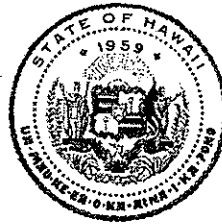


# **SB 72**

## **RELATING TO PUBLIC SAFETY.**

Requires the department of public safety to assess and refer inmates to the Hawaii paroling authority (HPA) for possible medical release. Allows an inmate to be considered for medical release at the request of the director, the inmate, or the inmate's representative, if the inmate meets specified criteria. Requires the HPA to grant or deny the request after a hearing, to set reasonable conditions on an inmate's medical release, and to promptly order an inmate returned to custody to await a revocation hearing if the HPA receives credible information that an inmate has failed to comply with any reasonable conditions of medical release.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

**TED SAKAI**  
INTERIM DIRECTOR

**MARTHA TORNEY**  
Deputy Director of  
Administration

Deputy Director  
Corrections

**KEITH KAMITA**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 72  
A BILL FOR AN ACT RELATING TO PUBLIC SAFETY

By  
Ted Sakai, Interim Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Tuesday, January 29, 2013, 2:50 p.m.  
State Capitol, Room 224

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

The Department of Public Safety (PSD) supports the intent of this bill, which will broaden the criteria that the Hawaii Paroling Authority (HPA) follows to provide medical releases for inmate/patients recommended by the Director.

The Department would like to request the Committee to provide a trial period in which recommendations from the inmates, or their representatives be considered. This will enable the Department to determine the additional administrative workload this recommendation process would generate. It is the Department's concern that its already scarce Physician resources will be bogged down in administrative medical release determinations versus attending to direct patient care.

The Department is also requesting to amend page 4, line 11 by deleting the words "costly or."

Thank you for the opportunity to testify on this bill.

**SB72**

Submitted on: 1/25/2013

Testimony for PSM on Jan 29, 2013 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
john tonaki	Public Defender	Support	No

**Testimony of the Office of the Public Defender  
State of Hawaii  
to the Senate Committee on Public Safety, Intergovernmental and Military Affairs**

January 29, 2013

S.B. No. 72:           RELATING TO PUBLIC SAFETY

Chair Espero and Members of the Committee:

We support passage of S.B. No. 72. This measure establishes a long-needed procedure for a state prison inmate to obtain medical release from his/her sentence. Because of increased punishments and the establishments of mandatory prison terms, the prison population in Hawaii faces the problem of prisoners of an advanced age. With age, many of these prisoners begin to suffer debilitating medical conditions which cannot be adequately treated in our prison system.

H.B. No. 72 builds on a system that is already in place in which primary responsibility for initiating "compassionate" release rests with the Department of Public Safety ("DPS") medical personnel but allows for an appeal process if an inmate believes that DPS has made a mistake. The appeal process is essential because mistakes are inevitable and an appeal provides a mechanism for correcting them.

We believe that the eligibility criteria for medical release are reasonable and clearly stated and that the bill specifies reasonable time limits for processing requests from inmates. Inmates who are granted medical release are not free and clear from their sentences, but are released *on parole*. They would have a parole officer, and the Paroling Authority may set conditions on their release. Like any other parolee, they can be returned to prison immediately if they violate the terms of their parole.

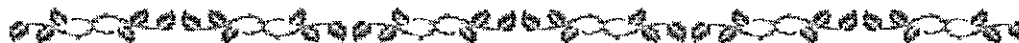
H.B. No. 72 would allow the state to deal with an inmate stricken with a serious illness in a humane manner. Moreover, such an inmate could receive appropriate care from his or her family and friends and thereby save the government the burden of providing hospice or similar types of care to that inmate.

Thank for the opportunity to comment on this measure.

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

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## COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Rosalyn Baker, Vice Chair

Tuesday, January 29, 2013

2:50 p.m.

Room 224

## SUPPORT FOR SB 72 - COMPASSIONATE RELEASE

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

My name is Kat Brady and I am the Coordinator of 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 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 Hawai'i 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.

SB 72 requires the department of public safety to assess and refer inmates to the Hawaii paroling authority (HPA) for possible medical release. Allows an inmate to be considered for medical release at the request of the director, the inmate, or the inmate's representative, if the inmate meets specified criteria. Requires the HPA to grant or deny the request after a hearing, to set reasonable conditions on an inmate's medical release, and to promptly order an inmate returned to custody to await a revocation hearing if the HPA receives credible information that an inmate has failed to comply with any reasonable conditions of medical release.

