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# A BILL FOR AN ACT

RELATING TO FORENSIC EXAMINERS.

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

1           SECTION 1. Under section 704-404 of the Hawaii Revised  
2 Statutes, a court may order a physical or mental examination of  
3 a criminal defendant to determine the defendant's penal  
4 responsibility. The legislature finds that the forensic  
5 examination process typically takes several months to complete.  
6 During this period, a pretrial defendant who may have a serious  
7 mental disease or defect will be held in state custody without  
8 receiving the appropriate mental health treatment.

9           According to a random sampling of ninety-one pretrial  
10 detainees gathered by the Hawaii disability rights center in  
11 December 2003, an average of seventy-eight days passed from the  
12 date of arrest to the date a forensic examination was requested.  
13 An average of eighteen additional days transpired before the  
14 court issued an order for evaluation. Thereafter, an average of  
15 eighty-four days passed before the examination report was filed  
16 and the court determined the defendant's penal responsibility.  
17 The entire forensic evaluation process averaged one hundred  
18 eighty days from motion to final adjudication. Thirty-five per



1 cent of all pretrial detainees were ultimately found unfit to  
2 proceed and were subsequently provided mental health treatment  
3 by the State.

4 During past legislative sessions, the legislature  
5 considered several measures that were aimed at streamlining the  
6 mental evaluation process. The legislature further finds that  
7 the compensation paid to forensic examiners is insufficient to  
8 encourage psychologists or psychiatrists to perform mental  
9 health examinations. The lack of available professionals has  
10 contributed substantially to the lengthy forensic evaluation  
11 process.

12 Currently, mental health forensic evaluators are paid a  
13 flat fee of \$500. This fee has not increased since 1992. The  
14 legislature further finds that it is neither reasonable nor  
15 cost-efficient for a private practice mental health professional  
16 to spend a full day traveling to, interviewing, and evaluating a  
17 criminal defendant for that sum.

18 The purpose of this bill is to increase the fees paid to  
19 examiners performing court-ordered mental health examinations of  
20 criminal defendants in order to expedite the forensic evaluation  
21 process.



1 SECTION 2. Section 704-404, Hawaii Revised Statutes, is  
2 amended by amending subsection (9) to read as follows:

3 "(9) The compensation of persons making or assisting in  
4 the examination, other than those retained by the nonindigent  
5 defendant, who are not undertaking the examination upon  
6 designation by the director of health as part of their normal  
7 duties as employees of the State or a county, shall be paid by  
8 the State. The fee paid to a certified examiner for a  
9 court-ordered mental health examination shall be \$1,000 for each  
10 defendant examined plus the general excise tax and any  
11 reasonable expenses incurred for inter-island travel, if  
12 necessary."

13 SECTION 3. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ , or so  
15 much thereof as may be necessary for fiscal year 2006-2007, for  
16 the fees paid to certified examiners performing court-ordered  
17 mental health examinations of criminal defendants.

18 The sum appropriated shall be expended by the judiciary for  
19 the purposes of this Act.

20 SECTION 4. New statutory material is underscored.

1 SECTION 5. This Act shall take effect upon its approval;  
2 provided that section 3 of this Act shall take effect on  
3 July 1, 2006.

**Report Title:**

Forensic Examiners; Judiciary

**Description:**

Increases the fee paid to an examiner performing a court-ordered mental health examination of a criminal defendant. (SD1)

