

HAWAII DISABILITY RIGHTS CENTER

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THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2011

Committee on Judiciary Testimony in Support of H.B. 1070 Relating to Conditional Release Timeframes

**Thursday, February 3, 2011, 2:00 P.M.
Conference Room 325**

Chair Keith-Agaran and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of this bill.

The purpose of the bill is to establish a one year limit that an individual could remain on a post acquittal conditional release when the offense charged was a petty misdemeanor, misdemeanor or violation. Conditional release occurs for defendants found not guilty by reason of mental disease, disorder or defect. After such an acquittal, defendants can either be confined to an institution or placed in the community on "conditional release", which, as the term implies, requires that they adhere to a variety of conditions pertaining to mental health treatment, medications and conduct.

In Hawaii, "conditional release" tends to become a lifetime status because it is ordered for an indefinite period and for any level of offense. The result is that many such individuals remain subject to the terms of the conditional release and at risk of being in violation of its terms (and therefore subject to confinement at the state hospital) for a period of time far in excess of the maximum penalty allowed for the offense charged. This results in a disproportionate infringement upon their liberty, as well as an inefficient allocation of resources in the penal system and at the state hospital.

We feel this bill takes a sound approach. Since many of the crimes for which these individuals are placed on conditional release are minor in nature, and since data from the Department of Health indicates that most of these individuals actually pose little risk

to the public, there is no reason to retain and monitor these individuals on conditional release for prolonged periods of time. Certainly it is unfair to the individual and represents both a needlessly punitive approach to addressing that individual, as well as a poor use of resources otherwise needed to address mental health needs as well as public safety in our community.

For all those reasons, this bill is very sensible from the perspective of conserving penal resources as well as appropriate, humane treatment towards individuals with disabilities.

Thank you for the opportunity to testify in support of this measure.