Community Alliance on Prisons is in strong support of compassionate release as is the medical community, research organizations, and the Bureau of Justice.

## The Annals of Internal Medicine<sup>1</sup>

"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

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<sup>1</sup> 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>

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

#### **Human Rights Watch<sup>2</sup>**

“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 Statistics<sup>3</sup>**

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 Radio<sup>4</sup>**

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

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<sup>2</sup> OLD BEHIND BARS The Aging Prison Population in the United States, January 2012, [http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf)

<sup>3</sup> 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.

<sup>4</sup> “End To California Prison Healthcare Receivership In Works”

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

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. ..."

On January 8, 2013, Governor Brown issued a statement that California's Prison Health Care System was a model. A recent statement from the court-appointed receiver, however, has asked the federal government to maintain their oversight because he does not feel confident that the state is ready to be released.

However, a recent story in the LA Times<sup>5</sup> reports:

"The overseer of California's prison healthcare said Friday that Gov. Jerry Brown's claim he supports California's contention that prison crowding no longer is a problem is untrue, and "distorts" and "misrepresents" his true position.

J. Clark Kelso's lengthy status report, filed Friday before a federal judge in San Francisco, gives California credit for continued improvements to its troubled prison system. However, Kelso concludes with a sharp rebuke to Brown's declaration earlier in the month that California is ready to shed federal oversight.

"The State attempts to cite our recognition of the State's prior compliance with Court orders and our silence regarding particular problems caused by overcrowding as an endorsement of the State's position that further compliance with the overcrowding order is unnecessary," Kelso wrote. "That distorts the content of our reports and misrepresents the Receiver's position."

## 2013 LA Times

A compelling story in Mother Jones<sup>6</sup> magazine reports:

...Keeping thousands of old men locked away might make sense to die-hards seeking maximum retribution or politicians seeking political cover, but it has little effect on public safety. By age 50, people are far less likely to commit serious crimes. "Arrest rates drop to 2 percent," explains Hood, the retired federal warden. "They are almost nil at the age of 65." The arrest rate for 16-to-19-year-olds, by contrast, runs around 12 percent. ...

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<sup>5</sup> Federal receiver says California prison claim "distorts" his position, Los Angeles Times, Paige St. John, January 25, 2013. <http://latimesblogs.latimes.com/california-politics/2013/01/federal-receiver-says-california-prison-claim-distorts-his-position-ff-.html>

<sup>6</sup> *The Other Death Sentence More than 100,000 Americans are destined to spend their final years in prison. Can we afford it?*, by James Ridgeway. <http://www.motherjones.com/politics/2012/09/massachusetts-elderly-prisoners-cost-compassionate-release>

**Department of Public Safety Compassionate Release Statistics 2009-2011<sup>7</sup>**

**37 Compassionate Releases Recommended**

**22 Compassionate Releases Approved**

**14 Actual Compassionate Releases**

We are not talking about a thousand sick and elderly individuals. We are talking about those who have the legitimate medical documentation to be considered for compassionate release.

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 SB 72. Elderly, sick and dying incarcerated people present little to no risk to the public. They will be on supervised parole.

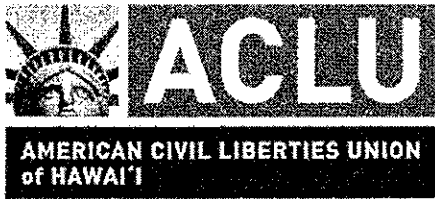
Let's not end up like California. Hawai'i needs to fix its health care system without federal oversight because it is the right, humane, and compassionate thing to do!

Mahalo for this opportunity to testify.

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<sup>7</sup> Department of Public Safety 2009 -2011 Compassionate Release Statistics





Committee: Committee on Public Safety, Intergovernmental and Military Affairs  
Hearing Date/Time: Tuesday, January 29, 2013, 2:50 pm  
Place: Conference Room 224  
Re: Testimony of the ACLU of Hawaii in Support to S.B. 72, Relating to Public Safety

Dear Chair Espero and Members of the Committee on Public Safety, Intergovernmental and Military Affairs:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support to S.B. 72, which seeks to requires the Department of Public Safety to assess and refer inmates to the Hawaii Paroling Authority for possible medical release.

