



Committee: Committee on Judiciary and Labor
Committee on Ways and Means
Hearing Date/Time: Monday, April 4, 2016, 9:15 a.m.
Place: Conference Room 211
Re: Testimony of the ACLU of Hawaii with Comments on H.B. 2559, H.D.1, S.D. 1, Relating to Mental Health

Dear Chair Keith-Agaran, Chair Tokuda, and Committee Members:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes with comments on H.B. 2559, H.D. 1, S.D. 1, which requires family courts to consider assisted community treatment as an alternative to commitment to a psychiatric facility.

While the ACLU of Hawaii generally supports the intent of this bill, the current language is unjustifiably broad. Involuntary commitment and forcible treatment are serious deprivations of liberty that can be justified only in the narrow circumstances where there is mental illness and an imminent physical danger to the person to be committed or to others, evidenced by observed behavior and where there is no less restrictive alternative. The bill’s current language erodes the requirement that a person be “imminently dangerous to self or others” by defining the term as meaning “that, without intervention, the person will likely become dangerous within the next ninety days.” This vague language is antithetical to common usage of the word “imminent” and impermissibly expands the qualifications for involuntary commitment and treatment from those who actually *are* imminently dangerous, to those who are likely to *become* dangerous at some point during a future three-month period. The ACLU of Hawaii respectfully suggests that the committees amend this language to remove this contradictory definition.

Thank you for the opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

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April 3, 2016

To: Judiciary and Labor Committee Chair Senator Gilbert S.C. Keith-Agaran, and Vice Chair, Senator Maile S.L. Shimabukuro
Ways and Means Committee Chair, Senator Jill N. Tokuda and Vice Chair, Senator Donovan M. Dela Cruz

From: Roland Lee

Re: Bill HB2559 HD1 SD1

In Opposition

Chairs and Committee Members,

I have been working in social services for almost 20 years and my first career job was as a crisis worker in 1995. I am also currently a graduate student at the University of Hawaii at Manoa. As a crisis worker, my past duties were to assess for “imminent harm” for the mentally ill and/or someone who was under the influence of alcohol/drugs. If the person was assessed to be a potential harm to self or others, then an oral exparte’s would be called in to a Family Court Judge and it would either be granted or denied. If granted the person would be taken in for a psychiatric evaluation at a nearby hospital by HPD and they could be committed for up to 72 hours with the possibility of extensions.

The timeframe when assessing for “imminent harm” is from the present time and looking 24 hours into the future and 24 hours in the past, for a total of 48 hours. Anything outside of this window cannot be considered “imminent” because there is time to work with the person to bring the crisis down and without first responder such as HPD’s assistance.

By changing the definition of “imminent harm” to include 90 days, it would make it too easy for HPD, social workers, attorneys, physicians, mental health workers, State Workers, etc... to involuntarily commit anyone. There is no way to accurately assess for potential harm to self or others by looking 90 days into the future because a lot can change in three months. It would be wrong to take away someone’s civil rights by involuntarily committing them when a person’s situation is fluid in a 90 day timeframe. Low-level crisis is a better way of defining a 90-day time period. In fact the crisis couldn’t be considered an “urgent” matter.

However, if “imminent harm” is redefined to include up to 90 days, then involuntary commitments could potentially be misused or abused especially on marginalized populations such as the homeless.

For the reasons above I am opposed to HB2559 HD1 SD1. Thank you for the opportunity to submit testimony.