



Re: SB2688 Relating to Compassionate Release

Dear Chair Fukunaga, Vice Chair Lee, and Committee Members,

Thank you very much for the opportunity to testify about SB2688 relating to compassionate release. My name is Molly Crane, and I am an attorney at FAMM. FAMM is a non-profit, non-partisan organization that works to create a more fair and effective justice system that respects individual accountability and dignity while keeping our communities safe.

For over 25 years, FAMM has worked on compassionate release in research and policy. We have studied every program in the country at the state and federal level, and assisted with strengthening these programs so they reduce the strain on correctional systems. Over the last year, we are grateful to have collaborated closely with agencies, nonprofits, staff, and families who identified the need for compassionate release reform in Hawai'i, and **we write in strong support of SB2688.**

I. Purpose of Compassionate Release

Compassionate release describes programs created by lawmakers that allow people who are incarcerated to be considered for release for medical reasons. These programs are uniquely important when people are:

- Too ill or cognitively impaired to be aware of punishment;
- Too sick to participate in rehabilitation; or
- Too functionally compromised to pose a risk to public safety.

Compassionate release is best practice and exists in 49 states, the District of Columbia, and the federal system because lawmakers recognize that people who are critically ill are the most expensive to incarcerate, the most burdensome to care for, and the least likely to recidivate.

Fiscal impact

Housing medically complex patients in prison is uniquely costly for the state. In 2023, the Department of Corrections and Rehabilitation (DCR) reported an operating cost of healthcare alone of \$33,271,024, a significant increase from 2022.¹ Direct costs include specialty appointments, medical equipment, non-formulary prescriptions, labs and imaging, surgeries, Medevac flights, emergency room admissions, and hospitalizations. There are also indirect costs, including transportation to and from appointments, and extensive overtime pay for corrections officers who must accompany incarcerated individuals 24/7 when off-site for care. Examples of the additional costs of critically ill incarcerated individuals in Hawai'i include:

- Gurney transport and security movement, costing approximately \$4,000 per patient per week for patients requiring frequent off-site care, or \$208,000 per person per year;



- Medication costs for complex patients, costing approximately \$20,000 per patient per month, or \$240,000 per person per year;
- Hospitalizations and emergency department transfers, conservatively costing \$50,000–\$150,000 per patient per year, with far higher costs for inpatients needing ICU-level admissions;
- Medevac flights, costing approximately \$20,000-\$30,000 per flight between islands and \$90,000-\$200,000 per flight from Arizona to Hawai'i, depending on urgency and in-flight needs; and
- Additional staffing costs (such as nursing labor diverted to total-care demands, overtime/coverage impacts, and additional custody staffing for escort/supervision), adding approximately \$150,000–\$300,000 per year for a single high-needs patient, depending on acuity and frequency of outside care.

The average cost of housing an incarcerated person in Hawai'i is \$307 per day or \$112,055 per year. For those eligible for compassionate release, the estimated total annual taxpayer cost per high-acuity, medically complex incarcerated patient is six to eight times higher at \$650,000 to \$900,000 per year, even before accounting for the opportunity-cost of what that same staffing and funding could provide elsewhere in the system. Compassionate release alleviates the outsized financial strain of a small number of patients on the correctional system and the state.

Care burden

People with critical illnesses require extensive care that correctional systems are not designed to provide. This includes daily care, such as administering medical treatments, and additional non-medical treatment such as changing diapers, spoon feeding, and cleaning up vomit. When medical providers are already stretched thin, providing this ambulatory care takes them away from operating at the level of their medical license, which their other patients in custody desperately need. Further, those with incurable conditions require long-term housing in prison infirmaries, taking space away from people who may need temporary care, such as after an injury or with a transmittable infection.

Patients with complex medical needs often require an acute level of care beyond what the facility can provide. This means they need many specialist, treatment, and medical testing appointments off-site. Every off-site appointment requires scheduling and coordination from medical staff and supervision from two correctional staff. People who are terminally ill or incapacitated are often on the verge of an emergency, necessitating rapid hospitalizations that are stressful for both staff and the correctional system.

The burden of providing care for people who are critically ill with the most resource-intensive demands takes a toll on staff. In Hawai'i, the staffing vacancy rate is nearly 30%.ⁱⁱ The deteriorating health of people who are dying in prison is also harming staff health - staff surveys found that over 60% of corrections staff developed a serious health condition due to job stress.ⁱⁱⁱ Further, providing supervision for people who are dying in front of your eyes takes an emotional



toll. Over 75% of corrections staff feel emotionally drained.^{iv} Compassionate release reduces the logistical, care, and emotional burden on staff and systems.

Public safety

The elderly and those with critical illnesses are the least likely to recidivate. Research makes clear that people age out of crime. Prison populations around the country today are graying. Elders above the age of 55 people make up five times as much of the prison population as they did three decades ago, and in Hawai'i, DCR houses 996 people 50 years of age or older, and over 80 incarcerated persons who are 70 or more years old.^v In contrast to the overall recidivism rate in Hawai'i of 54%, research shows that for people who are 55 and older, recidivism is just 2%, and for people 65 and older, the recidivism rate drops to nearly 0%.^{vi}

On top of the downward trend of recidivism with age, people eligible for compassionate release are often physically and cognitively incapacitated – unable to move their arms and legs, unable to feed themselves, and even unaware of who they are and where they are. Compassionate release protects public safety by allowing those whose risk of recidivism is lowest, yet whose cost and care burden is highest, to be considered for release.

