

HB1723

HD2 SD1

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE CLAYTON HEE, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai`i**

March 25, 2014

RE: H.B. 1723, H.D. 2, S.D. 1; RELATING TO PSYCHIATRIC FACILITIES.

Chair Hee, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in **support** of House Bill 1723, H.D. 2, S.D. 1.

The purpose of this bill is to limit the requirements in H.R.S. §334-60.7, regarding notice of intent to discharge a patient or admit them to voluntary hospitalization, so that it applies only to civil commitments that are a direct result of criminal legal proceedings under H.R.S. §704-406 and §706-607. We believe this properly narrows notice to those cases generated by criminal prosecutions. We further support the amendment that specifies the Prosecuting Attorney shall be notified in all commitments under these sections for the sole purpose of victim notification.

The current version of this bill will address the long standing concern that crime victims have not been receiving notice of releases of forensic patients from the Hawaii State Hospital, as they do when a convicted defendant is released by the Department of Public Safety. H.B. 1723, H.D. 2, S.D. 1, will ensure that our Department receives timely notice of releases from the State Hospital, thus allowing us to contact the victim(s) of the offense that led to the forensic patient's hospitalization.

For the reasons cited above, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** H.B. 1723, H.D. 2, S.D. 1. Thank you for the opportunity to testify on this matter.



Tuesday – March 25, 2014 – 10:00am
Conference Room 229

The Senate Committee on Judiciary and Labor

To: Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

From: George Greene
President & CEO
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 1723, HD 2, SD 1 — Relating to Psychiatric Facilities

The Healthcare Association of Hawaii (HAH) is a 116-member organization that includes all of the acute care hospitals in Hawaii, the majority of long term care facilities, all the Medicare-certified home health agencies, all hospice programs, as well as other healthcare organizations including durable medical equipment, air and ground ambulance, blood bank and respiratory therapy. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing nearly 20,000 people statewide.

Thank you for the opportunity to testify in support of HB 1723, HD 2, SD 1, which would alter the discharge process for mental health patients being cared for in Hawaii's hospitals by (1) allowing hospitals to discharge civil commitment patients without a court order once a physician has determined them ready for discharge; and (2) extending discharge authority to attending physicians and changing notice and hearing requirements for discharge petitions relating to patients committed under sections 704-406 and 706-607.

Specifically, HB 1723, HD 2, SD 1 would permit hospitals that care for patients under court order for civil commitment for up to ninety days to discharge the patient when the attending physician determines the patient is ready for discharge without having to first obtain a court order. This would permit hospitals to discharge patients who are ready to be discharged, but must remain involuntarily committed due to difficulty in obtaining a court hearing and order for discharge. These patients are people who have committed no crime, and have been involuntarily committed by a court for rehabilitative treatment and care for up to ninety days—yet these patients are routinely held involuntarily even when the attending physician has determined that they are ready to be discharged. And while these patients remain involuntarily committed in our hospitals, they take up precious resources that could be used to serve other patients in need.

HB 1723, HD 2, SD 1 would also allow attending physicians, in addition to administrators, to discharge patients, and would also make changes to the notice and hearing requirements under section 334-60.7

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for patients who have been committed by a court for treatment and care under section 704-406, for a finding of unfitness to proceed in a criminal matter, or 706-607, for civil commitment in lieu of prosecution or sentence. These changes would make streamline the discharge process for these patients, and would make important services available to other members of the community.

HAH is committed to working with providers across the continuum of care toward a healthcare system that offers the best possible quality of care to the people of Hawaii. HB 1723, HD 2, SD 1 would assist HAH in this mission by making much needed improvements to Hawaii's healthcare system, assisting rehabilitated patients seeking discharge, and making vital mental health resources available to Hawaii's citizens.

Thank you for the opportunity to testify in support of HB 1723, HD 2, SD 1.



H.B. 1723, H.D.2, S.D.1
Relating to Psychiatric Facilities
Senate Committee on Judiciary and Labor
March 25, 2014, 10:00 a.m.

Thank you for the opportunity to provide testimony in **strong support** of HB 1723, HD2, SD1.

Under 334-59 HRS, when the Honolulu Police Department detains a person who displays substance abuse or mental illness, and is a danger to self or others, the HPD officer is directed to contact the DOH designee, an HPD Psychologist. The HPD psychologist, via a verbal phone call by the HPD officer on the scene, determines if the person is in need of an emergency mental exam or if the person should be sent to the cellblock for criminal charges. If the person is determined to need a mental health exam, HPD transports the person to one of the MH1-hospitals, as designated by DOH, including QMC. If it is determined the person is in need of involuntary hospitalization, the court is petitioned by the AGs (in conjunction with the hospital) and the court will civilly commit the patient for up to 90 days to one of the licensed psychiatric facilities. This entire process is laid out in statute. It does not forensically encumber the individual. The person is not charged with any crime, at any time.

Often, the attending physician at the licensed psychiatric facility (ie. Queens and Castle) determines that the committed individual is ready to be discharged prior to the expiration of the ninety-day commitment order. However, the hospital cannot discharge the person until the extensive and time consuming requirements of section 334-60.7, Hawaii Revised Statutes, are met. The current process has been known to take upwards of two weeks. Unlike the commitment process, the entire discharge process is initiated and completed by the hospital facility staff and legal department, with no assistance by the Attorney General.

This proposed legislation, developed in collaboration with the Department of Health and the Department of the Attorney General, would exempt discharges of civil commitment patients from section 334-60.7, allowing the discharge of strictly non-forensic, civilly committed patients where the attending physician determines that the person is ready for release. The patient will be discharged with a discharge plan, including care coordination, but the prolonged delay in discharge caused by the current statute would be remedied. This will benefit the patient who no longer requires treatment in a restrictive environment like a hospital setting as well assisting the hospitals in bed space management in appropriately opening of bed space for a new patient who needs hospitalization.

Additionally, HAH's proposed legislation would alter the notice of discharge requirements for persons committed under sections 704-406 (Effect of finding of unfit to proceed) and 707-607 (civil commitment in lieu of prosecution), by allowing the attending physician to issue such order, and would also change notice and hearing requirements under the statute, which, too, will assist facilities like HSH and Kahi Mohala (under contract with HSH) to discharge its 704-406 and 707-607 encumbered patients in a more efficient manner, but still maintain requirements to inform interested parties of the patient's impending release.