

# **SB 1130**

## **RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES.**

Allows for a declaration to be filed with the petition as an alternative to an affidavit; expands the court's ability to continue the hearing on the petition for good cause; gives the court more flexibility in deciding when a guardian ad litem is necessary; changes the time requirement for filing for a court order for medical treatment from a period of within two days of an examination of the person to within five days; redefines the persons who must be notified of the petition; clarifies the effective expiration date of the order for persons who return to custody after release; and provides the ability for the department to seek an extension of an order to treat if necessary.

PSM/HTH, JDL



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

**S.B. NO. 1130, RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES.**

**BEFORE THE:**

**HOUSE COMMITTEES ON HEALTH AND PUBLIC SAFETY,  
INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**DATE:** Wednesday, February 11, 2015      **TIME:** 1:45 p.m.

**LOCATION:** State Capitol, Room 414

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Richard W. Stacey, Deputy Attorney General

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Chair Green, Chair Espero and Members of the Committees:

The Department of the Attorney General strongly supports this bill.

This bill addresses needed modifications to the process of petitioning for involuntary medication orders for inmates and detainees in the custody of the Department of Public Safety. The bill expands the time period for petitions to be filed from two days to five days; adds definitions of danger of harm to self and danger of harm to others; modifies the required notification process because the subject of the petition is already in custody; clarifies whether an order remains in effect for an inmate or detainee who is released but returns to a facility; gives the court added flexibility in determining whether a guardian is necessary and/or whether a continuance of a hearing on the petition is necessary; adds the ability to obtain extensions to medication orders before they expire, and allows the petitioners to file either declarations or affidavits, a process that follows modern court rules. These amendments are proposed to allow for a more efficient and responsive court process, enabling medical staff in various correctional facilities to provide critical and necessary medical treatment in a more timely fashion, resulting in the improved mental and physical status of inmates and detainees.

We respectfully request that this bill be passed.

DAVID IGE  
GOVERNOR



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**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL (SB) 1130  
A BILL RELATING TO COURT ORDERS TO PROVIDE MEDICAL  
TREATMENT FOR INMATES AND DETAINEES IN  
CORRECTIONAL FACILITIES

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Health  
Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair

Wednesday, February 11, 2015, 1:45 PM  
State Capitol, Conference Room 414

Chairs Espero and Green, Vice Chairs Baker and Wakai, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill (SB) 1130, to amend an existing statute, Act 72, Session Laws of Hawaii 2011 (HB 1088), authorizing the Department of Public Safety to render necessary medical and mental health treatment to inmates and detainees in correctional facilities.

As can be surmised with many newly created statutes, implementing the specific language of the statute often encounters operational considerations previously not envisioned in the original design. There are two (2) specific operational deficiencies in the original statute that restrict the Department's ability to fully implement the original intent of the statute, and that require modification, as well as seven "housekeeping items" contained in this bill.

The two most significant specific areas that require modification are:

- 1) the definitions of danger of harm to self or others; and

- 2) the hearing notification process.

We are proposing that the definitions for harm to self or others be expanded to include individuals who, although they do not pose an immediate danger due to present physical constraints, do represent an imminent danger if these physical constraints are not present. We are seeking this expanded definition since we have encountered inmates with mental health disorders who have been relegated to long periods of isolation in segregated settings who may not present the immediate behaviors of danger to self or others. However, if released from segregated settings, it is reasonably predictable based on past behaviors, that they would pose a serious danger to self or others. Presently, these individuals are relegated to indefinite seclusion, depriving them of the opportunity and rights of other prisoners or detainees. The Department considers it to be inhumane to retain these inmates in such settings without attempting interventions that could conceivably permit them the rights and privileges of other prisoners.

The second significant area of change is the hearing notification process. The Department has found it unnecessarily cumbersome to attempt to contact the litany of individuals outlined in the present statute, and is seeking to expedite the notification process by restricting notification to those parties whom the inmate has designated as their emergency contact or their legal guardian while in the custody of the department, while still permitting the court to decide if other significant parties are relevant to the hearing.

There are seven additional proposed technical amendments to the statute, which make it more operationally efficient, that are reflected as follows:

- 1) permitting a declaration as an option to an affidavit from licensed physicians or psychologists who have personally examined the inmate;
- 2) changing the period of the examination requirement from two (2) to five (5) days;
- 3) deleting the erroneous reference to “commitment” and replacing it with a reference to “treatment”;
- 4) substituting the references to “judge” with references to “court “ throughout the bill;

- 5) removing the inmates' inability to participate in the hearing as a condition for the court considering appointing guardianships;
- 6) permitting the court order to continue to the maximum period of the order should an individual be released and returned to custody, unless it has been determined the person is no longer in need of treatment; and
- 7) allowing the Department to petition the court for extension of the orders for a period of one year for inmates who continue to meet the criteria for the order.

Thank you for the opportunity to testify on this bill.