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# A BILL FOR AN ACT

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RELATING TO PUBLIC SAFETY.

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

1           SECTION 1. An ever increasing number of men and women are  
2 entering prison with serious medical illnesses, many of whom  
3 suffer from an increasing risk of developing a serious illness  
4 or disability which becomes exponentially more likely for those  
5 prisoners with long mandatory sentences. Longer sentences and  
6 an aging population mean that correctional facilities in Hawaii  
7 and across the United States are housing a growing number of  
8 elderly inmates who often have extensive medical needs. Concern  
9 over how society should deal with the aging and seriously ill  
10 prison population has led policy makers in many states to  
11 endorse early release for older and seriously ill prisoners who  
12 pose a low risk to public safety. As of 2009, the United States  
13 federal prison system and thirty-nine states had laws governing  
14 medical or compassionate release.

15           Compassionate release provides physicians and other medical  
16 professionals with an opportunity to use their unique expertise  
17 and knowledge of prognosis, geriatrics, cognitive and functional  
18 decline, and palliative medicine to ensure that medical criteria



1 for compassionate release are appropriately evidence-based.  
2 Using this medical foundation, criminal justice professionals  
3 can balance the need for punishment with an eligible  
4 individual's appropriateness for release.

5 Compassion is an integral part of the Aloha spirit. The  
6 purpose of this Act is to create a medical or "compassionate"  
7 release program for certain ill, disabled, and geriatric inmates  
8 who pose a low risk to public safety.

9 SECTION 2. Chapter 353, Hawaii Revised Statutes, is  
10 amended by adding a new subpart to part II to be appropriately  
11 designated and to read as follows:

12 " . MEDICAL RELEASE PROGRAM

13 **§353- Definitions.** For the purpose of this subpart:

14 "Continuity of care" means an integrated system that  
15 ensures that a patient's medical needs are met as the patient  
16 transitions from one health care provider to another, from one  
17 setting to another, and from one level of care to another.

18 "Inmate" means any person sentenced to the custody of the  
19 department of public safety.

20 "Medical release" means the release of an inmate before the  
21 expiration of the inmate's sentence due to the inmate's medical  
22 condition.



1 "Medical release plan" means a comprehensive written  
2 medical and psychosocial care plan that is specific to the  
3 inmate and includes, at a minimum:

- 4 (1) A recommended course of treatment for the inmate; and  
5 (2) A plan to provide continuity of care as the inmate  
6 transitions from prison to the community.

7 "Paroling authority" means the Hawaii paroling authority.

8 "Reasonable medical probability" means that a medical  
9 outcome is more likely to occur than to not occur.

10 **§353- Medical release program; authority to release;**

11 **rules.** (a) An inmate in the custody of the department shall be  
12 eligible to be considered for medical release if the inmate:

13 (1) Has an illness, disease, or medical condition with a  
14 prognosis to a reasonable medical probability that  
15 death will occur within one year;

16 (2) Has a seriously debilitating and irreversible mental  
17 or physical condition that impairs the inmate's  
18 functional ability and that can be managed more  
19 appropriately in a community setting; or

20 (3) Suffers from a serious, debilitating and irreversible  
21 physical or mental condition related to aging that  
22 impairs the inmate's functional ability and is



1 expected to require complex care, treatment, or  
2 management.

3 (b) All requests for medical release shall be in writing  
4 and shall be made to the paroling authority. Requests may be  
5 made by the director, an inmate, or an inmate's representative.

6 (c) When a request for medical release is made by the  
7 director, the request shall contain the following information:

8 (1) A report from a department physician stating whether  
9 or not the inmate meets the criteria for medical  
10 release and the basis for the physician's opinion;  
11 provided that the report shall state each diagnosis  
12 that applies to the inmate and the prognosis for each  
13 condition to a reasonable medical probability;  
14 provided further that where practicable the physician  
15 shall discuss the results of any tests, studies, or  
16 physical findings that support the diagnosis and  
17 prognosis and the nature and extent of the medical  
18 treatment that will most likely be required to manage  
19 the inmate's condition while in prison within the  
20 standard of care. Where appropriate, the physician  
21 shall provide citations to relevant medical  
22 literature;



1 (2) A written evaluation prepared by the director on the  
2 risk for violence and recidivism, if any, that the  
3 inmate poses to society in light of such factors as  
4 the inmate's medical condition, the severity of the  
5 offense for which the inmate is incarcerated, the  
6 inmate's prison record, and the medical release plan;  
7 and

8 (3) A report from the department stating whether or not  
9 the department recommends medical release for the  
10 inmate and the reasons therefore; provided that if the  
11 department recommends release, the report shall also  
12 contain a medical release plan that provides for  
13 continuity of care. The department shall provide the  
14 inmate with a copy of the report.

15 (d) If a request is made by an inmate or the inmate's  
16 representative, the request shall state the grounds for the  
17 requested release and shall contain a statement as to where the  
18 inmate will reside if released, who will care for the inmate,  
19 and how the inmate plans to obtain medical care.

20 All requests initiated by an inmate shall be referred to  
21 the director immediately. Within twenty days of receiving the  
22 request the department shall submit a medical release report to



1 the paroling authority containing the information under  
2 subsection (c).

3 (e) The paroling authority shall conduct an administrative  
4 hearing on all requests for medical release. The hearing shall  
5 be held within thirty days of receiving a medical release report  
6 from the department. The paroling authority shall independently  
7 determine whether the inmate meets the criteria for medical  
8 release and shall independently assess the risk for violence and  
9 recidivism, if any, that the inmate poses to society. The  
10 paroling authority shall also provide the victim of the inmate's  
11 criminal act for which the inmate was sentenced or the victim's  
12 family with the opportunity to be heard. The paroling authority  
13 shall grant or deny the request within two days following the  
14 hearing.

15 (f) The paroling authority shall not grant a medical  
16 release to an inmate who poses a danger to society.

17 (g) A denial of medical release by the paroling authority  
18 shall not affect an inmate's eligibility for any other form of  
19 parole or release under applicable law; provided that the inmate  
20 may not reapply or be reconsidered for medical release unless  
21 there is a demonstrated change in the inmate's medical  
22 condition.



1 (h) The director shall appoint an advocate for any  
2 inmate who requests medical release and is unable because of  
3 incapacitation or debilitation to advocate on the inmate's own  
4 behalf.

5 (i) The department shall adopt procedures for a fast track  
6 procedure for the evaluation and release of rapidly dying  
7 prisoners; provided that the procedures shall be posted on the  
8 website of the department and the paroling authority.

9 (j) The department shall develop jointly with the paroling  
10 authority, appropriate policies and procedures to implement the  
11 medical release program.

12 **§353- Conditions of a medical release.** The paroling  
13 authority shall set reasonable conditions on an inmate's medical  
14 release that shall apply through the date upon which the  
15 inmate's sentence would have expired. The conditions shall  
16 include the following:

17 (1) The released inmate shall be subject to supervision by  
18 the paroling authority;

19 (2) Personnel of the department shall be allowed to visit  
20 the inmate at reasonable times at the inmate's home or  
21 elsewhere; and



1 (3) The released inmate shall comply with all conditions  
2 of release set by the paroling authority.

3 **§353- Return of inmate to custody.** (a) The paroling  
4 authority shall promptly order an inmate to be returned to the  
5 custody of the department to await a revocation hearing if the  
6 paroling authority receives credible information that an inmate  
7 has failed to comply with any reasonable condition set upon the  
8 inmate's release.

9 (b) If the paroling authority revokes an inmate's medical  
10 release for failure to comply with conditions of release, the  
11 inmate shall resume serving the remaining balance of the  
12 inmate's sentence, with credit given only for the duration of  
13 the inmate's medical release served in compliance with all  
14 reasonable conditions. Revocation of an inmate's medical  
15 release for violating a condition of release shall not affect an  
16 inmate's eligibility for any other form of parole or release  
17 provided by law; provided that revocation of an inmate's medical  
18 release may be used as a factor in determining eligibility  
19 for future parole or release."

20 SECTION 3. Chapter 353, Hawaii Revised Statutes, is  
21 amended by adding a new section to part I to be appropriately  
22 designated and to read as follows:





**Report Title:**

Corrections; Medical Release Program; Compassionate Release

**Description:**

Requires the Department of Public Safety (DPS) to assess and refer inmates to the Hawaii Paroling Authority (HPA) for possible medical release. Provides that an inmate in DPS's custody shall be eligible to be considered for medical release if the inmate meets specified criteria under certain procedures. Requires HPA to set reasonable conditions on an inmate's medical release, and to promptly order an inmate returned to custody of DPS to await a revocation hearing if HPA receives credible information that an inmate has failed to comply with any reasonable condition set upon the inmate's release. Effective July 1, 2030. (SB2248 HD3)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

