

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2154
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 2154 entitled:

"A BILL FOR AN ACT RELATING TO ADULT PROBATION RECORDS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Clarify how and under what circumstances adult probation records may be provided to an offender's treating physician and county, state, or federal law enforcement officers;
- (2) Allow a victim, upon written request and under certain circumstances, to be notified by the offender's probation officer of information relating to the safety and welfare of the victim; and
- (3) Clarify the requirements for disclosure of a offender's past treatment and assessments.

Testimony in support of this measure was submitted by two state agencies and one organization supports the intent. Testimony in opposition was submitted by one state agency. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that this measure will maximize the collaborative relationship between probation officers and



treatment service providers. The statutes presently restrict the information probation officers may share even when it is in the best interests of the offender. When the offender understands that there is a flow of information between the probation officer and the treatment service provider, there is less room for misinterpretation. This flow of information allows the treatment service providers, the probation officers, and the offender to establish common, meaningful, and individualized treatment goals.

This measure will additionally ensure that, with written consent, probation officers may inform a doctor of the offender's use and misuse of drugs to aid in the offender's rehabilitation. Even with written consent, the present statutes prohibit this sharing of information. This measure uses evidence based practices to provide mechanisms to reduce offender recidivism.

Your Committee has amended this measure by:

- (1) Adopting the proposed changes submitted by the Judiciary, the Adult Client Services Branch Administrator, and the Public Defender to:
 - (A) Clarify that prior written consent for the disclosure of adult probation records must be obtained by the treatment service provider;
 - (B) Clarify that only probation drug test results may be released to the defendant's treating physician, and only when there is an indication that test results indicate substance use which may be compromising the defendant's medical care or treatment; and
 - (C) Remove the provisions authorizing disclosure of adult probation records to law enforcement to report a crime or crime-related information;
- (2) Changing the effective date to July 1, 2050 for the purpose of facilitating further discussion; and
- (3) Making technical, nonsubstantive changes for the purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached



to this report, your Committee is in accord with the intent and purpose of S.B. No. 2154, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2154, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,



BRIAN T. TANIGUCHI, Chair