II. Best Practices and SB2688

Hawai'i is the only state in the country whose compassionate release program is not governed by statute. SB2688 can transform Hawai'i from an outlier in compassionate release to a leader. Many sections in SB2688 are notable for their alignment with best practices and model provisions – several are discussed below.

Eligibility Criteria

Compassionate release programs can meet their stated goals of protecting public safety and lessening the strain on taxpayers when eligibility criteria are medically rooted. Every state in the country includes significant diagnoses, terminal illness, cognitive decline, and/or care the facility is unable to provide as eligibility criteria. SB2688's criteria have been thoughtfully designed in partnership with local medical specialists to ensure that providers who must carefully assess individuals for eligibility have clear guidance as to whether an individual's diagnoses qualify under the statute.

SB2688's eligibility criteria in allowing anyone who meets the medical criteria to be considered for release are also best practice. The majority of states where Parole Boards make compassionate release decisions treat people serving mandatory and/or life without the possibility of parole (LWOP) sentences as eligible for consideration. This is because states all across the country recognize that this population is most costly and burdensome, and least likely to recidivate, and this is true irrespective of the sentence or conviction.



Criminal legal systems recognize retribution as a purpose of punishment and factor it in at sentencing. Compassionate release addresses circumstances that have developed since sentencing. This includes severe cognitive decline rendering an individual no longer capable of understanding retribution, and incapacitation such that an individual is incarcerated inside the confines of their own body. Further, SB2688 provides ongoing parole supervision of individuals granted compassionate release.

Rather than exclude classes of people, well-designed programs assess the risk of present threat by building a public safety screen into the assessment and decision-making processes, as is the case in SB2688. The best programs arm the decision-maker with the information, standards, and discretion needed to make informed judgments. Categorically prohibition of classes of people, rather than individualized consideration, defeats the humanitarian purposes and fiscal benefits of compassionate release.

Without a functional compassionate release pathway—including for those with life without parole and with mandatory minimums —Hawai’i will increasingly operate a correctional system that is forced into the role of a long-term care provider, at extraordinary cost, with staff and funding pulled away from urgent needs like psychiatric crisis response and suicide prevention.

Application Process

Compassionate release recognizes that individuals with significant health impairments may need support engaging with the process. Those with serious medical conditions often find compassionate release processes cognitively complex, feel too weak to apply, or lack the physical capabilities to move their hands to write.

Across the country, states recognize the vital role of medical staff, corrections officials, family, counsel, and other incarcerated people in identifying people who may be eligible. SB2688 includes a thorough review process and gives the DCR Director’s authority to hold any clearly frivolous requests. SB2688 ensures that the compassionate release process is accessible to people with impairments; allows stakeholders who are most familiar with an individual’s decline, such as medical staff and those housed alongside people who are sick to participate; and safeguards against missing eligible individuals by requiring the department to promptly identify persons who meet the bill’s medical criteria. This robust identification process fulfills the bill’s central purpose of reducing the burden on DCR and the state by ensuring that the sickest and most incapacitated people in custody can be considered for release.

Decision-Making Timeline

Compassionate release involves situations that require timely consideration. Those with critical and terminal illnesses are often in precarious health, with rapid downturn and death possible at a moment’s notice. Delays prolong suffering and frustrate program goals. Best practices include straightforward processes and deadlines for decision-making.



SB2688 appropriately streamlines the steps and stakeholders in DCR and the Hawai'i Paroling Authority (HPA) involved in the compassionate release process. SB2688 further sets clear timelines for each step of the process, preventing the delays in assessing people that lead to deaths in custody before the reviewing and decision-making are completed. When the number of deaths in DCR custody has risen significantly, with nearly 8 times as many deaths in custody now than there were in 1990, this bill ensures that the decision-making process coheres with the inherent urgency of compassionate release in considering those who are deteriorating or nearing death.^{vii}

Data Collection and Public Reporting

Transparency is critical to ensuring a compassionate release program works as intended. Data collection and reporting help lawmakers and the public to assess whether the program meets the legislature's objectives. The metrics in SB2688 from DCR and HPA align with best practices and will provide a comprehensive picture of the compassionate release program's congruence with the legislature's intent.

III. Impact of SB2688

In addition to the cost savings for taxpayers, the burden alleviation for corrections, and the promotion of public safety, SB2688 will have meaningful impacts on the lives of Hawaiians. Native Hawaiians are disproportionately represented among the incarcerated population. Whereas Native Hawaiians represent 10% of the population in Hawai'i, they represent 44% of pa'ahao (incarcerated individuals).^{viii} This longstanding crisis for Hawaiians disrupts pono (righteousness) and the perpetuation of ola (healing) through the strength of Hawaiian 'ohana (family).^{ix} Compassionate release is rooted in humanitarian principles and aligned with Native Hawaiian values of aloha, mālama (care), and kuleana (responsibility to one another).^x Compassionate release provides a pathway to address the significant overrepresentation of Native Hawaiian pa'ahao.

