



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

**Senate Committee on Judiciary and Government Operations**

**S.B. 0230, S.D. 1, RELATING TO THE RIGHTS OF VICTIMS**

**Testimony of Chiyo Leinaala Fukino, M.D.  
Director of Health**

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

1 **Department's Position:** The Department of Health (DOH) appreciates the intent of this bill, but must  
2 respectfully oppose it as currently drafted.

3 **Fiscal Implications:** Significant but unquantified additional work hours will be required which cannot  
4 be absorbed at the current staffing levels.

5 **Purpose and Justification:** This bill amends the rights of victims and witnesses in criminal  
6 proceedings to include notification of case status when a perpetrator is found unfit to stand trial, is  
7 committed following a verdict of not guilty by reason of insanity ('acquit and commit'), when a  
8 perpetrator is placed following commitment to an alternative psychiatric facility, and when an individual  
9 has unauthorized absences from a facility.

10 The area of forensic mental health is most complicated, where medicine, law, and the clinical  
11 treatment of individuals with mental illness are balanced with the need to treat the victim of a crime or  
12 the individual's surviving immediate family members with dignity and respect. When an individual is  
13 found to be not guilty of a crime by reason of physical or mental defect, disease, or disorder, it means  
14 that the person was not responsible for their actions at the time for the crime. While this is often  
15 difficult for the victim of the crime or the individual's surviving immediate family members, the focus

1 of intervention at this point then becomes one of rehabilitation and treatment. With that, a component of  
2 rehabilitation is to restore the individual's abilities while providing treatment in the least restrictive  
3 environments. Individuals with mental illness are provided community-based treatment, providing they  
4 are not a danger to others. The reporting requirements of this bill compromise this approach to  
5 treatment.

6 To expand reporting requirements is to implement significant policy changes in the area of  
7 forensic mental health. The Department of Health strongly suggests that any significant policy changes  
8 in this area should only occur after reasoned study by legal and mental health stakeholders.

9 Thank you for the opportunity to testify on this bill.