

Honolulu, Hawaii

February 11, 2016

RE: H.B. No. 2359  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 2359  
entitled:

"A BILL FOR AN ACT RELATING TO FORENSIC MENTAL HEALTH  
PROCEDURES,"

begs leave to report as follows:

The purpose of this measure is to lessen the time certain  
criminal defendants spend in state custody awaiting forensic  
mental health examinations and the resultant rulings on fitness to  
proceed and penal responsibility by separating the examination for  
fitness to proceed and the examination for penal responsibility.

The Department of Health, Office of the Public Defender,  
Hawaii Disability Rights Center, and Hawaii Psychological  
Association commented on this measure. The City and County of  
Honolulu Department of the Prosecuting Attorney opposed this  
measure.

Your Committee has amended this measure by:

- (1) Clarifying that proceedings in a prosecution shall be  
suspended during the pendency of an examination to  
determine penal responsibility;
- (2) Specifying that a separate examination to determine  
penal responsibility shall be conducted no more than



thirty days after an initial examination to determine fitness to proceed;

- (3) Clarifying that the defendant's medical, mental health, social, police, and juvenile records may be provided to forensic examiners in either hard copy or digital format;
- (4) Making the court's appointment of one qualified examiner discretionary in the case of a redetermination of fitness to proceed of a defendant charged with an offense other than a Class A felony;
- (5) Clarifying that the continued confinement of a defendant in the custody of the Director of Health following a redetermination that the defendant is fit to proceed shall be subject to bail and that the continued confinement of the defendant after a penal verdict or finding of culpability shall be subject to the court's discretion;
- (6) Changing its effective date to July 1, 2070, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2359, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2359, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,



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DELLA AU BELATTI, Chair



