
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 populations of mentally ill
13 and non-mentally ill defendants in understaffed and underfunded
14 county jails as well as the Hawaii state hospital.

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



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

10 The purpose of this Act is to:

- 11 (1) Ensure timely administration of mental health
12 examinations by trained forensic specialists by
13 establishing forensic psychologist positions within
14 the courts and corrections branch of the department of
15 health;
- 16 (2) Ensure the quality of forensic analyses in the
17 judicial state system, especially where criminal
18 charges are involved, by requiring the prompt hiring
19 of a manager position within the courts and
20 corrections branch;



1 (3) Establish a system of accountability and efficiency by
2 requiring the manager of the courts and corrections
3 branch to oversee and review the forensically-related
4 work of the forensic psychologists;

5 (4) Require the manager of the courts and corrections
6 branch to review the certification process by which
7 the department of health may appoint private and state
8 forensic examiners, pursuant to section 704-404(2),
9 Hawaii Revised Statutes;

10 (5) Provide funds for additional office space to require
11 the court and corrections branch to be located near
12 the courts in major populated areas, secretarial
13 support, and other supplies necessary to facilitate
14 the forensically-related work product of the court and
15 corrections branch; and

16 (6) Recognize that the lack of critical forensic positions
17 in the department of health constitutes an emergency,
18 and accordingly, lifts any hiring freeze for all
19 exempt positions in the court and corrections branch.

20 SECTION 2. (a) There is established in the courts and
21 corrections branch of the department of health permanent



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

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

14 (c) There is established in the courts and correction
15 branch permanent full-time equivalent (FTE) manager
16 position. The manager shall review the current certification
17 process by which the department of health may appoint qualified
18 private and state forensic examiners, pursuant to section
19 704-402(2), Hawaii Revised Statutes. The review of the
20 certification process shall be completed by May 1, 2016.



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

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

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

15 (2) Establish permanent full-time equivalent
 16 (FTE) manager positions within the courts and
 17 corrections branch of the department of health;

18 (3) Provide capital expenditures necessary for office
 19 space for the courts and corrections branch of the
 20 department of health located near the courts of highly
 21 populated area; and



1 (4) Provide operating expenses for additional secretarial
2 support and other materials, such as reference
3 manuals, evaluation exams, and office supplies as
4 necessary for the facilitation of forensically-related
5 work.

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

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



Report Title:

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

Description:

Establishes an unspecified number of permanent full-time equivalent forensic psychologist positions and an unspecified number of permanent full-time equivalent manager positions within the courts and corrections branch of the department of health for timely and proper administration of court ordered examinations. (SD1)

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