This smart and compassionate program could provide relief to a prison system dealing with an increasingly older population subject to more medical issues and higher treatment costs, **Releasing those inmates who are found to be no-risk to public safety could save the state millions of dollars in health care costs, relieve prison overcrowding, and offer a more dignified and more humane death to those who would otherwise die in prison.**

The government has a responsibility to provide adequate medical care to prisoners in their custody. With limited access to the outside world, prisoners are sometimes denied the medical attention they need. Too often, conditions of confinement can exacerbate existing mental illness or have negative psychological effects on prisoners without mental illness. Prisoners must receive adequate mental health care to ensure that they don't leave the corrections system worse off than when they entered.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawai'i

*The ACLU of Hawaii has been the state's guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The*

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522.5900  
F: 808.522.5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

Chair Espero and Members Thereof

January 23, 2013

Page 2 of 2

*ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.*

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
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Robert K. Merce  
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Honolulu, Hawai'i 96821

Phone: (808) 732-7430  
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January 28, 2013

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS**

Senator Will Espero, Chair  
Senator Rosalyn Baker, Vice Chair  
Tuesday, January 29, 2013  
Conference Room 224  
2:50 PM

**STRONG SUPPORT FOR SB 72 – COMPASSIONATE RELEASE**

Dear Chair Espero, Vice Chair Baker, and committee members:

My name is Robert Merce. I practiced law in Hawai'i for over 25 years before retiring in 2007. Shortly after retiring I joined the board of directors of the Native Hawaiian Legal Corporation (NHLC) and in 2011 I worked closely with two NHLC attorneys to obtain compassionate release for a 67-year old Native Hawaiian man who had been in prison for 41 years and was suffering from end stage liver disease. The main thing I learned from that experience is that Hawai'i desperately needs a compassionate release statute. The patchwork of policies and rules that we have now are unclear, outdated, inefficient, and unworkable. We need a simple, clear statute that spells out exactly what compassionate release is and how it works. SB 72 does that and I strongly support it.

The Problem in brief. Three decades of "get tough" sentencing policies characterized by long prison terms, mandatory minimum sentences, and restrictive parole have resulted in a significant increase in the number and proportion of older prison inmates.<sup>1</sup> Most of these older inmates will eventually develop permanent and debilitating physical or mental conditions such as

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<sup>1</sup> For more information on American's aging prison population see ACLU, *At America's Expense: The Mass Incarceration of the Elderly* (2012) online at <http://www.aclu.org/criminal-law-reform/americas-expense-mass-incarceration-elderly>; Carry Abner, *Graying Prisons, States Face Challenges of a Aging Prison Population*, Council of State Governments, State News, November-December 2006, online at <http://www.csg.org/knowledgecenter/docs/sn0611GrayingPrisons.pdf>; Human Rights Watch, *Old Behind Bars*, January 28, 2012, online at [http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf)

heart disease, liver disease, kidney disease, cancer, stroke, Alzheimer's disease or dementia. These conditions, and others like them, require extensive and costly specialized care that prisons were never designed to provide and that government cannot afford. As a society we are finally beginning to realize that keeping elderly, sick and dying inmates in prison does not make sense. It does not serve a legitimate penological interest and it is not compassionate, economical, or just.

SB 72 will help the state resolve some of the problems presented by profoundly ill and dying prisoners in our correctional system. There are several important provisions of the bill that I would like to highlight and briefly comment on:

1. One of the main problems with the current process is that the Department of Public Safety (DPS) has a policy that uses one set of criteria for compassionate release and the Hawaii Paroling Authority (HPA) has an administrative rule that uses an entirely different and conflicting criteria.<sup>2</sup> The conflict between the DPS policy and HPA rule, and the lack of clarity in both, guarantees confusion, delays, arbitrary decision making lack of transparency, and inconsistent outcomes. SB 72 fixes these problems by establishing a single set of criteria that applies to both DPS and HPA (page 3 lines 20-21).

2. The criteria for compassionate release that SB 72 establishes is clear and reasonable. (see page 4 lines 1-12). The physicians who will have to apply them should have no trouble doing so.

3. SB 72 expressly provides that the paroling authority "shall not grant medical release to an inmate who poses a danger to society." (page 7 lines 4-5). Potentially dangerous inmates will not be released no matter how sick they become.

