

ACT 189

H.B. NO. 1342

A Bill for an Act Relating to Penal Responsibility and Fitness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 704-413, Hawaii Revised Statutes, is amended to read as follows:

“§704-413 Conditional release; application for modification or discharge; termination of conditional release and commitment. (1) Any person released on condition pursuant to section 704-411 shall continue to receive psychological or psychiatric treatment and care until discharged from conditional release. The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person’s treating mental health professional. If any mental health professional treating any conditionally released person believes the person is either not complying with the requirements of this section, or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the probation officer of the conditionally released person. The probation officer may order the conditionally released person to be hospitalized for a period not to exceed seventy-two hours if they have probable cause to believe the person has violated the requirements of this subsection. No person shall be hospitalized beyond the seventy-two hour period unless a hearing has been held pursuant to subsection (3).

[(1)] (2) Any person released on condition pursuant to section 704-411 may apply to the court ordering the conditional release for discharge from or modification of the order granting conditional release on the ground that he may be discharged or the order modified without danger to himself or to [the person or property of] others. The application shall be accompanied by a supporting affidavit of a qualified physician. A copy of the application and affidavit shall be transmitted

to the prosecuting attorney of the county in which the person is confined and to any persons supervising his release and the hearing on the application shall be held following notice to [said] such persons. If the determination of the court is adverse to the application, such person shall not be permitted to file further application until one year has elapsed from the date of any preceding hearing on an application for modification of conditions of release or for discharge.

[(2)] (3) If, [within five years] at any time after the order pursuant to section 704-411 granting conditional release, the court shall determine, after hearing evidence, that the conditions of release have not been fulfilled or that for the safety of such person or [for the safety of the person or property of] others his conditional release should be revoked, the court may forthwith modify the conditions of release or order the person to be committed to the custody of the director of health, subject to discharge or release only in accordance with the procedure prescribed in section 704-412."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)