



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee of Health

H.B. 0247, RELATING TO INVOLUNTARY HOSPITALIZATION

**Testimony of Loretta J. Fuddy, ACSW, MPH
Acting Director of Health**

January 28, 2011, 9:30 a.m.

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

3 **Fiscal Implications:** The fiscal implications are incalculable at this time, but are estimated to be in the
4 tens of millions of dollars for additional construction or procurement of hospital buildings or space,
5 maintenance of that space, and the costs associated with adding incremental numbers of additional
6 staffing to treat individuals hospitalized under this statute.

7 **Purpose and Justification:** While it can be argued that there might be reasonable public safety policy
8 considerations to support the concept of civil commitment of individuals with a high likelihood of
9 sexual dangerousness, we believe the proposed legislation is not the best means to accomplish this
10 public policy purpose. There has been very limited foundational legislation, either historically, or
11 currently proposed, and this will make the potential success of a program such as is contemplated by this
12 legislation very unlikely.

13 The proposed legislation contains terms which appear ambiguously defined as a matter of law.
14 We do not find that there is a category of the "crime of sexual violence" in the Hawaii Revised Statutes.
15 It is not clear if the qualifier "violence" pertains to any or all sexual offenses.

1 The criteria “suffers from a mental abnormality or personality disorder...” is a concern as it is
2 very broad and could, in the determination of some experts, apply to the overwhelming majority of
3 individuals who sexually offend. The number of individuals to whom these descriptions apply is not
4 known, is possibly large, and may exceed the amount of resources available to fund such a program.

5 The proposed legislation also appears to combine the proposal to provide for the civil
6 commitment of sexually violent predators into the statute for involuntary civil commitment of mentally
7 ill persons. These are very different groups and combining them will likely complicate attempts to
8 manage the relevant public policy considerations for each.

9 The National Association of State Mental Health Program Directors (NASMHPD) issued a
10 position statement on this matter, which we believe raises salient points of concern about this issue,
11 including the following:

- 12 • Statutes used to civilly commit dangerous sex offenders who do not have a mental illness
13 should be distinct from existing statutes for the civil commitment of people with mental
14 illnesses;
- 15 • Facilities and treatment programs for dangerous sex offenders should be administered
16 and funded outside the state mental health agency in order to maintain the mission and
17 integrity of the public mental health system. Confinement and treatment of dangerous
18 sex offenders or others who do not have a diagnosable mental illness are beyond the
19 scope of those currently administered by state mental health agencies.
- 20 • Treatment programs for dangerous sex offenders should be administered under
21 programmatic guidelines and philosophies that recognize the differences between these
22 criminal offenders and people with diagnosable psychiatric illnesses.

- 1 • Facilities for the confinement of dangerous sex offenders should be separate from
2 facilities for the treatment of people diagnosed with mental illnesses to ensure the safety
3 of others and to maintain the distinct commitment status of the criminal offenders.
- 4 • Laws providing for the civil commitment of dangerous sex offenders should be narrowly
5 drafted to ensure that they apply only to dangerous and violent sex offenders who pose a
6 significant risk to society if released.

7 The proposed legislation does not adequately address these issues as articulated by NASMHPD,
8 the treatment needs of individuals subject to the commitment, and does not specify criteria for
9 continuing commitment or discharge of these individuals.

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

S

morikawa2 - Grant

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 26, 2011 5:23 PM
To: HLTtestimony
Cc: jkaramatsu@honolulu.gov
Subject: Testimony for HB247 on 1/28/2011 9:30:00 AM

Testimony for HLT 1/28/2011 9:30:00 AM HB247

Conference room: 329
Testifier position: support
Testifier will be present: Yes
Submitted by: Jon Riki Karamatsu
Organization: Department of the Prosecuting Attorney, City and County of Honolulu
Address: 1060 Richards Street Honolulu, Hawaii 96813
Phone: 808-768-7486
E-mail: jkaramatsu@honolulu.gov
Submitted on: 1/26/2011

Comments:

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 768-7400



KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE RYAN I. YAMANE, CHAIR
HOUSE HEALTH COMMITTEE
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawai'i

January 28, 2011

RE: H.B. 247; RELATING TO INVOLUNTARY HOSPITALIZATION.

Chair Yamane, Vice Chair Morikawa, and members of the House Committee on Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 247.

The purpose of this bill is to civilly commit sexually violent predators to involuntary hospitalization. Chapter 334 of the Hawaii Revised Statutes is amended to define "sexually violent predator" as any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." We also included the prosecuting attorney of the appropriate county as one of the designated agencies that can assist the petitioner in initiating the proceedings and presenting the case for hearings for involuntary hospitalization of an individual. Further, we require at least one licensed physician or psychologist who is an expert on sexually violent predators to examine the individual being considered for involuntary hospitalization and testify at the hearing. Having an expert will help us identify sexually violent predators to ensure they are removed from society to stop them from harming other individuals, and receive the proper treatment at a hospital.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of H.B. 247. Thank you for this opportunity to testify.