



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
Benefit, Employment and Support Services Division  
820 Mililani Street, Suite 606  
Honolulu, Hawaii 96813

COLIN KIPPEN • Governor's Coordinator on Homelessness • Telephone 808 586-0974

TO: House Committees on Health and Public Safety  
FROM: Colin Kippen  
Re: SB 310, SD2, Relating to Mental Health Treatment  
Date: March 15, 2013, 10:00 am

Position of Witness: **Strongly supports** this measure, SB 310, SD2.

I am the Governor's Coordinator on Homelessness and the Chair of the Hawaii Interagency Council on Homelessness. I am responsible for coordinating the efforts of the federal, state, and local governments as well as the public and private sectors, as broadly as that term may be defined, to end homelessness in Hawaii. While homelessness is a complex social, health, and economic issue which is difficult to understand and even more difficult to end, there are improvements within our grasp that can be brought to bear to assist those with severe mental illness who constitute a significant subset of our chronically homeless population, and, who, without passage of this legislation, will remain unmedicated and untreated, and more-likely-than-not will eventually end up dying on our streets. This is an unacceptable outcome, and we must do more to assure that these seriously mentally ill amongst us are afforded the opportunity to receive the mental health treatment they so desperately need.

At the present time, those individuals with severe mental illness who are homeless cycle between living on the streets, emergency room treatment, hospitalization, incarceration, and forced medication in our mental institutions until they return to normalcy, at which point they are discharged back onto the streets where the process begins all over again. No mechanism exists to assure that they are able to be treated in the community once they return to normalcy because the existing statute passed many years ago is seriously flawed and is unable to be implemented. The result is that they remain untreated, their mental health deteriorates over time, and the possibility of being able to restore them to normalcy by our medical and psychiatric professionals becomes less likely as time progresses.

Our present system must be improved and this bill is a vehicle to accomplish that end. It will enable individuals with severe mental illness to be treated in the community after a hearing before a judge where their rights to representation and due process will be protected. An order will be issued by a Judge for a limited time, and, if appropriate, these individuals will be required to be treated and medicated in the community.

It is anticipated that such treatment opportunities for this set of individuals will improve and assist them in maintaining their mental and physical health, will enable them to be aware of their surroundings and their actions, will enable them to find and enter into stable and suitable housing, will enable them to develop and reconnect with family and loved ones, and may even enable them to become gainfully employed, independent, and self sufficient. It will also substantially reduce the amount of incarcerations, emergency room visits, hospitalizations, and institutionalization for this group and will reduce the costs of such care which is presently being funded out of scarce public funds.

The shift from institutionalization to outpatient and community care is a concept that the State of Hawaii has already fully embraced in its plans to shift responsibility from the Department of Health to the Department of Human Services to insure our low-or-no-income state populations on MedQuest and 'Ohana Care plans so that they can receive health and psychiatric care in their communities. S310 is the next logical step in that direction because it will enable these individuals to receive treatment in the community and to have it be funded through the insurance plans that the state is creating for them for exactly that purpose. It will also save a substantial amount of money with the likelihood of better health and psychiatric outcomes for these individuals.

I implore the Committees on Health and Public Safety to move this bill forward, and to assist in accomplishing the hard work of improving this bill and harmonizing it with other existing laws to allow its passage.

I appreciate the opportunity to present this testimony before your committees, and stand ready to assist as needed.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



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MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE RS-DK

March 15, 2013

The Honorable Della Au Belatti, Chair  
and Members  
Committee on Health  
The Honorable Henry J.C. Aquino, Chair  
and Members  
Committee on Public Safety  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Au Belatti and Aquino and Members:

Subject: Senate Bill No. 310, SD2 (SSCR692), Relating to Mental Health Treatment.

I am Roy Sugimoto, Major of District 1 of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 310, SD2 (SSCR692), Relating to Mental Health Treatment. This bill establishes an assisted community treatment program in lieu of the involuntary outpatient treatment program.

While HPD supports the intent of the bill, we do not support the amendment in Senate Bill No. 310, SECTION 10, Section 334-129, Hawaii Revised Statutes (HRS), Failure to comply with assisted community treatment. Paragraph (b) of this section is amended to state that a police officer or other law enforcement officer may transport the subject of the order to a designated mental health program for purposes of implementation of the assisted community treatment order.

