
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 medical or compassionate
6 release program for certain ill, disabled, and geriatric inmates
7 who pose a low risk to public safety.

8 SECTION 2. The department of public safety shall assess
9 and refer inmates to the Hawaii paroling authority under a
10 medical release pilot program for possible medical release as
11 provided in this Act.

12 SECTION 3. (a) For the purpose of this Act:

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

17 "Department" means the department of public safety.

18 "Director" means the director of public safety.

19 "Inmate" means any person committed to the custody of the
20 director.



1 "Medical release" means the release of an inmate before the
2 expiration of the inmate's sentence due to the inmate's medical
3 condition.

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

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

10 "Paroling authority" means the Hawaii paroling authority.

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

13 (b) An inmate may be considered for medical release if the
14 inmate:

- 15 (1) Has an illness, disease, or medical condition with a
16 prognosis to a reasonable medical probability that
17 death will occur within one year;
- 18 (2) Has a seriously debilitating and irreversible mental
19 or physical condition that impairs the inmate's
20 functional ability and that can be managed more
21 appropriately in a community setting; or



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

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

9 (d) If a request for medical release is made by the
10 director, the request shall contain the following information:

11 (1) A report from a department physician stating whether
12 or not the inmate meets the criteria for medical
13 release and the basis for the physician's opinion;
14 provided that the report shall state each diagnosis
15 that applies to the inmate and the prognosis for each
16 condition to a reasonable medical probability; and
17 provided further that where practicable, the physician
18 shall discuss the results of any tests, studies, or
19 physical findings that support the diagnosis and
20 prognosis, and the nature and extent of the medical
21 treatment that will most likely be required to manage
22 the inmate's condition while incarcerated within the



1 standard of care. Where appropriate, the physician
2 shall provide citations to relevant medical
3 literature;

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

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

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

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

20 All requests initiated by an inmate shall be referred to
21 the director immediately. Within forty-five days of receiving
22 the request, the department shall submit a medical release



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

4 (f) The paroling authority shall not grant medical release
5 to an inmate who poses a danger to society.

6 (g) A denial of medical release by the paroling authority
7 shall not affect an inmate's eligibility for any other form of
8 parole or release under applicable law; provided that the inmate
9 may not reapply or be reconsidered for medical release unless
10 there is a demonstrated change in the inmate's medical
11 condition.

12 (h) The department shall adopt a fast track procedure for
13 the evaluation and release of rapidly dying prisoners; provided
14 that the procedure shall be posted on the website of the
15 department and the paroling authority.

16 (i) Medical release shall not be considered a reduction of
17 a minimum sentence, and the sixty-day notice requirement of
18 section 706-669(5), Hawaii Revised Statutes, shall not apply to
19 any medical release; provided, however, that the department
20 shall give the prosecuting attorney of the appropriate county
21 notice of all requests for medical release as soon as
22 practicable after a request is initiated, and the prosecuting



1 attorney shall be permitted to participate in any medical
2 release hearing conducted by the paroling authority.

3 (j) The department shall adopt rules pursuant to chapter
4 91, Hawaii Revised Statutes, to implement the medical release
5 program.

6 SECTION 4. The paroling authority shall set reasonable
7 conditions on an inmate's medical release that shall apply
8 through the date upon which the inmate's sentence would have
9 expired. The conditions shall include the following:

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

12 (2) Personnel of the department shall be allowed to visit
13 the inmate at reasonable times at the inmate's home or
14 elsewhere; and

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

17 SECTION 5. (a) The paroling authority shall promptly
18 order an inmate to be returned to the custody of the director to
19 await a revocation hearing if the paroling authority receives
20 credible information that an inmate has failed to comply with
21 any reasonable condition set upon the inmate's medical release.



1 (b) If the paroling authority revokes an inmate's medical
2 release for failure to comply with a condition of release, the
3 inmate shall resume serving the remaining balance of the
4 inmate's sentence, with credit given only for the duration of
5 the inmate's medical release served in compliance with all
6 reasonable conditions. Revocation of an inmate's medical
7 release for violating a condition of release shall not affect an
8 inmate's eligibility for any other form of parole or release
9 provided by law; provided that revocation of an inmate's medical
10 release may be used as a factor in determining eligibility for
11 future parole or release.

12 SECTION 6. The medical release pilot program shall cease
13 to exist on June 30, 2016.

14 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Corrections; Medical Release Pilot Program; Compassionate Release

Description:

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, 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. Sunsets on 6/30/2016. Effective 07/01/50. (SD2)

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