

Honolulu, Hawaii

APR 29 2016

RE: S.B. No. 2888
S.D. 2
H.D. 2
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

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

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2888, S.D. 2, H.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to decrease the time defendants spend in state custody waiting for forensic mental health examinations and to shorten the time to reach a ruling on fitness to proceed and penal responsibility by:

- (1) Separating examination for fitness to proceed of a defendant with respect to physical or mental disease, disorder, or defect, from examination for penal responsibility of the defendant with respect to physical or mental disease, disorder, or defect, with certain



exceptions, in criminal prosecutions where the defendant's capacity is at issue; and

- (2) Specifying procedures after a finding of unfitness to proceed and regained fitness to proceed.

Your Committee on Conference finds that under section 704-404, Hawaii Revised Statutes, when a defendant's fitness to proceed comes into question, the criminal proceedings are stopped, and the court must order a physical or mental examination of the defendant to determine the defendant's fitness to proceed and whether the defendant was penally responsible for the alleged crime. It is in the best interest of the defendants for the examination process to proceed in a timely, expedient manner by separating the fitness to stand trial and the penal responsibility components of examinations and codifying procedures for appointing examiners for reevaluation of fitness.

Your Committee on Conference has amended this measure by:

- (1) Deleting redundant language related to excluding the time of completion of an examination from counting toward the time for trial commencement;
- (2) Specifying that the court may order an examination for penal responsibility to occur no sooner than one hundred twenty days, rather than within thirty days, of a finding of unfit to proceed under section 704-404, Hawaii Revised Statutes, upon a showing of good cause; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2888, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2888, S.D. 2, H.D. 2, C.D. 1.

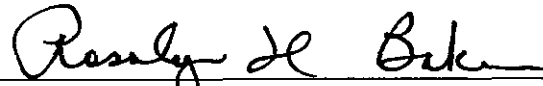


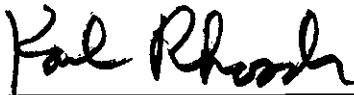
Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

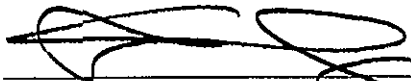
ON THE PART OF THE SENATE

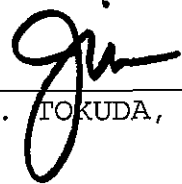

DELLA AU BELATTI, Co-Chair


ROSALYN H. BAKER, Chair


KARL RHOADS, Co-Chair


GILBERT S.C. KEITH-AGARAN, Co-Chair


SYLVIA LUKE, Co-Chair


JILL N. TOKUDA, Co-Chair



Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 2888, SD 2, HD 2	Date/Time: 4/25/16 10:17AM
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
BAKER, Rosalyn H., Chr.	✓				BELATTI, Della Au, Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				RHOADS, Karl, Co-Chr.	✓			
TOKUDA, Jill N., Co-Chr.	✓				LUKE, Sylvia, Co-Chr.	✓			
					MORIKAWA, Dee	✓			
					FUKUMOTO CHANG, Beth	✓			
TOTAL	3	-	-	-	TOTAL	5	-	-	-

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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