

Honolulu, Hawaii

MAR 22 2013

RE: H.B. No. 910  
H.D. 2  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Health, to which was referred H.B. No. 910,  
H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO FORENSIC MENTAL HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to render more efficient the processes surrounding conditional release without adversely impacting defendants' rights, the provision of effective mental health services, or public safety. Specifically, this measure, among other things:

- (1) Requires all public agencies in possession of specified records of a defendant ordered to be examined regarding the defendant's fitness to proceed to provide those records to the Court;
- (2) Limits to one year the period of conditional release ordered for defendants who were charged with a petty misdemeanor, misdemeanor, or violation;
- (3) Requires the tolling of the one-year term of conditional release for defendants charged with a petty misdemeanor, misdemeanor, or violation during any period of hospitalization ordered due to noncompliance with the terms of the conditional release and during the pendency of a motion to revoke the conditional release;



- (4) Requires the period of conditional release to be terminated upon revocation of the conditional release; and
- (5) Requires the Department of Health to report to the Legislature certain information regarding defendants discharged from conditional release.

Your Committee received testimony in support of this measure from the Judiciary, State of Hawaii; Department of Health; Hawaii Disability Rights Center; and Community Alliance for Mental Health. Your Committee received testimony in opposition to this measure from the City and County of Honolulu, Department of the Prosecuting Attorney. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that conditional release means a person has been acquitted of a crime on the ground of a mental disease or disorder, excluding responsibility, but can be controlled adequately and given proper care, supervision, and treatment in the community under specified conditions. When, however, the supervising probation officer of a person on conditional release has probable cause to believe a person is in violation of the conditions of release, the officer may order a person to be hospitalized. Your Committee further finds that there is no time limit on how long a person may remain on conditional release even on misdemeanor charges, despite the fact that the same person, as a defendant found guilty in a court case, would receive a sentence or a period of probation limited to one year or less.

While it is clearly in the public interest to reduce the length of conditional release sentences to a maximum of one year, your Committee notes that there are public safety concerns that must be addressed. Specifically, your Committee notes the difficulties raised by the release of mentally ill persons who may be a danger to themselves or others. To that end, your Committee urges the Department of Public Safety and the Department of Health to collaborate in an effort to partner with private organizations to create a system of evaluation and assistance of mentally ill conditional release patients reentering society.

Your Committee has amended this measure by:

- (1) Inserting an effective date of January 1, 2050, to encourage further discussion; and

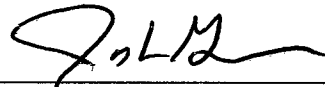


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- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 910, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 910, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,



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JOSH GREEN, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* <b>HB 910, HD2</b>	Committee Referral: <b>HTH, JDL</b>	Date: <b>03/20/2013</b>
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The committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
GREEN, Josh (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
CHUN OAKLAND, Suzanne		✓		
NISHIHARA, Clarence K.	✓			
SLOM, Sam		✓		
<b>TOTAL</b>	<b>3</b>	<b>2</b>	<b>—</b>	<b>—</b>

Recommendation:      Adopted      Not Adopted

Chair's or Designee's Signature:  


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**\*Only one measure per Record of Votes**