
A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

3 "**§704-413 Conditional release; application for**
4 **modification or discharge; termination of conditional release**
5 **and commitment.** (1) Any person released pursuant to section
6 704-411 shall continue to receive mental health or other
7 treatment and care deemed appropriate by the director of health
8 until discharged from conditional release. The person shall
9 follow all prescribed treatments and take all prescribed
10 medications according to the instructions of the person's
11 treating mental health professional. If any mental health
12 professional treating any conditionally released person believes
13 either the person is not complying with the requirements of this
14 section or there is other evidence that hospitalization is
15 appropriate, the mental health professional shall report the
16 matter to the probation officer of the conditionally released
17 person. The probation officer may order the conditionally
18 released person to be hospitalized for a period not to exceed



1 seventy-two hours if the probation officer has probable cause to
2 believe the person has violated the requirements of this
3 subsection. No person shall be hospitalized beyond the seventy-
4 two hour period, as computed pursuant to section 1-29, unless a
5 hearing has been held pursuant to subsection (3) [-]; provided
6 that at or before the expiration of the seventy-two hour period,
7 a court may conduct a hearing to determine whether the person
8 would benefit from further hospitalization which may render a
9 revocation unnecessary. If satisfied, the court may order
10 further temporary hospitalization for a period not to exceed
11 ninety days, subject to extension as appropriate, but in no
12 event for a period longer than one year. At any time within
13 that period, the court may determine that a hearing pursuant to
14 subsection (3) should be conducted.

15 (2) Any person released pursuant to section 704-411 may
16 apply to the court ordering the conditional release for
17 discharge from, or modification of, the order granting
18 conditional release on the ground that the person is no longer
19 affected by a physical or mental disease, disorder, or defect
20 and may be discharged, or the order may be modified, without
21 danger to the person or to others. The application shall be
22 accompanied by a letter from or supporting affidavit of a



1 qualified physician or licensed psychologist. A copy of the
2 application and letter or affidavit shall be transmitted to the
3 prosecuting attorney of the circuit from which the order issued
4 and to any persons supervising the release, and the hearing on
5 the application shall be held following notice to such persons.
6 If the determination of the court is adverse to the application,
7 the person shall not be permitted to file further application
8 until one year has elapsed from the date of any preceding
9 hearing on an application for modification of conditions of
10 release or for discharge.

11 (3) If, at any time after the order pursuant to section
12 704-411 granting conditional release, the court determines,
13 after hearing evidence, that:

14 (a) The person is still affected by a physical or mental
15 disease, disorder, or defect, and the conditions of
16 release have not been fulfilled; or

17 (b) For the safety of the person or others, the person's
18 conditional release should be revoked[7];

19 the court may forthwith modify the conditions of release or
20 order the person to be committed to the custody of the director
21 of health, subject to discharge or release only in accordance
22 with the procedure prescribed in section 704-412."



1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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



Report Title:

Conditional Release

Description:

Provide statutory guidance and clarification on the seventy-two hour hold and extended hold process, especially as it relates to patients under conditional release from the State Hospital or related facility. (SD1)

