



The Judiciary, State of Hawaii

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009

House Committee on Human Services
The Honorable John M. Mizuno, Chair
The Honorable Tom Brower, Vice Chair
Monday, March 16, 2009. 8:00 a.m.
State Capitol, Conference Room 329

by
Janice Yamada
Administrator, Adult Client Services Branch

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 843, S. D. 1, 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of Section 706-603 of the Hawaii Revised Statutes (Pre-sentence mental and medical examination) that were inadvertently repealed in 2005.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 Senate Bill No. 843, S. D. 1.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 843, S.D. 1, RELATING TO SENTENCING.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES

DATE: Monday, March 16, 2009 **TIME:** 8:00 AM

LOCATION: State Capitol, Room 329

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

Chair Mizuno 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In 2005, the statutory provision was apparently inadvertently repealed by Act 112, Session Laws of Hawaii 2005.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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE JOHN MIZUNO, CHAIR
HOUSE HUMAN SERVICES COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i

March 16, 2009

RE: S.B. 843, S.D. 1; RELATING TO SENTENCING.

Chair Mizuno and members of the House Committee on Human Services, the Department of the Prosecuting Attorney submits the following testimony in support of SB 843, SD 1.

The purpose of SB 843, SD 1 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 SB 843, SD 1 and thank you for this opportunity to testify.

JAY T. KIMURA
PROSECUTING ATTORNEY

CHARLENE Y. IBOSHI
FIRST DEPUTY
PROSECUTING ATTORNEY



655 Kilauea Avenue
HILO, HAWAII 96720
PH: 961-0466
FAX: 961-8908
934-3403
934-3503

WEST HAWAII UNIT
51-950 HALEKII ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: 322-2552
FAX: 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

March 13, 2009

Honorable John M. Mizuno
Chair, Committee on Human Services
House of Representatives

Dear Chair Mizuno and Committee members:

Thank you for allowing this testimony in support of SB 843, SD 1,
Relating to Sentencing.

The purpose of SB 843 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 sections set forth parameters for the length of the examinations, as well as how the examiners were to be selected, we believe that restoration of this section is necessary.

We hope for your favorable action on this bill.

Very truly yours,

Handwritten signature of Jay T. Kimura in cursive.

JAY T. KIMURA
Prosecuting Attorney
County of Hawaii