
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~~] granted conditional
6 release pursuant to section 704-411 shall continue to receive
7 mental health or other treatment and care deemed appropriate by
8 the director of health until discharged from conditional
9 release. The person shall follow all prescribed treatments and
10 take all prescribed medications according to the instructions of
11 the person's treating mental health professional. If [~~any~~] a
12 mental health professional who is treating [~~any conditionally~~
13 ~~released~~] a person granted conditional release believes either
14 the person is not complying with the requirements of this
15 section or there is other evidence that hospitalization is
16 appropriate, the mental health professional shall report the
17 matter to the probation officer of the [~~conditionally released~~]
18 person[~~-~~] granted conditional release. The probation officer



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

17 (2) Any person [~~released~~] granted conditional release
18 pursuant to section 704-411 may apply to the court ordering the
19 conditional release for discharge from, or modification of, the
20 order granting conditional release on the ground that the person
21 is no longer affected by a physical or mental disease, disorder,
22 or defect and may be discharged, or the order may be modified,



1 without danger to the person or to others. The application
2 shall be accompanied by a letter from or supporting affidavit of
3 a qualified physician or licensed psychologist. A copy of the
4 application and letter or affidavit shall be transmitted to the
5 prosecuting attorney of the circuit from which the order issued,
6 to the person's treating mental health professionals, and to
7 ~~[any persons]~~ the probation officer supervising the conditional
8 release, and the hearing on the application shall be held
9 following notice to such persons. If the ~~[determination of the]~~
10 court ~~[is adverse to]~~ denies the application, the person shall
11 not be permitted to file ~~[further]~~ another application for
12 either discharge or modification of conditional release until
13 one year ~~[has elapsed from]~~ after the date of ~~[any preceding~~
14 ~~hearing on an application for modification of conditions of~~
15 ~~release or for discharge.]~~ the denial.

16 (3) If, at any time after the order pursuant to section
17 704-411 granting conditional release, the court determines,
18 after hearing evidence, that:

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



1 (b) For the safety of the person or others, the person's
2 conditional release should be revoked[~~τ~~];
3 the court may forthwith modify the conditions of release or
4 order the person to be committed to the custody of the director
5 of health, subject to discharge or release [~~only~~] in accordance
6 with the procedure prescribed in section 704-412."

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

9 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 Hawaii state hospital or related facility. (SD2)

