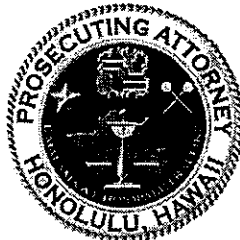


DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



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

February 28, 2011

RE: H.B. 1070, H.D. 1; RELATING TO CONDITIONAL RELEASE TIME FRAMES.

Chair Oshiro, Vice-Chair Lee and members of the House Committee on Finance, the Department of the Prosecuting Attorney submits the following testimony in opposition to House Bill 1070, House Draft 1 ("H.B. 1070, H.D. 1").

The purpose of H.B. 1070, H.D. 1 is to amend Hawaii Revised Statutes ("HRS") Section 704-411 to mandate that a conditional release be no longer than one year for any defendant granted such a release, who was charged with a petty misdemeanor, misdemeanor, or violation when the defendant was acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, by the court, on the basis of:

1. The report made pursuant to section 704-404, HRS (Examination of defendant with respect to physical or mental disease, disorder, or defect), if uncontested; or
2. The medical or psychological evidence given at the trial or at a separate hearing.

When a court grants conditional release of a defendant, the court specifically determines that this is necessary, as the defendant is affected by physical or mental disease, disorder, or defect **and the defendant presents a danger to self or others.** The court grants a conditional release because it feels that the defendant can be safely released only if he or she is controlled adequately and given proper care, supervision, and treatment. Without such supervision and treatment, the defendant will continue to be a danger to self or others.

Rather than apply a blanket one-year limitation for all conditional releases of defendants charged with a petty misdemeanor, misdemeanor, or violation, a case-by-case review by the

court would be preferable, as this would involve a review of all relevant facts and circumstances. Certain defendants may need supervision and treatment beyond the proposed one-year limitation.

Protecting the public's safety is our highest priority. Supervision and treatment of defendants is critical to prevent future violence or criminal violations. Instead of a time limitation on all conditional releases for defendants charged with a petty misdemeanor, misdemeanor, or violation, the Department respectfully suggests that the Committee consider a standardized schedule for court review.

For all these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 1070, H.D. 1. Thank you for the opportunity to testify on this matter.