

1 "Medical release" means a program enabling the paroling
2 authority to release inmates who are permanently and totally
3 disabled, terminally ill, or geriatric.

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

- 7 (1) The proposed course of treatment;
- 8 (2) The proposed site for treatment and post-treatment
9 care;
- 10 (3) Documentation that medical providers who are qualified
11 to provide the medical services identified in the
12 medical release plan are prepared to provide those
13 services; and
- 14 (4) The financial program in place to cover the cost of
15 this plan for the duration of the medical release,
16 which shall include eligibility for enrollment in
17 commercial insurance, medicare, or medicaid, or access
18 to other adequate financial resources for the duration
19 of the medical release.

20 "Paroling authority" means the Hawaii paroling authority.

21 "Permanently and totally disabled" describes an inmate who,
22 as determined by a licensed physician, suffers from permanent



1 and irreversible physical incapacitation as a result of an
2 existing physical or medical condition that was unknown at the
3 time of sentencing or, since the time of sentencing, has
4 progressed to render the inmate permanently and totally
5 disabled, to the extent that the inmate does not pose a public
6 safety risk.

7 "Terminally ill" describes an inmate who, as determined by
8 a licensed physician, has an incurable condition caused by
9 illness or disease that:

- 10 (1) Was unknown at the time of sentencing or, since the
11 time of sentencing, has progressed to render the
12 inmate terminally ill;
- 13 (2) Will likely produce death within six months; and
- 14 (3) Is debilitating to the extent that the inmate does not
15 pose a public safety risk.

16 §353-B Medical release program; authority to release;
17 rules. The paroling authority shall establish a medical release
18 program for inmates and prescribe when and under what conditions
19 an inmate may be eligible for medical release, consistent with
20 section 353-E. The paroling authority may adopt rules in
21 accordance with chapter 91 to implement the medical release
22 program.



1 §353-C Eligibility. (a) Notwithstanding any other law
2 and except as otherwise provided in this section, an inmate is
3 eligible to be considered for medical release if the department
4 determines that the inmate is:

- 5 (1) Diagnosed as permanently and totally disabled,
6 terminally ill, or geriatric under the procedure
7 described in section 353-D(b) (1); and
8 (2) Incapacitated to the extent that the inmate does not
9 pose a public safety risk.

10 (b) Persons convicted of a class A or class B felony or an
11 offense that requires registration under chapter 846E shall not
12 be eligible for release under this subpart.

13 §353-D Procedure for medical release. (a) The paroling
14 authority shall consider an inmate for medical release upon
15 referral by the department. The department may base its
16 referral upon either a request or petition for release filed by
17 the inmate, the inmate's attorney, or the inmate's parent,
18 spouse, reciprocal beneficiary, child, or sibling, or upon a
19 recommendation from within the department.

20 (b) The referral shall include an assessment of the
21 inmate's medical and psychosocial condition and the risk the
22 inmate poses to society, as follows:



1 (1) A licensed physician designated by the department
2 shall review the case of each inmate who meets the
3 eligibility requirements for medical release set forth
4 in section 353-C. The physician shall prepare a
5 written diagnosis that includes:

6 (A) A description of any terminal conditions,
7 physical incapacities, and chronic conditions;
8 and

9 (B) A prognosis concerning the likelihood of recovery
10 from any terminal conditions, physical
11 incapacities, and chronic conditions.

12 (2) The department shall assess the risk for violence and
13 recidivism that the inmate poses to society and may
14 consider such factors as the inmate's medical
15 condition, the severity of the offense for which the
16 inmate is incarcerated, the inmate's prison record,
17 and the release plan.

18 (c) If the department determines that the inmate meets the
19 criteria for release, the department shall complete the risk
20 assessment and forward its referral and medical release plan for
21 the inmate to the paroling authority within forty-five days of
22 receiving a request, petition, or recommendation for release.



1 (d) The paroling authority shall determine whether to
2 grant medical release within fifteen days of receiving a
3 referral from the department for release of a terminally ill
4 inmate and within twenty days of receiving a referral from the
5 department for release of a permanently and totally disabled
6 inmate or a geriatric inmate. In making the determination, the
7 paroling authority shall independently assess the risk for
8 violence and recidivism that the inmate poses to society. The
9 paroling authority also shall provide the victim or victims of
10 the inmate or the victim's or victims' family or families with
11 an opportunity to be heard.

