates who often have  
8 extensive medical needs. Concern over how society should deal  
9 with the aging and seriously ill prison population has led  
10 policy makers in many states to endorse early release for older  
11 and seriously ill prisoners who pose a low risk to public  
12 safety. Presently, the United States federal prison system and  
13 many states grant some kind of medical or compassionate release.

14           Compassionate release provides physicians and other medical  
15 professionals an opportunity to use their unique expertise and  
16 knowledge of prognosis, geriatrics, cognitive and functional  
17 decline, and palliative medicine to ensure that medical criteria  
18 for compassionate release are appropriately evidence-based.



1 With this information, criminal justice professionals are able  
2 to better determine whether or not an inmate should be granted  
3 medical release.

4 Compassion is an integral part of the aloha spirit. The  
5 purpose of this Act is to create a three-year medical or  
6 compassionate release pilot project for certain ill, disabled,  
7 or geriatric inmates who pose a low risk to public safety.

8 SECTION 2. (a) The department of public safety shall  
9 implement a three-year medical release pilot project for certain  
10 ill, disabled, or geriatric inmates who pose a low risk to  
11 public safety.

12 (b) The department of public safety shall assess and refer  
13 inmates to the Hawaii paroling authority for possible medical  
14 release as provided in this Act.

15 (c) An inmate may be considered for medical release if the  
16 inmate:

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

20 (2) Has a seriously debilitating and irreversible mental  
21 or physical condition that impairs the inmate's



1 functional ability and that can be managed more  
2 appropriately in a community setting; or  
3 (3) Suffers from a serious, debilitating, and irreversible  
4 physical or mental condition related to aging that  
5 impairs the inmate's functional ability and is  
6 expected to require complex care, treatment, or  
7 management.

8 (d) All requests for medical release shall be in writing  
9 and shall be made to the paroling authority. Requests may be  
10 made by the director, an inmate, or an inmate's representative.

11 (e) If a request for medical release is made by the  
12 director, the request shall contain the following information:

13 (1) A report from a department physician stating that the  
14 inmate meets the criteria for medical release and the  
15 basis for the physician's opinion; provided that the  
16 report shall state each diagnosis that applies to the  
17 inmate and the prognosis for each condition to a  
18 reasonable medical probability; and provided further  
19 that where practicable, the physician shall discuss  
20 the results of any tests, studies, or physical  
21 findings that support the diagnosis and prognosis, and  
22 the nature and extent of the medical treatment that



1 will most likely be required to manage the inmate's  
2 condition while incarcerated within the standard of  
3 care. Where appropriate, the physician shall provide  
4 citations to relevant medical literature;

5 (2) A written evaluation prepared by the director on the  
6 risk for violence and recidivism, if any, that the  
7 inmate poses to society in light of factors such as  
8 the inmate's medical condition, the severity of the  
9 offense for which the inmate is incarcerated, the  
10 inmate's prison record, and the medical release plan;  
11 and

12 (3) A medical release plan that provides for continuity of  
13 care.

14 The department shall provide the inmate with a copy of the  
15 director's medical release request.

16 (f) If a request for medical release is made by an inmate  
17 or an inmate's representative, the request shall state the  
18 grounds for the requested release and shall contain a statement  
19 as to where the inmate will reside if released, who will care  
20 for the inmate, and how the inmate plans to obtain medical care.

21 All requests initiated by an inmate shall be referred to  
22 the director immediately. Within twenty days of receiving the



1 request, the department shall submit a medical release report to  
2 the paroling authority containing the information required in  
3 subsection (e). The department shall provide the inmate with a  
4 copy of the medical release report.

5 (g) The paroling authority shall conduct a hearing on all  
6 requests for medical release. The hearing shall be held within  
7 ten days of receiving a medical release report from the  
8 department. The inmate and the inmate's representative shall be  
9 permitted to participate in the hearing and may submit medical  
10 and other evidence in support of the request. The paroling  
11 authority shall independently determine whether the inmate meets  
12 the criteria for medical release and shall independently assess  
13 the risk for violence and recidivism, if any, that the inmate  
14 poses to society. The paroling authority shall also provide the  
15 victim of the criminal act for which the inmate was sentenced,  
16 or the victim's family, with the opportunity to be heard. The  
17 paroling authority shall grant or deny the request within two  
18 days following the hearing.

