
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 more
3 face the risk of developing a serious illness or disability.
4 This is particularly true for prisoners with long mandatory
5 sentences. Long sentences and an aging population mean that
6 correctional facilities in this State and across the United
7 States are housing a growing number of elderly inmates who often
8 have extensive medical needs. Concern over how society should
9 deal 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 calls on physicians and other medical
15 professionals to use their unique expertise and knowledge of
16 prognosis, geriatrics, cognitive and functional decline, and
17 palliative medicine to ensure that medical criteria for
18 compassionate release are appropriately evidence-based. With



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

4 Compassion is an integral part of the aloha spirit.
5 Accordingly, the purpose of this Act is to establish a medical
6 release program for certain inmates who do not pose a
7 significant risk to public safety and have an illness,
8 disability, or a medical condition with a prognosis of death
9 within six months or less; a seriously debilitating medical
10 condition that cannot be appropriately treated in prison; or
11 have such limited functional or cognitive ability that the
12 inmate is not able to participate in rehabilitation or be aware
13 of punishment.

14 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

17 **"PART . MEDICAL RELEASE PROGRAM**

18 **§353- Definitions.** For purposes of this part:

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



1 "Immediate family member" means a grandparent, parent,
2 sibling, spouse, reciprocal beneficiary, or child.

3 "Inmate" means any person committed to the custody of the
4 director.

5 "Medical release" means the release of an inmate before the
6 expiration of the inmate's term of imprisonment due to the
7 inmate's medical condition.

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

11 (1) A recommended course of treatment for the inmate; and

12 (2) A plan to provide continuity of care as the inmate
13 transitions from prison to the community.

14 "Paroling authority" means the Hawaii paroling authority.

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

17 **§353- Medical release program.** (a) An inmate may be
18 considered for medical release if the inmate does not pose a
19 significant risk to public safety and the inmate:

20 (1) Has a terminal illness, disease, or medical condition
21 with a prognosis to a reasonable medical probability
22 that death will occur within six months or less;



1 (2) Has a seriously debilitating mental or physical
2 condition for which treatment is unavailable in prison
3 or which cannot be appropriately treated or cared for
4 in prison; or

5 (3) Suffers from an illness, disease, or mental or
6 physical condition that impairs the inmate's
7 functional or cognitive ability to the extent that the
8 inmate is not able to participate in rehabilitation or
9 be aware of punishment.

10 (b) Requests for medical release may be made by the
11 director, an inmate, or an inmate's immediate family member or
12 representative. All requests for medical release shall be in
13 writing.

14 (c) If a request for medical release is made by the
15 director, the request shall be made to the paroling authority.
16 All requests made by the director shall contain the following
17 information:

18 (1) A report from a department physician stating that the
19 inmate meets the criteria for medical release and the
20 basis for the physician's opinion, including:



1 (A) Each diagnosis that applies to the inmate and the
2 prognosis for each condition to a reasonable
3 medical probability;

4 (B) Where practicable, the results of any tests,
5 studies, or physical findings that support the
6 diagnosis and prognosis;

7 (C) Where appropriate, the citations to relevant
8 medical literature; and

9 (D) The nature and extent of the medical treatment
10 that will most likely be required to manage the
11 inmate's condition while incarcerated within the
12 standard of care; and

13 (2) A written evaluation prepared by the director on the
14 risk for violence and recidivism, if any, that the
15 inmate poses to society in light of factors such as
16 the inmate's medical condition, the severity of the
17 offense for which the inmate is incarcerated, the
18 inmate's prison record, and the medical release plan
19 that provides for continuity of care.

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



1 (d) If a request for medical release is made by an inmate
2 or an inmate's immediate family member or representative, the
3 request shall be made to the director. All requests made by an
4 inmate or an inmate's immediate family member or representative
5 shall state the grounds for the request for medical release and
6 a statement as to where the inmate will reside upon release, who
7 will care for the inmate upon release, and how the inmate plans
8 to obtain medical care upon release.