4. SB 72 directs the HPA to impose appropriate conditions on all inmates who are granted compassionate release. Inmates will have a regular parole officer and will be under the supervision of the HPA at all times. If an inmate violates a condition of parole he may be sent back to prison to finish his sentence (page 8 lines 9-22 and page 9 lines 1-15).

5. Under SB 72, DPS continues to have primary responsibility for identifying inmates who qualify for compassionate release, and initiating the compassionate release process (page 4 lines 16-22, and page 5 lines 1-19). This is appropriate because DPS is

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<sup>2</sup> The Department of Public Safety's policy (COR.10.G.11) provides for compassionate release if a prisoner has: (1) An illness that by its nature can be expected to cause a patient to die within 1 year; or (2) A persistent illness or disease causing increasing physical weakness to the extent that the patient's quality of life is compromised and care could better be managed within the community. The Hawaii Paroling Authority's administrative rule on compassionate release (HAR §23-700-23(c)) states that the Paroling Authority may reduce an inmate's minimum term if the inmate has "a seriously debilitating medical condition for which treatment is not available in prison or a terminal disease wherein competent medical authorities indicate death is imminent."

responsible for the health of inmates and is in the best position to evaluate inmates and initiate compassionate release requests.

6. At present there are no time limits for processing compassionate release requests. The case I worked on with the NHLC lawyers took nearly six months to resolve (May 12 to October 28, 2011). SB 72 establishes reasonable time limits for processing compassionate release requests (page 6 lines 7-10, 13-15, and page 7 lines 1-3). Time limits are needed to avoid unreasonable delays.

7. In 2011 Dr. Brie Williams, a gerontologist at the University of California at San Francisco, and several colleagues made a detailed study of compassionate release at both the state and federal level and published their findings and recommendations in the prestigious *Annals of Internal Medicine*, the journal of the American College of Physicians.<sup>3</sup> SB 72 incorporates all of the key recommendations made by Dr. Williams and her colleagues including:

- (a) The use of evidence-based principles (see e.g. page 5 lines 2-10);
- (b) A transparent release process (see e.g. page 5 lines 20-21 which provides that a copy of the compassionate release report prepared by DPS must be given to the inmate);
- (c) Assignment of an advocate to help incapacitated prisoners navigate the compassionate release process (page 7 lines 12-15);
- (d) A fast track procedure for rapidly dying inmates (page 7 lines 16-17); and
- (e) A well-described and disseminated application procedure (page 7 lines 18-19).

In conclusion, SB 72 is an excellent bill. I fully support it and urge you to pass it without modification.

Thank you for allowing me to testify.

Robert K. Merce

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<sup>3</sup> Brie A. Williams, Rebecca L. Sudore, Robert Greifinger, and R. Sean Morrison, Balancing Punishment and Compassion For Seriously Ill Prisoners, *Ann Intern Med.* 2011 Jul 19; 155(2):122-6)

**SB72**

Submitted on: 1/28/2013

Testimony for PSM on Jan 29, 2013 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
elaine funakoshi	Individual	Support	No

Comments: Dear Chair Espero, Vice Chair Baker and Committee Members: I strongly support this bill One of Webster's definition of COMPASSIONATE is: granted because of unusual distressing circumstances affecting an individual. Yes. We have aged people who are harmless to society still incarcerated at our expense who should be released. There are also those terminally ill inmates who cannot stay alive until their request is approved. Right now, you have inmates with cancer who would love to live their remaining days at home with family and be able to say their farewells to friends. Can we, of the Aloha State, deny these fellow "ohana" members their request? We place them far away from families who cannot afford to pay the cost of plane fares to see them. Therefore, may I ask for your consideration of passage of this bill. Thank you for the opportunity to submit my testimony. Aloha, elaine funakoshi

**SB72**

Submitted on: 1/28/2013

Testimony for PSM on Jan 29, 2013 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Brie Williams	Individual	Support	No



**Brie Williams, MD, MS**  
Associate Professor of Medicine  
UCSF Division of Geriatrics, Department of Medicine

3333 California Street – Box 1265, Suite 380  
San Francisco, CA 94143-1265  
TEL: (415) 514-0720  
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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL  
AND MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Rosalyn H. Baker, Vice Chair

Tuesday, January 9, 2013

Conference Room 224

2:50 p.m.