12 (e) A denial of medical release by the paroling authority
13 shall not affect an inmate's eligibility for any other form of
14 parole or release under applicable law.

15 (f) If the department determines that an inmate should not
16 be considered for release under this subpart or the paroling
17 authority denies medical release under this subpart, the inmate
18 may not reapply or be reconsidered unless there is a
19 demonstrated change in the inmate's medical condition.

20 §353-E Conditions of medical release. (a) The paroling
21 authority shall set reasonable conditions on an inmate's medical
22 release that shall apply through the date upon which the



1 inmate's sentence would have expired. These conditions shall
2 include the following:

3 (1) The released inmate's care shall be consistent with
4 the care specified in the medical release plan as
5 approved by the paroling authority;

6 (2) The released inmate shall cooperate with and comply
7 with the prescribed medical release plan and with
8 reasonable requirements of medical providers to whom
9 the released inmate is to be referred for continued
10 treatment;

11 (3) The released inmate shall be subject to supervision by
12 the paroling authority and shall permit officers from
13 the paroling authority to visit the inmate at
14 reasonable times at the inmate's home or elsewhere;

15 (4) The released inmate shall comply with any conditions
16 of release set by the paroling authority; and

17 (5) The paroling authority shall receive periodic
18 assessments from the inmate's treating physician.

19 (b) The paroling authority shall promptly order an inmate
20 returned to the custody of the department to await a revocation
21 hearing if the paroling authority receives credible information
22 that an inmate has failed to comply with any reasonable



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

12 **§353-F Change in medical status.** (a) If a periodic
13 medical assessment reveals that an inmate released on medical
14 release has improved to an extent that the inmate would not be
15 eligible for medical release if being considered at that time,
16 the paroling authority shall order the inmate returned to the
17 custody of the department to await a revocation hearing. In
18 determining whether to revoke medical release, the paroling
19 authority shall consider the most recent medical assessment of
20 the inmate and a risk assessment of the inmate conducted
21 pursuant to section 353-D(b)(2). If the paroling authority
22 revokes the inmate's medical release, the inmate shall resume



1 serving the balance of the sentence, with credit given for the
2 duration of the medical release.

3 (b) Revocation of an inmate's medical release due to a
4 change in the inmate's medical condition shall not affect an
5 inmate's eligibility for medical release in the future or for
6 any other form of parole or release provided by law."

7 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
8 amended by adding a new section to part I to be appropriately
9 designated and to read as follows:

10 "§353- Medical release program. The department shall
11 assess and refer inmates to the Hawaii paroling authority under
12 the medical release program established by the Hawaii paroling
13 authority under subpart of part II."

14 SECTION 3. Section 353-62, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) In addition to any other responsibility or duty
17 prescribed by law for the Hawaii paroling authority, the
18 paroling authority shall:

- 19 (1) Serve as the central paroling authority for the State;
- 20 (2) In selecting individuals for parole, consider for
21 parole all committed persons, except in cases where
22 the penalty of life imprisonment not subject to parole



- 1 has been imposed, regardless of the nature of the
2 offense committed;
- 3 (3) Determine the time at which parole shall be granted to
4 any eligible individual as that time at which maximum
5 benefits of the correctional institutions to the
6 individual have been reached and the element of risk
7 to the community is minimal;
- 8 (4) Establish rules of operation to determine conditions
9 of parole applicable to any individual granted parole;
- 10 (5) Provide continuing custody, control, and supervision
11 of paroled individuals;
- 12 (6) Revoke or suspend parole and provide for the
13 authorization of return to a correctional institution
14 for any individual who violates parole or any
15 condition of parole when, in the opinion of the Hawaii
16 paroling authority, the violation presents a risk to
17 community safety or a significant deviation from any
18 condition of parole;
- 19 (7) Discharge an individual from parole when supervision
20 is no longer needed;



1 (8) Interpret the parole program to the public in order to
2 develop a broad base of public understanding and
3 support; [~~and~~]

4 (9) Establish the medical release program under subpart
5 of this part; and

6 [~~(9)~~] (10) Recommend to the legislature sound parole
7 legislation and recommend to the governor sound parole
8 administration."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY:

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Report Title:

Corrections; Medical Release of Ill and Disabled Inmates

Description:

Requires the Hawaii paroling authority to establish a medical release program for no-risk inmates who are permanently and totally disabled, terminally ill, or geriatric. Requires department of public safety to assess and refer inmates to the Hawaii paroling authority. Sets conditions for medical release.

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