



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 JUDICIARY

DATE: Tuesday, March 24, 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In 2005, the statutory provision was apparently inadvertently repealed by Act 112, Session Laws of Hawaii 2005.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.



The Judiciary, State of Hawaii

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

House Committee on Judiciary
The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Monday, March 24, 2009. 2:00 p.m.
State Capitol, Conference Room 325

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.

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

March 24, 2009

RE: S.B. 843, S.D. 1; 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 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.