We strongly feel that law enforcement should not become a transport service provider when a person does not comply with community treatment. We currently have the authority to take into custody and transport to any designated facility any person who is imminently dangerous to self or others under HRS Section 334-59, Emergency Examination and Hospitalization.

The Honolulu Police Department urges you to oppose Senate Bill No. 310, SD2 (SSCR692), as currently written. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Sugimoto".

ROY SUGIMOTO, Major  
District 1

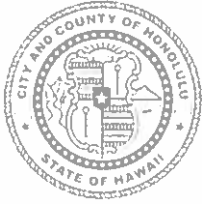
APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa".

LOUIS M. KEALOHA  
Chief of Police

Chief of Police

*Serving and Protecting With Aloha*



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
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**CAROL FUKUNAGA**

HONOLULU CITY COUNCIL, DISTRICT 6

PHONE: 768-5006 FAX: 768-1199

EMAIL: cafukunaga@honolulu.gov

**TESTIMONY ON SB 310, SD2 - RELATING TO MENTAL HEALTH TREATMENT**

**HOUSE COMMITTEE ON HEALTH  
HOUSE COMMITTEE ON PUBLIC SAFETY  
March 15, 2013 • 10:00 AM • Conference Room 329**

Thank you for for the opportunity to submit written testimony in support of SB 310, SD2, Relating to Mental Health Treatment.

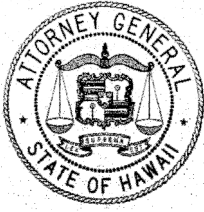
As Chair of the City Council's Public Safety and Economic Development Committee, my staff and I are working with state agencies, City housing/community services agencies and a variety of homeless services providers to expand our ability to relocate unsheltered homeless individuals from public spaces into appropriate transitional housing/treatment and services.

Among the roughly 1,315 homeless individuals considered to be "unsheltered" out of the 4,353 homeless persons living in the City and County of Honolulu (reference: 2012 Point-in-Time Count), a substantial percentage of them experience mental health and alcohol/drug abuse issues that impede their ability to seek/receive assistance in obtaining appropriate housing, medical/psychological treatment and other services.

According to the Institute of Human Services, roughly 60% of the homeless population within the City and County of Honolulu uses some form of emergency service furnished by the Honolulu Police Department or the Honolulu Emergency Services Department on a routine basis stemming from complex medical conditions, mental illness and substance abuse.

The Council's Public Safety and Economic Development/Intergovernmental Affairs and Human Services committees are now seeking the best means of mobilizing City, State, Federal, nonprofit service providers, private sector and other community organizations to develop immediate homeless solutions that can assist state and county agencies in reducing the drain upon critical public fiscal/staffing resources.

SB 310, SD2 is a key tool for homeless services providers, law enforcement and judicial agencies, health care institutions and other medical services providers to address homelessness, which has been identified as the second-most pressing problem facing Honolulu (2012 National Citizen Survey, City & County of Honolulu).



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 310, S.D. 2, RELATING TO MENTAL HEALTH TREATMENT.

**BEFORE THE:**

HOUSE COMMITTEES ON HEALTH AND ON PUBLIC SAFETY

**DATE:** Friday, March 15, 2013

**TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Julio C. Herrera, Deputy Attorney General

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Chairs Belatti and Aquino and Members of the Committees:

The Department of the Attorney General appreciates the intent of this bill, but has some suggested changes.

This bill amends many of the provisions in chapter 334, Hawaii Revised Statutes (HRS), relating to involuntary outpatient psychiatric treatment, including changing the name from “Involuntary Outpatient Treatment” to “Assisted Community Treatment,” with the goal of reducing the hospitalization and the incarceration of persons with severe mental illness.

Section 2 of this bill amends the definition of “obviously ill” (page 2, line 14, page 3, line 1-9) to wording similar to that of “dangerous to self” as also defined by section 334-1, HRS, which provides in part that:

the person has behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, shelter, or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded.

To avoid confusion, we suggest that the definition of “obviously ill” not be amended. In the alternative, we recommend that all references to “obviously ill” be removed from chapter 334 altogether, as part of the current definition of “dangerous to self” would make the proposed definition of “obviously ill” redundant.

Section 5 of this bill contains an inherent contradiction in the petition requirements for assisted community treatment. This section requires a statement of a “[p]etitioner’s good faith

belief that the subject of the petition meets each of [the] criteria numbered (1) through (7) set forth in section 334-121[.]” but later in this section provides that “[t]he petition need not express any belief, or state any supporting facts, with reference to the criteria set forth in section 334-121(5), (6), and (7) [.]” We suggest keeping the wording that the petition be executed subject to the penalties of perjury, and deleting the rest of the paragraph.

