

STAND. COM. REP. NO. **2403**

Honolulu, Hawaii

FEB 15 2008

RE: S.B. No. 2160  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committees on Health and Judiciary and Labor, to which was referred S.B. No. 2160 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose of this measure is to effectuate the recommendations of the task force established pursuant to Senate Concurrent Resolution No. 117, S.D. 1, H.D. 1 (2006), that was requested to analyze the identification, diagnosis, and treatment of persons with mental illness who are committed to the Hawaii State Hospital by the state criminal justice system.

Specifically, this measure:

- (1) Requires the Hawaii State Hospital to produce an annual report on forensic patients;
- (2) Requires yearly court status hearings for individuals ordered to be conditionally released or hospitalized as inpatients by the mental health court;
- (3) Reduces the minimum length of hospitalization from ninety days to thirty days for individuals who are recommitted after conditional release; and
- (4) Makes an appropriation for mental health court operations.



Your Committees received testimony in support of this measure from the Hawaii Government Employees Association and the Hawaii Disability Rights Center. The Department of Health submitted testimony in support of the intent of this measure. The Judiciary submitted comments on this measure.

Your Committees find that the Director of Health does not enjoy the same absolute immunity as judges do from lawsuits for decisions and rules made in their capacity as judges. Authorizing the Director to make rules relating to the application of statutory periods of involuntary inpatient hospitalization opens the Director up to unjustifiable liability, for which the Director's immunity is only qualified.

Accordingly, your Committees have amended this measure by:

- (1) Amending the purpose section to state that the task force was convened by the Governor, not the Department of Health, and the intended purpose of the task force was to evaluate and recommend possible procedural, statutory, and public policy changes to minimize the census at Hawaii State Hospital and promote community based health services for forensic patients;
- (2) Replacing the Hawaii State Hospital with the Department of Health as the agency to submit annual reports to the Legislature summarizing data on forensic patients;
- (3) Removing the rule making authority and reporting requirement of adopted rules from section 2 and section 6 of the measure;
- (4) Replacing the language "subject to conditional release" with "granted conditional release" throughout the measure for the purpose of accuracy;
- (5) Removing the language in section 5 and replacing it with language from S.B. No. 3070 (2008) to provide an alternative to proceeding immediately to a revocation of a person's conditional release;
- (6) Changing the effective date for the purpose of further discussions; and



- (7) Making technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2160, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2160, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Health and  
Judiciary and Labor,

  
BRIAN T. TANIGUCHI, Chair

  
DAVID Y. IGE, Chair



The Senate  
Twenty-Fourth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>SB 2160</i>	<i>HTH / JDL, NAM</i>	<i>02-11-08</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
FUKUNAGA, Carol (VC)	✓			
BAKER, Rosalyn H.	✓			
MENOR, Ron	✓			✓
WHALEN, Paul	✓			
<b>TOTAL</b>	<i>4</i>			<i>1</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
<i>Carol Fukunaga</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes

