

SB 1179

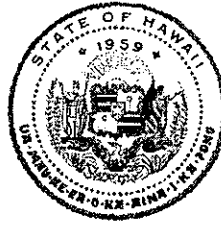
Report Title:

RELATING TO COURT ORDERS TO PROVIDE MEDICAL
TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL
FACILITY

Description:

Provides for the filing of a petition for involuntary medical treatment in either the district or circuit court; allows for a declaration to be filed with the petition as an alternative to an affidavit; expands the court's ability to continue the hearing on the petition for good cause; gives the court more flexibility in deciding when a guardian ad litem is necessary; changes the time requirement for filing for a court order for medical treatment from a period of within two days of an examination of the person to within five days; redefines the persons who must be notified of the petition; and clarifies the effective expiration date of the order for persons who return to custody after release.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 1179
A BILL FOR AN ACT RELATING TO
COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES
AND DETAINEES IN CORRECTIONAL FACILITIES

by

Ted Sakai, Interim Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 12, 2013, 2:45 p.m.
State Capitol, Room 224

Chair Espero, Vice Chair Baker, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** SB 1179 to modify an existing statute which was enacted in 2011, relating to court orders to provide medical treatment for inmates and detainees in correctional facilities. As can be surmised with many newly created statutes, implementing the specific language of the statute often encounters operational considerations previously not envisioned in the original design. There are two (2) specific operational deficiencies in the original statute that restrict the Department's ability to fully implement the original intent of the statute, and that require modification, as well as six "housekeeping items" contained in this bill.

The two most significant specific areas that require modification are: (1) the definitions of danger of harm to self or others, and (2) the hearing notification process.

We are proposing that the definitions for harm to self or others be expanded to include individuals who, although they do not pose an immediate

danger due to present physical constraints, do represent an imminent danger if these physical constraints are not present. We are seeking this expanded definition since we have encountered inmates with mental health disorders who have been relegated to long periods of isolation in segregated settings who may not present the immediate behaviors of danger to self or others. However, if released from segregated settings, it is reasonably predictable based on past behaviors that they would pose a serious danger to self or others. Presently, these individuals are relegated to indefinite seclusion, depriving them of opportunity and rights of other prisoners or detainees. The Department considers it to be inhumane to retain these inmates in such settings without attempting interventions that could conceivably permit them the rights and privileges of other prisoners.

The second significant area of change is the hearing notification process. The Department has found it unnecessarily cumbersome to attempt to contact the litany of individuals outlined in the present statute, and is seeking to expedite the notification process by restricting notification to those parties whom the inmate has designated as their emergency contact or their legal guardian while in the custody of the department, while still permitting the court to decide if other significant parties are relevant to the hearing.

There are additional minor proposed changes in the statute, that are reflected as follows: (1) permitting filings for orders in district court as well as circuit court; (2) permitting a declaration in addition to an affidavit from licensed physicians or psychologists who have personally examined the inmate; (3) deleting the erroneous reference to "commitment" and replacing it with a reference to "treatment"; (4) substituting the references to "judge" with references to "court" throughout the bill; (5) removing the inmates' inability to participate in the hearing as a condition for the court considering appointing guardianships; and (6) permitting the court order to continue to the maximum period of the order should an individual be released and returned to custody, unless it has been determined the person is no longer in need of treatment.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 1179, RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES .

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

DATE: Tuesday, February 12, 2013 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): David M. Louie, Attorney General, or
Richard W. Stacey, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The bill clarifies that petitions for involuntary medication of inmates may be filed in district court, in addition to circuit court; expands the time period for petitions to be filed from two days to five days; adds definitions of danger of harm to self and danger of harm to others; modifies the required notification process where the subject of the petition is already in custody; and allows the petitioners to file either declarations or affidavits, a process that follows modern court rules. These amendments are proposed to allow for a more efficient and responsive court process, enabling medical staff in various correctional facilities to provide critical and necessary medical treatment in a more timely fashion, resulting in the improved mental and physical status of inmates.

The Department suggests that the bill be amended by deleting the word "shelter," (page 2, line 9), from the definition of "Danger of physical harm to self," because it does not apply here.

We respectfully request that this bill be passed.