

JAN 23 2015

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH EXAMINATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Under section 704-404, Hawaii Revised Statutes,
2 a court may order a physical or mental examination of a criminal
3 defendant to determine the defendant's penal responsibility.
4 The legislature finds that the forensic examination process
5 typically takes several months to complete. During this period,
6 a pretrial defendant who may have a serious mental disease or
7 defect may be held in state custody without receiving the timely
8 completion of the court ordered examination or appropriate
9 mental health treatment.

10 The legislature further finds that the lack of trained
11 evaluators available in the State is linked to the rising number
12 of pretrial detainees, resulting in homogenous populations of
13 mentally ill and non-mentally ill defendants in understaffed and
14 underfunded county jails as well as the Hawaii state hospital.

15 The legislature further finds that specialty training and
16 expertise is required for the proper administration of a court
17 ordered mental health examination. The conclusions drawn in a



1 court ordered examination are heavily considered by the
2 judiciary, and accordingly, a significant factor in the legal
3 claims and defenses available to a defendant. Significantly,
4 the recommendations to the judiciary contained in court ordered
5 examinations have historically shown to strongly sway the final
6 ruling of the court. The legislature accordingly further finds
7 that where court ordered examinations involve forensic analysis,
8 post-doctoral or commensurate experience and appropriate
9 training becomes a crucial factor in the quality of mental
10 health reports and administration of justice.

11 The purpose of this Act is to:

- 12 (1) Ensure timely administration of mental health
13 examinations by trained forensic specialists by
14 establishing within the courts and corrections branch
15 of the department of health competitive salary, nine
16 permanent full-time equivalent (9.00 FTE) forensic
17 psychologist positions;
- 18 (2) Ensure the quality of forensic analyses in the
19 judicial state system, especially where criminal
20 charges are involved, by requiring the prompt hiring
21 of one permanent full-time equivalent (1.00 FTE)



- 1 manager position, within the courts and corrections
2 branch;
- 3 (3) Establish a system of accountability and efficiency by
4 requiring the manager of the courts and corrections
5 branch to oversee and review the forensically-related
6 work of the forensic psychologists;
- 7 (4) Require the manager of the courts and corrections
8 branch to review the certification process by which
9 the department of health may appoint private and state
10 forensic examiners, pursuant to section 704-404(2),
11 Hawaii Revised Statutes;
- 12 (5) Provide funds for additional office space to require
13 the court and corrections branch to be located near
14 the courts in major populated areas, secretarial
15 support, and other supplies necessary to facilitate
16 the forensically-related work product of the court and
17 corrections branch; and
- 18 (6) Recognize that the lack of critical forensic positions
19 in the department of health constitutes an emergency,
20 and accordingly, lifts any hiring freeze for all
21 exempt positions in the court and corrections branch.



1 SECTION 2. (a) There is established in the courts and
2 corrections branch of the department of health nine permanent
3 full-time equivalent (9.00 FTE) forensic psychologist positions
4 that shall engage in psychological work with forensically-
5 encumbered patients. At a minimum, a forensic psychologist
6 shall have, and shall provide such evidence upon request, one
7 year of post-doctoral forensic experience. Forensic
8 psychologists shall be appointed by the director of the
9 department and be compensated for services with a competitive
10 annual salary.

11 (b) To ensure maximum personnel retention, all existing
12 courts and corrections branch examiners shall be converted to
13 the new forensic psychologist position and, their upgraded pay
14 scales to reflect past step movements and years of service;
15 provided that the examiners meet the minimum requirement
16 provided in subsection (a).

17 (c) There is established in the courts and correction
18 branch one permanent full-time equivalent (1.00 FTE) manager
19 position. The manager shall review the current certification
20 process by which the department of health may appoint qualified
21 private and state forensic examiners, pursuant to section



1 704-402(2), Hawaii Revised Statutes. The review of the
2 certification process shall be completed by May 1, 2016.

3 (d) Until the nine permanent forensic psychologist
4 positions established pursuant to subsection (a) are filled, the
5 court and corrections branch shall remain in an emergency hiring
6 situation and any hiring freeze on any exempt positions within
7 the branch shall be lifted without unnecessary delay.

8 SECTION 3. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2015-2016 and
11 the same sum or so much thereof as may be necessary for fiscal
12 year 2016-2017 to:

13 (1) Establish nine permanent full-time equivalent (9.00
14 FTE) forensic psychologist positions within the courts
15 and corrections branch of the department of health;

16 (2) Establish one permanent full-time equivalent (1.00
17 FTE) manager position within the courts and
18 corrections branch of the department of health;

19 (3) Provide capital expenditures necessary for office
20 space for the courts and corrections branch of the



S.B. NO. 309

1 department of health located near the courts of highly
 2 populated area; and
 3 (4) Provide operating expenses for additional secretarial
 4 support and other materials, such as reference
 5 manuals, evaluation exams, and office supplies as
 6 necessary for the facilitation of forensically-related
 7 work.

8 The sums appropriated shall be expended by the department
 9 of health for the purposes of this Act.

10 SECTION 4. This Act shall take effect on July 1, 2015.

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S.B. NO. 309

Report Title:

Mental Health Examinations; Court Ordered Examinations; Courts and Corrections Branch; Department of Health; Adult Mental Health; Forensic Psychology

Description:

Establishes nine permanent full-time equivalent (9.00 FTE) forensic psychologist positions and one permanent full-time equivalent (1.00 FTE) manager position within the courts and corrections branch of the department of health for timely and proper administration of court ordered examinations.

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