

S.B. NO. 1346

JAN 22 2007

A BILL FOR AN ACT

RELATING TO SENTENCING.

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

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2 SECTION 1. Chapter 706, Hawaii Revised Statutes, is
3 amended by adding to part I a new section to be appropriately
4 designated and to read as follows:

5 "§706- Presentence mental and medical examination.

6 (1) As used in this section, unless the context otherwise
7 requires:

8 "Conviction" means that a verdict has been rendered by a
9 judge or jury, or a plea of guilty or nolo contendere has been
10 accepted by the court.

11 "Licensed psychologist" means psychologists licensed under
12 chapter 465, but also includes psychologists exempt from
13 licensure under section 465-3(a)(3).

14 (2) Before imposing sentence, the court may order a
15 defendant who has been convicted of a felony or misdemeanor to
16 submit to mental or other medical observation and examination
17 for a period not exceeding sixty days or a longer period, not to
18 exceed the length of permissible imprisonment, as the court

S.B. NO. 1346

1 determines to be necessary for the purpose. In addition thereto
2 or in the alternative, the court may appoint one or more
3 qualified psychiatrists, physicians, or licensed psychologists
4 to make the examination. The examiner or examiners shall be
5 appointed from a list of certified examiners as determined by
6 the state department of health. The report of the examination
7 shall be submitted to the court."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

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12 INTRODUCED BY: _____

13 BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO SENTENCING.

PURPOSE: To restore a statutory provision allowing for presentence mental or medical examination of defendants for purposes of sentencing.

MEANS: Add a new section to part I of chapter 706, Hawaii Revised Statutes.

JUSTIFICATION: This bill is intended to restore a necessary statutory provision allowing for presentence mental or medical examination of defendants. On some occasions, it may be helpful to the sentencing court for defendants to undergo a mental or medical examination as part of the judiciary presentence investigation.

In 2005, the statutory provision was repealed as part of the revisions to section 706-603 in section 4 of Act 112. The original language of the statutory provision is derived from the Model Penal Code.

The amendments in 2005 to section 706-603 changed the section, making it necessary to create a new section for the restored language.

Impact on the public: None.

Impact on the department and other agencies: This bill will help the courts to better evaluate certain defendants to determine the most appropriate sentence.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED
AGENCIES:

County prosecutors, and the Office of the
Public Defender.

EFFECTIVE DATE:

Upon approval.