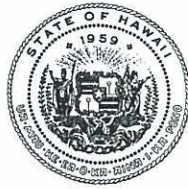


**HB 1071,**

**HD 2**



STATE OF HAWAII  
DEPARTMENT OF HEALTH

P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

Senate Committees on Health, Public Safety, Government Operations, and Military Affairs

**H.B. 1071, HD2, Mental Health Release on Conditions of Persons Found Unfit to Stand Trial**

Testimony of **Loretta J. Fuddy, A.C.S.W., M.P.H.**  
Interim Director of Health

March 21, 2011, 2:45 p.m., Room 229

1 **Department's Position:** The Department of Health (DOH) strongly supports this bill.

2 **Purpose and Justification:** This bill provides a formal structure and mechanism to address community  
3 safety and monitoring concerns for individuals found unfit to proceed and released on conditions.

4 Currently, if a criminal defendant is unable to participate meaningfully in court proceedings,  
5 those proceedings are suspended, the person is found "unfit to proceed," and is then either ordered to  
6 receive fitness restoration services at the Hawaii State Hospital (HSH) or released on conditions to be  
7 restored to fitness in the community. Fitness restoration includes a combination of medication, mental  
8 health treatment, and education about court proceedings. About 100, or approximately 87%, of all  
9 fitness restoration cases in Hawaii per year are remanded to the custody of the Director to be restored to  
10 fitness as an inpatient at the HSH. The statute also makes provisions to allow the court to order persons  
11 to be "released on conditions" into the community to receive fitness restoration services there. This  
12 population consists of approximately 15 new cases per year. The DOH has increased fitness restoration  
13 services for those individuals released to the community to include housing and specialized  
14 programming at a community mental health center.

1           However, the current statute provides no clear formal description of a monitoring or reporting  
2 process to the court for those persons released on conditions into the community. This results in  
3 ambiguity as to the procedure to be followed in cases where an individual released on conditions does  
4 not comply with the terms and conditions of his or her release. As a consequence, courts have raised  
5 concerns about community monitoring and reporting procedures when the court is asked to consider a  
6 request to release an unfit person on conditions into the community.

7           The proposed bill provides language describing a structured monitoring program and  
8 standardized methods for communication to the courts for individuals released on conditions. The  
9 proposed bill calls for the department of health to monitor and provide specialized treatment to  
10 defendants released on conditions while unfit. There is also a standardized mechanism for reporting  
11 defendants' compliance with release conditions to the prosecuting attorney's office in the court of the  
12 county in which the person was charged. The prosecuting attorney's office will take appropriate action,  
13 which may include reporting violations to the court for consideration of further action. The prosecutor's  
14 office is identified specifically as persons who are unfit to proceed are not yet adjudicated, but are pre-  
15 trial defendants. The prosecutor's office is uniquely positioned to channel legal information about pre-  
16 trial defendants efficiently to the court.

17           In previous hearings, the Prosecutor's office has supported this proposal, which is appreciated. It  
18 is expected the proposed bill will result in beneficial outcomes including improved community safety,  
19 increased willingness of courts to consider the outpatient fitness restoration option, and improved use of  
20 financial resources for outpatient, rather than inpatient, services to consumers who are appropriate to be  
21 released to the community for their fitness restoration services.

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

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

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THE HONORABLE JOSH GREEN, CHAIR  
SENATE HEALTH COMMITTEE  
THE HONORABLE WILL ESPERO  
SENATE PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS  
COMMITTEE  
Twenty-sixth State Legislature  
Regular Session of 2011  
State of Hawai'i

March 21, 2011

RE: H.B. 1071, H.D. 2; RELATING TO MENTAL HEALTH RELEASE ON CONDITONS OF A PERSON FOUND UNFIT TO STAND TRIAL.

Chair Green, Chair Espero, and members of the senate Committee on Health and the Senate Committee on Public Safety, Government Operations, and Military Affairs, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 1071, H.D. 2.

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) section 704-406. When the defendant is released on conditions after a finding of unfitness to proceed, the Department of Health shall establish and monitor a fitness restoration program consistent with conditions set by the court order of release, and shall inform the prosecuting attorney of the county that charged the defendant of the plan and report the defendant's non-compliance. Our department appreciates working with the Department of Health on this issue.

For these reasons, we support the passage of H.B. 1071, H.D. 2. Thank you for this opportunity to testify.

## green2 - Kealaonalehua

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 20, 2011 3:01 PM  
**To:** HTHTestimony  
**Cc:** mpoirier808@gmail.com  
**Subject:** Testimony for HB1071 on 3/21/2011 2:45:00 PM

Testimony for HTH/PGM 3/21/2011 2:45:00 PM HB1071

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Marion Poirier, M.A., R.N.  
Organization: Individual  
Address:  
Phone:  
E-mail: [mpoirier808@gmail.com](mailto:mpoirier808@gmail.com)  
Submitted on: 3/20/2011

**Comments:**

I, Marion Poirier, M.A., R.N., SUPPORT HB 1071, HD2. I am the former executive director of NAMI HAWAII and believe that this measure is in the best interest of all concerned.

Thank you for your attention to this matter of import.

Signed Marion Poirier, M.A., R.N.