

MAR 15 2006

SENATE 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;

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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 Senate of the Twenty-third
5 Legislature of the State of Hawaii, Regular Session of 2006,
6 that the Legislature requests that the Judiciary evaluate and
7 increase the fees for forensic evaluations to an adequate level
8 as it determines and to submit as part of its biennium budget
9 request to the next Legislature an appropriation request
10 sufficient to provide for any additional expenditures required
11 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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