

---

# HOUSE CONCURRENT RESOLUTION

REQUESTING THE JUDICIARY TO ESTABLISH AN APPROPRIATE FEE FOR COURT-ORDERED FORENSIC EVALUATIONS AND TO PROVIDE COPIES OF THE EXAMINATION REPORTS TO THE DEPARTMENT OF HEALTH.

1           WHEREAS, the Hawaii Disability Rights Center studied a  
2 random sample of sixty-seven pretrial detainees who were the  
3 subject of court-ordered forensic examinations in 2001 and 2002;  
4 and

5  
6           WHEREAS, each person's criminal justice proceeding was  
7 examined in depth to construct individual timelines for the  
8 mental health evaluation process provided under section 704-404,  
9 Hawaii Revised Statutes; and

10  
11           WHEREAS, the mental examination process averaged eighty-  
12 four days from the date of the issuance of the court's order for  
13 a mental health examination to the judicial ruling on the  
14 fitness to proceed; and

15  
16           WHEREAS, during the forensic evaluation process, persons  
17 suspected of mental illness may remain in prison for weeks or  
18 months without appropriate mental health treatment; and

19  
20           WHEREAS, thirty-five percent of all persons who undergo a  
21 forensic evaluation examination are declared unfit to proceed or  
22 are acquitted or conditionally released; and

23  
24           WHEREAS, the initial period of evaluation was extended by  
25 the court for additional periods of thirty to one hundred and  
26 eighty days in 31.4 percent of the cases reviewed; and

27  
28           WHEREAS, generally, pretrial detainees for misdemeanors who  
29 undergo one-panel forensic examinations are incarcerated far  
30 longer than the possible length of incarceration for conviction  
31 of the crime for which they are charged; and  
32



1 WHEREAS, in response to concerns raised in this study, the  
2 Legislature has considered various measures aimed at  
3 streamlining the forensic evaluation process; and  
4

5 WHEREAS, one particular source of delay which has been  
6 acknowledged is the inadequate compensation paid to the  
7 psychiatrists and psychologists who conduct the forensic  
8 evaluations; and  
9

10 WHEREAS, this results in a lack of available professionals  
11 willing to undertake this function, thereby contributing  
12 substantially to the lengthy evaluation process; and  
13

14 WHEREAS, the fee for forensic evaluations is currently set  
15 by Circuit Court Part D Criminal Administrative Order No. 4.1 at  
16 \$500; and  
17

18 WHEREAS, this fee is a flat fee which does not take into  
19 account the number of hours devoted to conducting the  
20 evaluation; and  
21

22 WHEREAS, this fee has not been raised by the Judiciary  
23 since 1992; and  
24

25 WHEREAS, the Legislature believes that if the fee were  
26 increased to an appropriate level of compensation, more  
27 professionals would be willing to conduct these evaluations,  
28 thereby expediting the process;  
29

30 WHEREAS, while the Adult Mental Health Division of the  
31 Department of Health currently certifies those psychiatrists or  
32 psychologists who are appointed by the court to conduct forensic  
33 evaluations, the Department of Health has no statutory authority  
34 to monitor the quality or consistency of the reports; and  
35

36 WHEREAS, this lack of a formal mechanism for the Department  
37 of Health to receive or review the examination reports further  
38 hinders the identification of the causes of delays in the  
39 evaluation process; and  
40

41 WHEREAS, if the Department of Health could review the  
42 forensic reports, it could better monitor the overall system of  
43 mental health examinations, provide quality control oversight,



1 and ensure that the reports are thorough, more consistent, and  
2 timely; and

3  
4 WHEREAS, while there is no statutory mandate for the court  
5 to provide copies of the forensic reports to the Department of  
6 Health, neither is there a statutory prohibition; now,  
7 therefore,

8  
9 BE IT RESOLVED by the House of Representatives of the  
10 Twenty-third Legislature of the State of Hawaii, Regular Session  
11 of 2006, the Senate concurring, that the Legislature requests  
12 that the Judiciary evaluate and increase the fees for forensic  
13 evaluations to an adequate level as it determines and to submit  
14 as part of its biennium budget request to the next Legislature  
15 an appropriation request sufficient to provide for any  
16 additional expenditures required as a result thereof; and

17  
18 BE IT FURTHER RESOLVED that the Legislature requests the  
19 Judiciary to provide, at the conclusion of the proceeding, a  
20 copy of the forensic evaluation report and any supporting  
21 documents to the Chief of Forensics of the Adult Mental Health  
22 Division of the Department of Health for the purposes of quality  
23 control; and

24  
25 BE IT FURTHER RESOLVED that certified copies of this  
26 Concurrent Resolution be transmitted to the Chief Justice of the  
27 Hawaii Supreme Court, the Chief of Forensics of the Adult Mental  
28 Health Division of the Department of Health, the Hawaii  
29 Psychiatric Association, the Hawaii Psychology Association, and  
30 the Hawaii Disability Rights Center.

31  
32  
33 OFFERED BY: Alan A. Arikake

Burt

John Guerrero

Helene Hotal

Alfred M. Seward

Mark L.

OR 4.3