Section 10 of this bill deals with the failure of the subject to comply with the order for assisted community treatment issued by the family court. This section proposes that “[n]o subject of the order shall be physically forced to take medication under a family court order for assisted community treatment, unless the subject is hospitalized or placed in a correctional facility subsequent to the date of the assisted community treatment order for failure to comply with the order of the court.” The issue of involuntary administration of antipsychotic medication is governed by State v. Kotis, 91 Hawai’i 319, 984 P.2d 78 (1999). Kotis, requires findings that:

- (1) a person actually poses a danger of physical harm to himself or herself or others;
- (2) that treatment with antipsychotic medication is medically appropriate and in the person’s medical interest; and
- (3) that, considering less intrusive alternatives, the treatment is essential to forestall the danger posed by the person.

An individual that meets this standard should not be in the community due to the danger they pose to themselves, or to the community. Given that the current proposal does not include criteria that would satisfy the Kotis standard, we respectfully recommend a change in the criteria for assisted community treatment on pages 3-5 such that the involuntary hospitalization or placement in a correctional facility of the subject, in conjunction with the assisted community treatment order is consistent with the requirements of Kotis.

Section 10 also adds a provision allowing a law enforcement officer to forcibly detain for transport the subject of the assisted community treatment order to a designated mental health program for the purposes of implementing the order. While some concerns have been raised about this provision, chapter 334, HRS, already allows for police transport. Section 334-59(a)(1), HRS, provides in part:

“If a police officer has reason to believe that a person is imminently dangerous to self or others . . . , the officer shall call for assistance from the mental health emergency workers designated by the director [of health]. Upon determination . . . that the person is

imminently dangerous to self or others, . . . the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. . . .”

We would suggest more specificity in the transport procedure by including wording similar to that of section 334-59(a)(1), HRS.

Finally, section 19 of this bill provides that the act is to take effect upon approval however, we suggest more time to allow for further discussion by the many stakeholders involved to develop a plan to implement this bill’s requirements. While this bill seeks to amend an existing statute, to our knowledge this law has not been utilized in the last ten years.

We respectfully ask the Committees to consider these suggestions should they decide to pass this bill.

HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

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

**Committee on Health  
Committee on Public Safety  
Testimony on S.B. 310, SD2  
Relating To Mental Health Treatment  
Friday, March 15, 2013, 10:00 A.M.  
Conference Room 329**

Chair Belatti, Chair Aquino and Members of the Committees:

The Hawaii Disability Rights Center understands the problem that many of the supporters of this bill are attempting to address and we are sympathetic to their concerns. We would not stand in opposition so long as its provisions did not violate the civil rights of any individual with a disability. That said, we are opposed to the bill in its current form.

Our prime objection is that the bill alters the current law which prohibits forcible medication under the Outpatient Treatment Law. Current law provides that other procedures and criteria are to be utilized in order to involuntarily medicate an individual. The criteria for subjecting an individual to a court order for outpatient treatment are less stringent than those that are applicable to forcible medication. Our assumption is that that was recognized when the current law was drafted and that the legislature deliberately intended to differentiate between the two proceedings.

This bill repeals the prohibition on forced medication and allows it under circumstances if the individual is in a correctional facility or hospital. Hawaii law currently has provisions for the involuntary medication of individuals in prisons and hospitals and they follow the appropriate constitutional and legal criteria. This bill does not, and for that reason is legally objectionable. We believe that the current law should stand and that the portion of Section 10 of the bill addressing this should be deleted.

Additionally, we are opposed to the language on page 4, line 12, which adds the words "or obviously ill". The thrust of the law is to attempt to intercede and provide treatment for individuals before they reach the point of being "imminently dangerous". The law



sets out criteria that need to be met based upon the past or present condition of the individual. In light of the fact the one example of the criteria is that the individual currently be gravely disabled (a term which is defined in the law) and another is that they be unlikely to live safely in the community, the addition of the term "obviously ill" adds nothing and creates confusion in the law. Moreover, its placement immediately after the words "imminently dangerous" further clouds the issue and provides less clarity as to whom the bill is intended to treat.

