



HAWAII DISABILITY RIGHTS CENTER

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THE HOUSE OF REPRESENTATIVES THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2013

Committee on Health Committee on Public Safety Testimony in Support of S.B. 1141, SD2 Relating to Forensic Mental Health

**Friday, March 15, 2013, 10:00 A.M.
Conference Room 329**

Chair Belatti, Chair Acquino and Members of the Committee:

The Hawaii Disability Rights Center testifies 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.

We would also like to point out that this provision passed the Legislature as Act 99 of the 2011 session and but for a "technical" defect in the bill would be implemented as the current law. For that reason, we would hope that this Legislature might view this portion of the bill as a "housekeeping" measure, as opposed to completely revisiting the underlying policy issue.

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