



STATE OF HAWAII
DEPARTMENT OF HEALTH
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In reply, please refer to:
File:

WRITTEN TESTIMONY

Senate Committee on Judiciary and Government Operations

S.B. 0937, Relating to Mental Health

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 26, 2009; 9:00 a.m.

1 **Department's Position:** The Department strongly supports this Administration-sponsored proposal.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** In 2006, the Governor convened the SCR No. 117 task force under the joint
4 direction of Senator Rosalyn Baker and then-Representative Josh Green. The SCR No. 117 task force
5 identified changes in statutes, procedures, and public policy that would minimize the census at the
6 Hawaii State Hospital and promote community-based health services for forensic patients.

7 With Act 100 (2008), the Legislature enacted several of the SCR No. 117 task force's
8 recommended statutory changes. Among the initial proposed statutory changes were provisions
9 requiring annual judicial review of each commitment after acquittal and of each conditional release for
10 an initial 5 years, and biennial reviews in such cases thereafter. Although the provisions requiring the
11 reviews would have brought approximately 550 cases back to court in each of the first five years of
12 implementation, no additional funding or positions were provided for the purpose. These concerns,
13 voiced relatively late in the 2008 session, prompted the deletion of the annual and biennial "call-back"
14 provisions and a substitution of the alternative provisions now codified as HRS sections 704-411(5), (6),

1 and (7). New sections 704-411(5) and (6), however, conflict with the well established procedures and
2 standards for conditional release and discharge already provided in section 704-412, possibly requiring a
3 two-step process to apply for conditional release or discharge, or, more significantly, confusing the
4 standard for conditional release or discharge.

5 This bill is intended to eliminate any questions about which statutory provisions govern
6 processes and standards of decisions for applications for conditional release and discharge by repealing
7 the new sections 704-411(5) and (6), and to improve the timeframe for forensic cases by adding an
8 appropriately modified provision setting forth the sixty days deadline for decisions in such cases as a
9 new subsection of section 704-412.

10 The Department of Health urges passage of this bill in order to provide this necessary
11 clarification and timeframe improvement.

12 Thank you for this opportunity to provide testimony on this measure.