

Honolulu, Hawaii

April 8, 2016

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

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2888, S.D. 2, H.D. 1, 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 reduce delays and enable the expedient administration of justice by establishing a more efficient pretrial process that ensures timely and relevant administration of court ordered forensic physical or mental health examinations. This measure establishes separate evaluations for fitness to proceed and for penal responsibility, with certain exemptions, in criminal prosecutions where the defendant's capacity is at issue.

The Office of the Public Defender testified in support of this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu testified in opposition. The Department of Health, Hawaii Disability Rights Center, and one concerned individual provided comments.

Your Committee finds that this measure will assist in making forensic mental health examinations more efficient and better aligned with the American Bar Association's Criminal Justice Mental Health Standard which recommends that evaluations of a defendant's fitness to proceed and penal responsibility not be combined.



Your Committee notes that the statutory references to the various types of examiners may need to be standardized in a future measure.

Your Committee has amended this measure by:

- (1) Clarifying the qualification requirements for the persons conducting the examinations of the defendant;
- (2) Specifying that the court shall not order an examination for penal responsibility to occur more than thirty days after a finding of fitness to proceed and that, upon a showing of good cause, the court may order an examination for penal responsibility within thirty days of a finding of unfit to proceed;
- (3) Establishing the court's authority to appoint, when appropriate, additional examiners for examinations to determine whether the defendant has regained fitness to proceed, similar to the court's authority for the initial fitness exam and the penal responsibility exam;
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style; and
- (5) Making this measure effective upon its approval.

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

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



KARL RHOADS, Chair



