

STAND. COM. REP. NO.

4

Honolulu, Hawaii

FEB 01 2017

RE: S.B. No. 145  
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. 145 entitled:

"A BILL FOR AN ACT RELATING TO EXAMINATIONS OF FITNESS TO  
PROCEED,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Ensure that transfers of defendants to hospitals for  
evaluation and treatment are due to the need for acute  
hospital level psychiatric treatment for mental illness;  
and
- (2) Make permanent the statutory change repealing the  
requirement that one of the three qualified examiners  
providing forensic evaluations to determine a  
defendant's fitness to proceed in a felony case has to  
be appointed from within the Department of Health.

Your Committee received testimony in support of this measure  
from the Department of Health. Your Committee received comments  
on this measure from the Hawaii Disability Rights Center.

Your Committee finds that it is important to pursue  
initiatives that promote the safe, effective, and efficient  
delivery of mental health supports and forensic evaluations.  
Currently, no clearly defined criteria exist for determining  
whether or not it is necessary to transfer a defendant to a



hospital to receive a pretrial forensic evaluation. Instead, the court has discretion in the matter, but there is no mental health professional appointed at that juncture in the court proceedings to assess the level of care a defendant might need. This measure clarifies existing law to ensure that transfers to state facilities for evaluation and treatment occur when there is a need for acute hospital level psychiatric treatment for mental illness.

Your Committee further finds that forensic examinations should be timely and efficient. During the Regular Session of 2016, the Legislature acknowledged personnel shortages within the Department of Health and enacted Act 231, Session Laws of Hawaii 2016, which gives the Department flexibility in assigning work to forensic examiners from outside the Department until June 30, 2018. Your Committee believes that this deadline gives the Department sufficient time to resolve its staffing deficits and that the flexibility granted to the Department should be temporary, as originally intended.

Your Committee has amended this measure by:

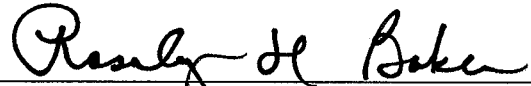
- (1) Inserting language to include detainees located in jail correctional facilities who are in need of acute psychiatric treatment for mental illness by allowing these detainees to be transferred to state facilities per agreements entered into between the Department of Health and the Department of Public Safety;
- (2) Deleting section 2, thereby retaining the language that reinstates mandatory participation by examiners from within the Department of Health in forensic examinations beginning July 1, 2018;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) 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. 145, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as S.B. No. 145, S.D. 1, and be referred to your Committee on  
Judiciary and Labor.

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



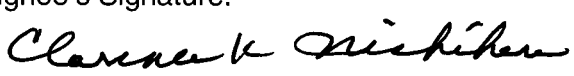
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ROSALYN H. BAKER, Chair



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:		
SB 145	CPH, JDL	1/27/17		
<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>	<b>5</b>			<b>2</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
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