

JAN 25 2006

S.B. NO. 2683

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# A BILL FOR AN ACT

RELATING TO COURT-ORDERED MENTAL EXAMINATIONS.

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

1           SECTION 1. Section 704-404 of the Hawaii Revised Statutes  
2 provides for the mental health examination of criminal  
3 defendants to determine penal responsibility. The legislature  
4 finds that the forensic examination process can typically take  
5 many months to complete. During the lengthy examination period,  
6 a pretrial detainee who may have a serious mental illness or  
7 disease will be held in state custody without receiving  
8 appropriate mental health treatment. The denial of appropriate  
9 mental health treatment to persons with mental health illness is  
10 contrary to good public policy and state and federal statutes.

11           This conclusion is based, in part, on an analysis of a  
12 random sampling taken of ninety-one pretrial detainees by the  
13 Hawaii Disability Rights Center in December 2003. The sampling  
14 showed that an average of seventy-eight days passed from the  
15 date of arrest to the date when a forensic examination was  
16 requested. An average of eighteen days passed before the court  
17 issued an order for a mental health evaluation. Thereafter, an  
18 average of eighty-four days passed before the examiners' reports



1 were delivered and the court made a determination as to penal  
2 responsibility. The entire forensic evaluation process averages  
3 one hundred eighty days from the initial motion to final  
4 adjudication. Thirty-five per cent of the ninety-one pretrial  
5 detainees sampled were ultimately found to be unfit to proceed  
6 and were subsequently provided mental health treatment by the  
7 State.

8 The adult mental health division of the department of  
9 health currently certifies all psychologist or psychiatrists who  
10 may be appointed by the court to conduct section 704-404  
11 examinations. However, the department of health has no  
12 statutory authority to monitor the quality or consistency of the  
13 forensic reports. This hinders identification of the causes of  
14 delay in the mental health examination process. Under current  
15 practice, there is no formal mechanism for the department of  
16 health to receive or review the mental health examination  
17 reports that are filed. If the department of health were able  
18 to review the forensic reports, it could better monitor the  
19 overall system of mental health examinations, provide quality  
20 control oversight, and ensure that the reports are thorough,  
21 more consistent, and timely.



1           The purpose of this Act is to require that copies of all  
 2 court-ordered mental health examination reports be provided to  
 3 the chief of forensics of the adult mental health division of  
 4 the department of health.

5           SECTION 2. Section 704-404, Hawaii Revised Statutes, is  
 6 amended by amending subsection (6) to read as follows:

7           "(6) The report of the examination, including any  
 8 supporting documents, shall be filed in [~~triplicate~~]  
 9 quadruplicate with the clerk of the court, who shall cause  
 10 copies to be delivered to the prosecuting attorney, ~~[and to]~~  
 11 counsel for the defendant[-], and the chief of forensics of the  
 12 adult mental health division of the department of health."

13           SECTION 3. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Jeanne Chun Akland*

SB. NO. 2603

**Report Title:**

Court-Ordered Mental Health Examinations

**Description:**

Requires that a copy of all court-ordered mental health examinations be provided to the chief of forensics of the adult mental health division of DOH.