SB 72

Strongly Support

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

**Introduction.** My name is Dr. Brie Williams. I am an Associate Professor at the University of California at San Francisco (UCSF) Medical School. My research and academic focus is on assessing and improving the health and functional status of older adults in the criminal justice system. I have studied compassionate release at both the state and federal level and have published on the subject in the *Annals of Internal Medicine*, the journal of the American College of Physicians. I strongly support SB 72.

**My Background.** I received my Doctor of Medicine degree and a Masters Degree in Community Medicine from Mount Sinai School of Medicine in New York. After completing my internship and residency in internal medicine at UCSF, I became a Clinician Educator in the Division of Internal Medicine. I subsequently did a fellowship in geriatric medicine at UCSF. In 2008 I received the Brookdale Leadership in Aging Fellowship to study the medical, cognitive, and functional status of geriatric prisoners and to assess predictors of adverse health events in older prisoners. I have served as a consultant on improving healthcare for older prisoners to the Human Rights Division of the United States Department of Justice, the California Department of Corrections and Rehabilitation, the Los Angeles County Disability Legal Rights Center, the Independent Medical Monitor of Michigan, and the San Francisco Elder Abuse Forensic Center. I am also the Founder and Co-Director of a 2-year pilot geriatrics teaching and consultation service at San Quentin Prison. My recent relevant publications include:

- Aging in correctional custody: setting a policy agenda for older prisoner health care. *Am J Public Health*. 2012 Aug; 102(8):1475-81.
- Addressing the aging crisis in U.S. Criminal justice health care. *J Am Geriatr Soc*. 2012 Jun; 60(6):1150-6.
- Balancing punishment and compassion for seriously ill prisoners. *Ann Intern Med*.



2011 Jul 19; 155(2):122-6.

**Support of SB 72.** I am writing in strong support of SB 72. It is a clear, thoughtful, and practical bill that in my view would efficiently and economically accomplish the fundamental purposes of compassionate release. There are several provisions of the bill that are particularly important:

1. It establishes uniform criterion for compassionate release that would apply to both the Department of Public Safety (DPS) and the Hawaii Paroling Authority. It is my understanding that DPS and the Hawaii Paroling Authority now have very different and inconsistent compassionate release criteria, a situation that can only lead to confusion and inconsistent outcomes.<sup>1</sup>

2. The eligibility criteria for compassionate release are reasonable and clearly stated so that those who will have to apply should have no difficulty in doing so.

3. The bill builds on the system that is already in place in which primary responsibility for initiating compassionate release rests with the DPS medical personnel, but allows for what is essentially an appeal process for reconsideration. I believe the appeal process is absolutely essential because mistakes in prognosis are inevitable and an appeal provides a mechanism for correcting them (or affirming the decision of the DPS if no mistake has been made).

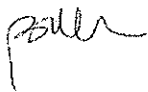
4. The bill specifies reasonable time limits for processing requests.

5. The bill makes a clear distinction between *eligibility* for compassionate release and *approval* for release and properly limits the role of the physician to determining eligibility while clarifying that approval decisions are to be made by appropriately designated correctional professionals and the Paroling Authority.

6. The bill incorporates all of the key recommendations that my colleagues and I made in our article on compassionate release (see Balancing punishment and compassion for seriously ill prisoners. Ann Intern Med. 2011 Jul 19; 155(2):122-6) including: (a) The Use of evidence-based principles; (b) A transparent application release process; (c) Assignment of an advocate to help incapacitated prisoners navigate the compassionate release process; (d) A fast track procedure for rapidly dying inmates; and (e) A well-described and disseminated application procedure.

I urge you to pass SB 72.

Sincerely,



Dr. Brie Williams

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<sup>1</sup> The Department of Public Safety's policy (COR.10.G.11) provides for compassionate release if a prisoner has: (1) An illness that by its nature can be expected to cause a patient to die within 1 year; or (2) A persistent illness or disease causing increasing physical weakness to the extent that the patient's quality of life is compromised and care could better be managed within the community. The Hawaii Paroling Authority's administrative rule on compassionate release (HAR §23-700-23(c)) states that the Paroling Authority may reduce an inmate's minimum term if the inmate has "a seriously debilitating medical condition for which treatment is not available in prison or a terminal disease wherein competent medical authorities indicate death is imminent."