19 (h) The paroling authority shall not grant medical release  
20 to an inmate who poses a danger to society.

21 (i) A denial of medical release by the paroling authority  
22 shall not affect an inmate's eligibility for any other form of



1 parole or release under applicable law; provided that the inmate  
2 may not reapply or be reconsidered for medical release unless  
3 there is a demonstrated change in the inmate's medical  
4 condition.

5 (j) The director shall appoint an advocate for any inmate  
6 who requests medical release and is unable because of  
7 incapacitation or debilitation to advocate on the inmate's own  
8 behalf.

9 (k) The department shall adopt a fast track procedure for  
10 the evaluation and release of rapidly dying prisoners; provided  
11 that the procedure shall be posted on the website of the  
12 department and the paroling authority.

13 (l) Medical release shall not be considered a reduction of  
14 a minimum sentence and the sixty-day notice requirement of  
15 section 706-669(5), Hawaii Revised Statutes, shall not apply to  
16 any medical release; provided, however, that the department  
17 shall give the prosecuting attorney of the appropriate county  
18 notice of all requests for medical release as soon as  
19 practicable after a request is initiated, and the prosecuting  
20 attorney shall be permitted to participate in any medical  
21 release hearing conducted by the paroling authority.



1 (m) The paroling authority shall set reasonable conditions  
2 on an inmate's medical release that shall apply through the date  
3 upon which the inmate's sentence would have expired. The  
4 conditions shall include the following:

5 (1) The released inmate shall be subject to supervision by  
6 the paroling authority;

7 (2) Personnel of the department shall be allowed to visit  
8 the inmate at reasonable times at the inmate's home or  
9 elsewhere; and

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

12 (n) The paroling authority shall promptly order an inmate  
13 to be returned to the custody of the director to await a  
14 revocation hearing if the paroling authority receives credible  
15 information that an inmate has failed to comply with any  
16 reasonable condition set upon the inmate's medical release.

17 (o) If the paroling authority revokes an inmate's medical  
18 release for failure to comply with a condition of release, the  
19 inmate shall resume serving the remaining balance of the  
20 inmate's sentence, with credit given only for the duration of  
21 the inmate's medical release served in compliance with all  
22 reasonable conditions. Revocation of an inmate's medical



1 release for violating a condition of release shall not affect an  
2 inmate's eligibility for any other form of parole or release  
3 provided by law; provided that revocation of an inmate's medical  
4 release may be used as a factor in determining eligibility for  
5 future parole or release.

6 (p) The department shall adopt rules pursuant to chapter  
7 91, Hawaii Revised Statutes, to implement the medical release  
8 pilot program.

9 (q) For the purpose of this Act:

10 "Continuity of care" means an integrated system that  
11 ensures that a patient's medical needs are met as the patient  
12 transitions from one health care provider to another, from one  
13 setting to another, and from one level of care to another.

14 "Department" means the department of public safety.

15 "Director" means the director of public safety.

16 "Inmate" means any person committed to the custody of the  
17 director.

18 "Medical release" means the release of an inmate before the  
19 expiration of the inmate's sentence due to the inmate's medical  
20 condition.





1 "Medical release plan" means a comprehensive, written  
2 medical and psychosocial care plan that is specific to the  
3 inmate and that shall include, at a minimum:

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

7 "Paroling authority" means the Hawaii paroling authority.

8 "Reasonable medical probability" means that a medical  
9 outcome is more likely to occur than not to occur.

10 SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Corrections; Medical Release Pilot Project; Compassionate Release

**Description:**

Requires the department of public safety to establish a three-year medical release pilot project. Effective July 1, 2050.  
(HB255 HD1)

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

