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## HOUSE 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

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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

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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

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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

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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

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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

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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

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33           WHEREAS, in response to concerns raised in this study, the  
34 Legislature has considered various measures aimed at  
35 streamlining the forensic evaluation process; and



1 WHEREAS, one particular source of delay which has been  
2 acknowledged is the inadequate compensation paid to the  
3 psychiatrists and psychologists who conduct the forensic  
4 evaluations; and

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6 WHEREAS, this results in a lack of available professionals  
7 willing to undertake this function, thereby contributing  
8 substantially to the lengthy evaluation process; and

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10 WHEREAS, the fee for forensic evaluations is currently set  
11 by Circuit Court Part D Criminal Administrative Order No. 4.1 at  
12 \$500; and

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14 WHEREAS, this fee is a flat fee which does not take into  
15 account the number of hours devoted to conducting the  
16 evaluation; and

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18 WHEREAS, this fee has not been raised by the Judiciary  
19 since 1992; and

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21 WHEREAS, the Legislature believes that if the fee were  
22 increased to an appropriate level of compensation, more  
23 professionals would be willing to conduct these evaluations,  
24 thereby expediting the process;

25  
26 WHEREAS, while the Adult Mental Health Division of the  
27 Department of Health currently certifies those psychiatrists or  
28 psychologists who are appointed by the court to conduct forensic  
29 evaluations, the Department of Health has no statutory authority  
30 to monitor the quality or consistency of the reports; and

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32 WHEREAS, this lack of a formal mechanism for the Department  
33 of Health to receive or review the examination reports further  
34 hinders the identification of the causes of delays in the  
35 evaluation process; and

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37 WHEREAS, if the Department of Health could review the  
38 forensic reports, it could better monitor the overall system of  
39 mental health examinations, provide quality control oversight,  
40 and ensure that the reports are thorough, more consistent, and  
41 timely; and

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43 WHEREAS, while there is no statutory mandate for the court  
44 to provide copies of the forensic reports to the Department of



1 Health, neither is there a statutory prohibition; now,  
2 therefore,

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4 BE IT RESOLVED by the House of Representatives of the  
5 Twenty-third Legislature of the State of Hawaii, Regular Session  
6 of 2006, that the Legislature requests that the Judiciary  
7 evaluate and increase the fees for forensic evaluations to an  
8 adequate level as it determines and to submit as part of its  
9 biennium budget request to the next Legislature an appropriation  
10 request sufficient to provide for any additional expenditures  
11 required as a result thereof; and  
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13 BE IT FURTHER RESOLVED that the Legislature requests the  
14 Judiciary to provide, at the conclusion of the proceeding, a  
15 copy of the forensic evaluation report and any supporting  
16 documents to the Chief of Forensics of the Adult Mental Health  
17 Division of the Department of Health for the purposes of quality  
18 control; and  
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20 BE IT FURTHER RESOLVED that certified copies of this  
21 Resolution be transmitted to the Chief Justice of the Hawaii  
22 Supreme Court, the Chief of Forensics of the Adult Mental Health  
23 Division of the Department of Health, the Hawaii Psychiatric  
24 Association, the Hawaii Psychology Association, and the Hawaii  
25 Disability Rights Center.  
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