9 Not more than twenty days after receiving the request, the
10 director shall submit the request for medical release and the
11 information required under subsection (c) to the paroling
12 authority. The department shall provide the inmate with a copy
13 of the medical release request.

14 (e) The paroling authority shall conduct a hearing on all
15 requests for medical release. The hearing shall be held within
16 ten days of the paroling authority's receipt from the department
17 of the request for medical release. The inmate or the inmate's
18 immediate family member or representative shall be permitted to
19 participate in the hearing and may submit medical and other
20 evidence in support of the request, including a report with
21 findings from a private licensed medical doctor retained by the
22 inmate pursuant to section 353-13.5, stating whether the inmate



1 meets the criteria for medical release and the basis for the
2 physician's opinion.

3 The paroling authority shall independently determine
4 whether the inmate meets the criteria for medical release and
5 shall independently assess the risk for violence and recidivism,
6 if any, that the inmate poses to society. The paroling
7 authority shall also provide the victim of the criminal act for
8 which the inmate was sentenced, or the victim's family, with the
9 opportunity to be heard. The paroling authority shall grant or
10 deny the request no more than two days following the hearing.

11 (f) The paroling authority shall not grant medical release
12 to an inmate who poses a significant risk to public safety.

13 (g) An inmate may appeal a denial of a request for medical
14 release to the circuit court within thirty days. A denial of
15 medical release by the paroling authority shall not affect an
16 inmate's eligibility for any other form of parole or release
17 under applicable law; provided that the inmate may not reapply
18 or be reconsidered for medical release unless there is a
19 demonstrated change in the inmate's medical condition.

20 (h) The director shall appoint an advocate for any inmate
21 who requests medical release and is unable because of



1 incapacitation or debilitation to advocate on the inmate's own
2 behalf.

3 (i) Medical release shall not be considered a reduction of
4 a minimum term of imprisonment and the sixty-day notice
5 requirement of section 706-669(5) shall not apply to any medical
6 release; provided that the department shall give the prosecuting
7 attorney of the appropriate county notice of all requests for
8 medical release as soon as practicable after a request is
9 initiated, and the prosecuting attorney shall be permitted to
10 participate in any medical release hearing conducted by the
11 paroling authority.

12 **§353- Conditions of a medical release.** The paroling
13 authority shall set reasonable conditions on an inmate's medical
14 release that shall apply through the date upon which the
15 inmate's term of imprisonment would have expired. The
16 conditions shall include the following:

- 17 (1) The released inmate shall be subject to supervision by
- 18 the paroling authority;
- 19 (2) Personnel of the department shall be allowed to visit
- 20 the inmate at reasonable times at the inmate's home or
- 21 elsewhere; and



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

3 **§353- Revocation of medical release; return of inmate to**
4 **custody.** (a) The paroling authority shall promptly order an
5 inmate to be returned to the custody of the director to await a
6 revocation hearing if the paroling authority receives credible
7 information that an inmate has failed to comply with any
8 reasonable condition set upon the inmate's medical release.

9 (b) If the paroling authority revokes an inmate's medical
10 release for failure to comply with a condition of release, the
11 inmate shall resume serving the remaining balance of the
12 inmate's term of imprisonment, with credit given only for the
13 duration of the inmate's medical release served in compliance
14 with all reasonable conditions. Revocation of an inmate's
15 medical release for violating a condition of release shall not
16 affect an inmate's eligibility for any other form of parole or
17 release provided by law; provided that revocation of an inmate's
18 medical release may be used as a factor in determining
19 eligibility for future parole or release."

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



Report Title:

Department of Public Safety; Medical Release Program

Description:

Establishes a medical release program under the Department of Public Safety for inmates who have a serious illness, disease, or medical condition and do not pose a significant risk to public safety. Effective July 1, 2050. (HB255 HD2)

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

