

**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 1025, RELATING TO SENTENCING.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Monday, February 10, 2009 **TIME:** 2:00 PM

LOCATION: State Capitol, Room 325

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair Karamatsu and Members of the Committee:

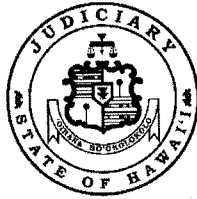
The Attorney General strongly supports this bill.

The purpose of this bill is to restore a necessary statutory provision allowing for presentence mental or medical examination of defendants as part of the judiciary presentence investigation process. With respect to certain defendants, a mental or medical examination assists the court in determining appropriate sentencing provisions.

In 2005, the statutory provision was apparently inadvertently repealed by Act 112, Session Laws of Hawaii 2005. Act 112 created chapter 844D, Hawaii Revised Statutes (HRS), regarding forensic identification and the DNA database. Section 4 of Act 112 amended section 706-603, HRS, eliminating the DNA provisions that were incorporated into chapter 844D, and leaving only the provisions regarding the DNA analysis monetary assessment and the DNA registry special fund. Thus, while eliminating certain DNA provisions of section 706-603, Act 112 also apparently inadvertently removed the presentence examination provision.

This bill restores this important statutory provision by adding a new section to part I of chapter 706, HRS. The original wording of the statutory provision is derived from the Model Penal Code.

We respectfully request passage of this measure.



Testimony to the Twenty-Fifth State Legislature, 2009 Session

House Committee on Judiciary
The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair

Tuesday, February 10, 2009, 2:00 p.m.
State Capitol, Conference Room 325

by
Janice Yamada
Adult Client Services Branch Administrator
Hawaii State Judiciary

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1025, Relating to Sentencing

Purpose: This measure restores a statutory provision allowing for pre-sentence mental health or medical examinations of defendants for purposes of sentencing.

Judiciary's Position:

The Judiciary supports this measure that is intended to restore a necessary statutory provision allowing for pre-sentence mental or medical examinations of defendants. This bill will allow the court to order a mental or medical examination as needed in order to obtain sufficient information to render an appropriate sentencing provision for a defendant.

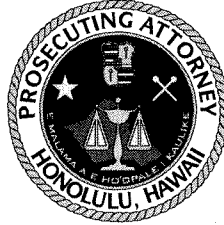
This bill will restore portions of Section 706-603 of the Hawaii Revised Statutes (Pre-sentence mental and medical examination) that were inadvertently repealed in 2005.

Thank you for the opportunity to testify on (bill).

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

**THE HONORABLE JON RIKI KARAMATSU, CHAIR
HOUSE JUDICIARY COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i**

February 10, 2009

RE: H.B. 1025; RELATING TO SENTENCING.

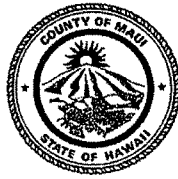
Chair Karamatsu, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney submits the following testimony in support of HB 1025.

The purpose of HB 1025 is to restore portions of what was Hawaii Revised Statutes section 706-603. These portions, which statutorily authorized a court to order a presentence mental or medical examination were inadvertently repealed in 2005.

We strongly support the passage of this bill. Given that the repealed portions section set forth parameters for the length of the examinations, as well as the how the examiners were to be selected, we believe that restoration of this section is necessary.

For this reason, we support the passage of HB 1025 and thank you for this opportunity to testify.

CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney
PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
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February 9, 2009

HONORABLE JON RIKI KARAMATSU, CHAIR
HONORABLE KEN ITO, VICE CHAIR
COMMITTEE ON JUDICIARY

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN SUPPORT OF H.B. NO. 1025
RELATING TO SENTENCING.

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui supports H.B. 1025 Relating to Sentencing.

This proposal will statutorily allow a court to order, as appropriate, a defendant to undergo a mental or medical examination as part of the judiciary's presentence investigation and report. This proposal makes sense.

In cases where there are indications that a defendant may be suffering from a mental or medical condition, it would be extremely helpful for all parties to have additional information relating to the person's condition. This allows the sentencing an opportunity to make an informed decision regarding the defendant's disposition.

Accordingly, our Department supports H.B. 1025. Thank you for the opportunity to testify.

(H.B. 1025, Relating to Sentencing)