Individuals and families, along with taxpayers and the correctional system, experience the barriers created by the lack of this bill. For example, Paul was a Vietnam War veteran who developed multiple sclerosis while incarcerated. The disease gradually progressed to the point where Paul's muscles atrophied, his feet curled, he lost control of his bowels and bladder, and he could only move his right arm a few inches. He was unable to even hold a telephone handset to his ear so he could to speak to his only daughter when she called. He had a urinary catheter and diapers, and had to be turned frequently to prevent bed sores. He was a full-time resident of the infirmary, and when the staff changed his bedding, they had to raise him up on a sling while the fresh bedding was put on. He had to be fed by hand, sponge bathed. He often choked his food, he could not wipe his nose when it ran, and his diapers had to be changed regularly. His care was tremendously time-intensive for medical staff, and painful for staff to see his condition. It was scary it was for his daughter to know of his decline and be unable to take care of him while he was incarcerated. Because of the barriers in the process, it took over a year for Paul to be granted



compassionate release, and by the time he was home, he was barely alive enough to see his daughter's face again.

For Maria, a Native-Hawaiian woman who developed kidney failure due to diabetes, both of her legs had been amputated below the knee and she needed dialysis 3 times a week. This meant that two correctional officers had to take her to dialysis outside of the facility, spending time driving to and from, and waiting 3-4 hours each time for the dialysis to be completed. This took correctional officers away from their important duties at the facility, leaving other officers short staffed and increasing the stress staff experience.

Over the course of FAMM's collaboration with agencies in Hawai'i, we have personally visited Halawa Correctional Facility on numerous occasions. In October, I visited on a Monday and I saw a gentleman laying in the only hospice room in the entire facility. His temples were concave because of his complete deterioration. The lone hospice room is on the psychiatric wing of the prison, where people experiencing mental health crises were yelling and banging on the cells, which was not a peaceful place for this gentleman's final breaths. Even though he had family to support him and medical staff did everything they could to move him through the process in time, by the time I returned to Halawa that Wednesday, he had passed. His family and the medical staff hope that this effort can in some small way honor his life, and prevent this from happening again.

Thank you for your leadership in introducing this bill, and for the opportunity to testify in support. FAMM respectfully urges the legislature to pass SB2688, which reduces costs, supports staff, provides dignity, and protects public safety.

Thank you,

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ⁱ Department of Public Safety, “FY 23,” n.d., https://budget.hawaii.gov/wp-content/uploads/2021/12/25.-Department-of-Public-Safety-FY-23-SUPP.Mn5_.pdf.

ⁱⁱ Hawai‘i Public Radio, “Hawai‘i still struggling to fill correctional officer vacancies,” January 9, 2026, <https://www.hawaiipublicradio.org/local-news/2026-01-09/hawaii-continues-to-struggle-filling-correctional-officer-vacancies>.

ⁱⁱⁱ Hawaii Correctional System Oversight Commission, “Correctional Staff Survey, Findings, & Recommendations,” January 22, 2025, <https://hcsoc.hawaii.gov/wp-content/uploads/2025/01/Correctional-Staff-Survey-Findings-and-Recommendations-FINAL-1.pdf>.

^{iv} Hawaii Correctional System Oversight Commission, “Correctional Staff Survey, Findings, & Recommendations,” January 22, 2025, <https://hcsoc.hawaii.gov/wp-content/uploads/2025/01/Correctional-Staff-Survey-Findings-and-Recommendations-FINAL-1.pdf>.

^v Prison Policy Initiative, “The Aging Prison Population: Causes, Costs, And Consequences,” August 2, 2023, <https://www.prisonpolicy.org/blog/2023/08/02/aging/>.

^{vi} Interagency Council on Intermediate Sanctions, “State of Hawaii 2019 Recidivism Update,” March 2021, <https://icis.hawaii.gov/wp-content/uploads/2021/05/2019-Hawaii-Recidivism-Update.pdf>; Vera Institute of Justice, “Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations,” December 2017, <https://vera-institute.files.svdcn.com/production/downloads/publications/Using-Compassionate-Release-to-Address-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%94Full-Report.pdf?dm=1568745464>.

^{vii} Estimates provided by the Hawaii Correctional System Oversight Commission.

^{viii} Prison Policy Initiative, “Hawaii Profile,” n.d., <https://www.prisonpolicy.org/profiles/HI.html>.

^{ix} Native Hawaiian Legal Corporation, “Kalana Ola Coalition for Compassionate Release,” n.d., <https://nativehawaiianlegalcorp.org/services/kalana-ola-coalition-for-compassionate-release/>.

^x Native Hawaiian Legal Corporation, “Kalana Ola Coalition for Compassionate Release,” n.d., <https://nativehawaiianlegalcorp.org/services/kalana-ola-coalition-for-compassionate-release/>.