

Honolulu, Hawaii

March 22, 2016

RE: S.B. No. 2888
S.D. 2
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 S.B. No. 2888, S.D. 2, 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 address the length of time defendants spend in state custody awaiting results of court ordered forensic physical or mental health examination rulings by establishing separate evaluations for fitness to proceed and for penal responsibility, with certain exemptions.

An individual supported this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu opposed this measure. The Judiciary; Department of Health; and Hawaii Disability Rights Center provided comments.

Your Committee has amended this measure by adopting the amendments proposed by the Judiciary and the Department of Health that:

- (1) Specify that juvenile records shall only be available for inspection by a prosecuting attorney or counsel for the defense if constitutionally required;



- (2) Clarify that the requirement for separate fitness and penal responsibility examinations and reports only applies to felony cases;
- (3) Remove felonies for which criminal charges may not be instituted by written information from those for which an examination for regained fitness to proceed must be conducted by a panel of three examiners; and
- (4) Specify that the time used to complete an examination shall not be included in computing the time for trial commencement.

Your Committee has additionally amended this measure by 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 S.B. No. 2888, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2888, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary.

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



DELLA AU BELATTI, Chair



Record of Votes of the Committee on Health

Bill/Resolution No.: SB 2888, SD2	Committee Referral: HLT, JUD	Date: 3/16/16		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> ^{APC} Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. BELATTI, Della Au (C)	/			
2. CREAGAN, Richard P. (VC)	/			
3. HASHEM, Mark J.	/			
4. JORDAN, Jo		/		
5. KOBAYASHI, Bertrand	/			
6. MORIKAWA, Dee	/			
7. OSHIRO, Marcus R.				/
8. FUKUMOTO CHANG, Beth				/
9. TUPOLA, Andria P.L.		/		
TOTAL (9)	5	2		2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				