We understand that a lot of well intentioned people have been working on this measure for some time. At best, however, what has been produced is little more than a confusing, barely comprehensible set of hoops. At its worst, this seems an intentional back door way to circumvent the rights of individuals with mental illness and provide an easier way to medicate them, in contradiction to existing law.

Thank you for the opportunity to testify in opposition to this measure.



# NAMI Hawaii State

Hawaii's Voice on Mental Illness  
An Affiliate of the National Alliance on Mental Illness  
770 Kapiolani Blvd #613 • Honolulu, Hawaii 96813  
Phone 808.591.1297 • Fax 808.591.205  
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Aloha United Way

An Aloha United Way  
Partner Agency and  
Combined Federal  
Campaign Member

## Testimony in Support of SB310SD2

Committees on Health and on Public Safety  
March 15, 2013 10 a.m.  
State Capitol, Conference Room 229

The National Alliance on Mental Illness, Hawaii State Chapter, supports this bill because it will save lives. That life could be one of my sons, who lived homeless and ill on the streets in Waikiki.

Every day NAMI receives telephone calls from family members of people who are gravely ill. These family members are desperate because they are unable to assist their loved one to receive treatment. Rather they must watch the mental health of someone they love or deeply care about deteriorate on a daily basis. Frequently the ill family member's condition leads them to become homeless and sometimes physical complications come into play.

A person with a mental illness is just that, a person with a brain disease. Some of the people living with mental illness have a condition called anosognosia. People with this condition have an impairment which comes with their mental illness and impacts their ability to know they are sick. Anosognosia affects the lives of approximately 60 percent of the people who have schizophrenia and 40 percent of the people who suffer from bi-polar disorder. As a result of not knowing they are ill and therefore not getting help with their illness, many of these ill people spend their adult life cycling in and out of hospitals and jails. If a person receives treatment for a mental illness when it first manifests itself and continues to receive treatment at times that the disease recurs, that person has a better long term prognosis. The longer or more frequently the disease goes untreated the more the likelihood that the person's prognosis will worsen.

This bill enables a process under which some of the people who are living in dire and life threatening circumstances can receive treatment on an outpatient basis through an entity in their community. It offers some exceedingly ill people the possibility of regaining their health and returning to a better life. It will save lives.

Thank you for your consideration.

Kathleen Hasegawa  
Executive Director

**morikawa2 - Shaun**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 14, 2013 2:04 PM  
**To:** HLTtestimony  
**Cc:** carolkozdesigns@aol.com  
**Subject:** Submitted testimony for SB310 on Mar 15, 2013 10:00AM

**SB310**

Submitted on: 3/14/2013

Testimony for HLT/PBS on Mar 15, 2013 10:00AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carol Kozlovich	Individual	Support	Yes

Comments: I was asked to sit on the NAMI Board three years ago, with very little knowledge about mental illness or the laws governing same; perhaps the same as most of you with no personal contact to the problem. In the ensuing time I have learned so much and seen the suffering of families and individuals because of the lack of laws to adequately help the mentally ill. It is heartbreaking. And frightening as well to realize that many people who could and should be getting help are aimlessly wandering the streets or terrorizing their own families within the home. Worldwide we are aware of the escalation of mental illness. I strongly urge you to pass SB310. It is a step in the right direction. Thank you. Carol Kozlovich President NAMI Hawaii National Alliance on Mental Illness

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**morikawa2 - Shaun**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 14, 2013 10:10 AM  
**To:** HLTtestimony  
**Cc:** furrchuck@gmail.com  
**Subject:** Submitted testimony for SB310 on Mar 15, 2013 10:00AM

**SB310**

Submitted on: 3/14/2013

Testimony for HLT/PBS on Mar 15, 2013 10:00AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chuck Furr	Individual	Support	No

Comments: I strongly support this necessary care bill

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**morikawa2 - Shaun**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 14, 2013 3:27 PM  
**To:** HLTtestimony  
**Cc:** dianaleslei@yahoo.com  
**Subject:** Submitted testimony for SB310 on Mar 15, 2013 10:00AM

**SB310**

Submitted on: 3/14/2013

Testimony for HLT/PBS on Mar 15, 2013 10:00AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diana L. Sanchez	Individual	Support	No

