

Honolulu, Hawaii

FEB 16 2017

RE: S.B. No. 122  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 122 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide designated family members, friends, and other interested persons of an individual with sufficient notice of a mental health emergency by providing: notice of certain procedures and actions, the option to be present in the courtroom for a hearing on a petition for involuntary hospitalization or assisted community treatment, and the option to receive copies of hearing transcripts or recordings; and
- (2) Require the court to adjourn or continue a hearing on a petition for involuntary hospitalization or assisted community treatment for failure to timely notify designated persons, with certain exceptions.

Your Committee received testimony in support of this measure from two individuals. Your Committee received comments on this measure from the Department of the Attorney General, Department of Health, The Queen's Health Systems, and Hawaii Disability Rights Center.



Your Committee finds that family members provide a very valuable support network for individuals with mental illness, especially as those individuals try to navigate the State's health, mental health, and court systems. Your Committee further finds that often family members are kept in the dark about their loved ones' status, location, and treatment. While your Committee finds that it is important to provide family members with more information about their loved ones with mental illness, your Committee also recognizes the need to protect individual privacy rights.

Your Committee has amended this measure by:

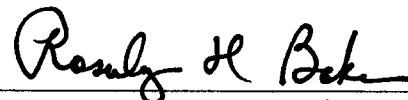
- (1) Deleting the provision that provided family members with the right to notice of a person's emergency admission, examination, hospitalization, transfer, release, or discharge as soon as practicable and required efforts to locate family members for notice purposes to be documented in a person's medical records;
- (2) Inserting language entitling family members to notice of emergency admission, examination, and hospitalization as long as one of the following circumstances exist:
  - (A) The subject has capacity to make health care decisions and agrees, is given the opportunity to object and does not object, or the health care provider can reasonably infer from the circumstances that the subject does not object;
  - (B) The patient is incapacitated; or
  - (C) An emergency circumstance exists and the healthcare provider determines that providing notice is in the best interest of the subject;
- (3) Deleting language throughout the measure that entitles an adult friend who has a significant relationship with the person to notice of certain procedures and actions, and amending various provisions to entitle the subject's closest adult relative to notice, if any can be found, if the subject has no spouse or reciprocal beneficiary, legal parent, or adult children, or if none can be found;



- (4) Amending the provisions related to court hearings on a petition for involuntary hospitalization or assisted community treatment to allow the court discretion to exclude individuals entitled to notice from attending the hearing if the court determines such exclusion is required by the interests of justice;
- (5) Changing statutory language to require that when forensic and non-forensic patients are civilly committed, the individuals specified as entitled to receive notice in the order of commitment be given notice of intent to discharge, or notice of the patient's admission to voluntary inpatient treatment if the patient voluntarily agrees to further hospitalization;
- (6) Amending language to require that notice of any transport or admission for failure to comply with assisted community treatment be provided to the persons specified in the order for assisted community treatment; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 122, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 122, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



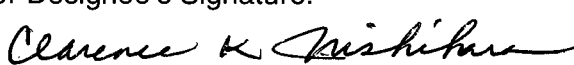
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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB122	CPH, JDL/WAM	2/2/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
KIDANI, Michelle N.				/
RUDERMAN, Russell E.				/
<b>TOTAL</b>	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes