

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 72

S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 72, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a
medical or compassionate release pilot program for certain ill,
disabled, and geriatric inmates who pose a low risk to public
safety. Specifically, this measure:

- (1) Requires the Department of Public Safety to assess and
refer inmates to the Hawaii Paroling Authority for
possible medical release;
- (2) Allows an inmate to be considered for medical release at
the request of the Director of Public Safety, the
inmate, or the inmate's representative if the inmate
meets specified criteria;
- (3) Requires the Hawaii Paroling Authority to:
 - (A) Grant or deny the request after a hearing;
 - (B) Set reasonable conditions on an inmate's medical
release; and
 - (C) Promptly order an inmate to be returned to custody
to await a revocation hearing if the Authority



receives credible information that an inmate has failed to comply with any reasonable conditions of medical release; and

(4) Sunsets the pilot program on June 30, 2016.

Your Committee received testimony in support of this measure from the American Civil Liberties Union of Hawaii, Community Alliance on Prisons, The Drug Policy Action Group, and eighteen individuals. Your Committee received testimony in opposition to this measure from the Department of Public Safety. Your Committee received comments on this measure from the Hawaii Paroling Authority and Hawaii Substance Abuse Coalition.

Your Committee finds that compassionate medical release programs for inmates provide relief to prison systems dealing with an increasingly older population subject to more medical issues and higher treatment costs. Releasing inmates who are found to pose no or little risk to public safety could save the State millions of dollars in health care costs, relieve prison overcrowding, and offer a more dignified and humane death to those who would otherwise die in prison.

Your Committee notes the concerns raised in the written testimony submitted by the Department of Public Safety regarding the language in this measure that requires the Director of Public Safety to appoint an advocate to act on behalf of any inmate who requests medical release and who is unable, due to incapacitation or debilitation, to advocate on the inmate's own behalf. The Department testified that requiring the appointment of an advocate is unnecessary because the Department has physicians to make release recommendations under such conditions. Furthermore, this measure requires the Department to submit a medical release report to the Hawaii Paroling Authority within twenty days of receiving a request for medical release. The Department testified that due to the limited number of physicians, the twenty-day timeframe to submit a medical release report is not feasible. Lastly, the Hawaii Paroling Authority testified that it already has an existing administrative process to hear requests for medical release and that the required hearing proposed in this measure is duplicative and unnecessary.

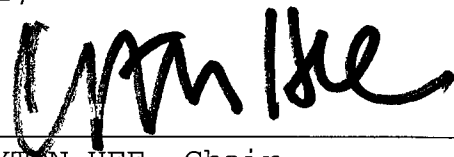
Accordingly, your Committee has amended this measure by:



- (1) Extending the time period within which the Department of Public Safety must submit a medical release report to the Hawaii Paroling Authority from twenty days to forty-five days;
- (2) Adopting the suggestion made by the Hawaii Paroling Authority to delete language that requires the Authority to conduct a hearing on all requests for medical release;
- (3) Adopting the suggestion made by the Department of Public Safety to delete the language that requires the Director of Public Safety to appoint an advocate to act on behalf of any inmate who requests medical release and who is incapacitated or debilitated and therefore cannot advocate on the inmate's own behalf;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 72, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 72, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