Comments: Dear Committee Members, As parents of a 26 year old, seriously mentally-ill son, we are writing in support of SB 310. For the past eleven years we have learned first hand how excruciatingly difficult it is to watch your child decompensate until he meets the requirements for becoming a "danger to self and/others." Many times we have called the mental health crisis line hoping to get help for our son, only to be told that, until we catch our son in imminent danger of hurting himself or another, nothing can be done. Our son has been in the hospital for innumerable 72 hour holds, in jail three times and in the state hospital for the past six months. Still, unless mandated to take psychiatric medications, our son will continue cycling in and out of psychosis and institutions. He has very limited self-protective instincts and is extremely vulnerable to both natural and human dangers. It is our hope that SB 310 will give us all another option; instead of having to wait until we catch our son in the act of hanging himself or hurting another in order for him to receive services, SB 310 will free the the family court to proactively and compassionately order the mental health treatment he so desperately needs. Sincerely, Gary and Diana Sanchez 177 Manulele Street Hilo, Hawaii 96720

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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I wish to speak in favor of passage of SB310. I am the mother of a young man with schizophrenia. Because of the nature of his delusional thinking, he never told anyone about his symptoms, had no idea what was causing them or how to get help. This led him to do physical harm to himself and to property in his apartment. He quit his job when he started to feel destructive urges at work. Soon he was homeless. It was only after he was picked up by the police for doing property damage to a car that he finally received help. After my son stated that he was vandalizing the car because "the voices" were threatening him, and that he had never seen a doctor about these voices, an insightful judge sentenced him to 6 months in Hawaii State Hospital. This is where he was diagnosed, put on medication and later, conditionally released to a group home where he lives today. Had this bill been in force, he might have been able to get the services he needed without the 6 month hospitalization, thus saving the State several thousands of dollars. Either way, without a policy of forced commitment, he might well be languishing untreated in a jail somewhere, or be dead on the streets. I will be forever grateful to the judge who turned this into a success story with a happy ending. I strongly urge you to pass this bill to make involuntary treatment easier for all people like my son to receive.

Testimony presented before the  
House Committee on Health  
Representative Della Au Belatti, Chair  
and  
House Committee on Public Safety  
Representative Henry Aquino, Chair  
by  
Dr. Sylvia Yuen

Support for SB 310, SD 2, Relating to Mental Health Treatment

Chairs Belatti and Aquino, and members of the House Committees on Health and Public Safety: Thank you for the opportunity to present my personal testimony in support of SB 310, SD2 which relates to mental health treatment.

This bill will promote better access to mental health treatment for many individuals who are so disabled by their mental illness that they are unable to cognitively accept their diagnosis of mental illness or to continue on prescribed treatment. It affects individuals who have demonstrated a history of non-adherence to treatment which has resulted in repeated emergency room visits, hospitalization, or jail time. SB 310, SD 2 has strict procedures for the provision of treatment which will safeguard the rights and safety of those who will be assisted. In states where similar laws have been enacted: hospitalization and incarceration have been reduced; individuals with violent histories were significantly less likely to commit violence after treatment; and those in treatment were less likely to be victimized.

The measure before you provides a pathway for addressing a difficult problem concerning some of Hawai'i's most vulnerable people. It offers hope for improved health, wellness, and quality of life. I urge you to cast a positive vote on SB 310, SD2.

**TESTIMONY IN SUPPORT OF SB 310 SD2: RELATING TO MENTAL HEALTH**

TO: Health Committee Chair, Rep. Della Au Belatti  
Vice Chair Rep. Dee Morikawa  
Members of the House Committee on Health

Public Safety Committee Chair, Henry Aquino  
Vice Chair Rep. Kaniela Ing  
Members of the House Committee on Public Safety

FROM: William G. Chung, Small Business Owner

**Hearing: Friday 3/15/2013; 10:00 a.m. CR 329**

I am writing in support of SB 310 which is meant to promote better access to mental health treatment for many individuals who are so disabled by their mental illness that they are unable to cognitively accept their diagnosis of mental illness or to continue on prescribed treatment. This bill affects those persons who have demonstrated a history of non-adherence to treatment that has resulted in repeated emergency room visits, hospitalization or jail time.

As a small business owner based in Kailua, Oahu, I see more and more homeless individuals who manifest behaviors that appear to keep them homeless. Over time they are more at risk to crime as innocent bystanders or contracting a serious illness. Living on the street is sometimes beyond their control. But in the 'aloha state' I think we should be doing all we can to help the less fortunate.

Please pass this bill into law to facilitate access to treatment. Many of these potential subjects of assisted community treatment are homeless because of their mental illness.

Thank you for the opportunity to testify in support of this SB310.