
A BILL FOR AN ACT

RELATING TO CONDITIONAL RELEASE TIMEFRAMES.

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

1 SECTION 1. The purpose of this Act is to amend the law to
2 establish a specific time frame for an order of post-acquittal
3 conditional release when the defendant is charged with a petty
4 misdemeanor, misdemeanor, or violation.

5 SECTION 2. Section 704-411, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) When a defendant is acquitted on the ground of
8 physical or mental disease, disorder, or defect excluding
9 responsibility, the court, on the basis of the report made
10 pursuant to section 704-404, if uncontested, or the medical or
11 psychological evidence given at the trial or at a separate
12 hearing, shall ~~[make an order as follows:]~~ order that:

13 (a) The ~~[court shall order the]~~ defendant ~~[to]~~ shall be
14 committed to the custody of the director of health to
15 be placed in an appropriate institution for custody,
16 care, and treatment if the court finds that the
17 defendant:



1 (i) Is affected by a physical or mental disease,
2 disorder, or defect;
3 (ii) Presents a risk of danger to self or others; and
4 (iii) Is not a proper subject for conditional release;
5 provided that the director of health shall place
6 defendants charged with misdemeanors or felonies not
7 involving violence or attempted violence in the least
8 restrictive environment appropriate in light of the
9 defendant's treatment needs and the need to prevent
10 harm to the person confined and others. The county
11 police departments shall provide to the director of
12 health and the defendant copies of all police reports
13 from cases filed against the defendant [~~which~~] that
14 have been adjudicated by the acceptance of a plea of
15 guilty or [~~no contest,~~] nolo contendere, a finding of
16 guilt, acquittal, acquittal pursuant to section
17 704-400, or by the entry of a plea of guilty or [~~no~~
18 ~~contest~~] nolo contendere made pursuant to chapter 853,
19 so long as the disclosure to the director of health and
20 the defendant does not frustrate a legitimate function
21 of the county police departments [~~, with the exception~~
22 ~~of~~]; provided that expunged records, records of or



1 pertaining to any adjudication or disposition rendered
2 in the case of a juvenile, or records containing data
3 from the United States National Crime Information
4 Center~~[-]~~ shall not be provided. The county police
5 departments shall segregate or sanitize from the police
6 reports information that would result in the likelihood
7 or actual identification of individuals who furnished
8 information in connection with the investigation ~~[e]~~
9 or who were of investigatory interest. Records shall
10 not be re-disclosed except to the extent permitted by
11 law;

12 (b) The ~~[court shall order the]~~ defendant ~~[t]~~ shall be
13 granted conditional release with conditions as the
14 court deems necessary if the court finds that the
15 defendant is affected by physical or mental disease,
16 disorder, or defect and that the defendant presents a
17 danger to self or others, but that the defendant can be
18 controlled adequately and given proper care,
19 supervision, and treatment if the defendant is released
20 on condition~~[; -e]~~. For any defendant granted
21 conditional release pursuant to this paragraph, and who
22 was charged with a petty misdemeanor, misdemeanor, or



1 violation, the period of conditional release shall be
2 no longer than one year; or
3 (c) The [~~court shall order the~~] defendant shall be
4 discharged if the court finds that the defendant is no
5 longer affected by physical or mental disease,
6 disorder, or defect or, if so affected, that the
7 defendant no longer presents a danger to self or others
8 and is not in need of care, supervision, or treatment."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2011.



Report Title:

Conditional Release Time Frames

Description:

Specifies that any person acquitted on the grounds of a physical or mental defect and who was charged with a petty misdemeanor, misdemeanor, or violation can be granted conditional release for no more than one year. (SD1)

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