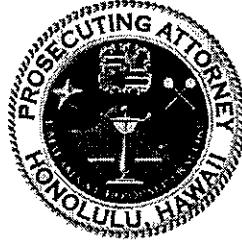


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**THE HONORABLE MARCUS R. OSHIRO, CHAIR
THE HONORABLE MARILYN LEE, VICE CHAIR
HOUSE COMMITTEE ON FINANCE
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawai'i**

February 28, 2011

**RE: H.B. 1069, H.D. 1; RELATING TO EFFECT OF FINDING UNFITNESS TO
PROCEED.**

Chair Oshiro, Vice-Chair Lee and members of the House Committee on Finance, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in opposition of H.B. 1069, H.D. 1.

The purpose of this bill is to mandate that a defendant who is charged with either a petty misdemeanor or misdemeanor and who has been found unfit shall be committed no longer than sixty days for a petty misdemeanor and one hundred twenty days for a misdemeanor. At the end of the period, if the defendant remains unfit, the charges against the defendant shall be dismissed and the defendant shall be released unless the defendant is subject to prosecution for other charges or the defendant is subject to civil commitment. The bill exempts defendants charged with offenses involving violence or attempted violence.

We oppose these statutory limitations since they assume that all petty misdemeanors and misdemeanor defendants found unfit can be released after a 60 or 120 day period instead of the current case by case determination courts presently make by weighing the severity of the charges and circumstances and the defendant's mental condition. We believe that a review of all the circumstances by a court is preferable to the "one size fits all" approach of this bill. A case by case review, better protects the public from individuals that may need further hospitalization.

For this reason, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 1069, H.D. 1. Thank you for this opportunity to testify.