
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH EXAMINATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there are a number
2 of unmedicated mentally ill persons in the State who need to
3 become stabilized before they are allowed into a shelter or a
4 home. However, there is currently a shortage of beds in the
5 community available to help these persons.

6 The state hospital in Kaneohe is currently used primarily
7 to house persons who have been acquitted of criminal charges on
8 the grounds of physical or mental disease, disorder, or defect
9 pursuant to section 704-411, Hawaii Revised Statutes, or those
10 who are awaiting a determination of whether they are fit to
11 proceed with trial under section 704-404, Hawaii Revised
12 Statutes.

13 The legislature finds that although there is a legitimate
14 need to house acquitted persons within the state hospital, the
15 State must determine a defendant's fitness to proceed in an
16 expeditious manner. The adoption of such a policy will benefit
17 all parties by preventing undue delay in the adjudication of the



1 defendant's charges while also making efficient use of the
2 department of health's limited facilities, potentially opening
3 more beds that could be used to stabilize persons suffering from
4 acute episodic psychosis, especially those among the State's
5 homeless population.

6 The purpose of this Act is to:

7 (1) Prohibit a court from committing a person to a
8 suitable facility for a mental health examination for
9 more than thirty days;

10 (2) Provide that if the required examinations cannot be
11 conducted within thirty days, the court shall
12 determine whether the defendant is eligible for
13 supervised pretrial release or should be remanded to
14 the custody of the department of public safety; and

15 (3) Provide that the court has discretion to approve any
16 agreement or stipulation of the parties to determine
17 the fitness of a defendant to proceed with less than
18 the number of required examinations.

19 SECTION 2. Section 704-404, Hawaii Revised Statutes, is
20 amended by amending subsection (2) to read as follows:



1 "(2) Upon suspension of further proceedings in the
2 prosecution, the court shall appoint three qualified examiners
3 in felony cases, and one qualified examiner in nonfelony cases,
4 to examine and report upon the defendant's fitness to proceed.
5 In felony cases, the court shall appoint as examiners at least
6 one psychiatrist and at least one licensed psychologist. The
7 third examiner may be a psychiatrist, licensed psychologist, or
8 qualified physician. One of the three examiners shall be a
9 psychiatrist or licensed psychologist designated by the director
10 of health from within the department of health. In nonfelony
11 cases, the court may appoint as examiners either a psychiatrist
12 or a licensed psychologist. All examiners shall be appointed
13 from a list of certified examiners as determined by the
14 department of health. The court, in appropriate circumstances,
15 may appoint an additional examiner or examiners. The
16 examination may be conducted while the defendant is in custody
17 or on release or, in the court's discretion, when necessary the
18 court may order the defendant to be committed to a hospital or
19 other suitable facility for the purpose of the examination for a
20 period not exceeding thirty days [~~or a longer period as the~~
21 ~~court determines to be necessary for the purpose~~]. If all



1 required examinations cannot be conducted within thirty days,
2 the court shall determine whether the defendant is eligible for
3 supervised pretrial release or remand the defendant to the
4 custody of the department of public safety pending final
5 adjudication of all charges. Notwithstanding any other
6 provision of this section to the contrary, the court shall have
7 continuing discretion to approve any agreement or stipulation of
8 the parties to determine the fitness of a defendant to proceed
9 with less than the number of required examinations under this
10 section. The court may direct that one or more qualified
11 physicians or psychologists retained by the defendant be
12 permitted to witness the examination. As used in this section,
13 the term "licensed psychologist" includes psychologists exempted
14 from licensure by section 465-3(a)(3) and "qualified physician"
15 means a physician qualified by the court for the specific
16 evaluation ordered."

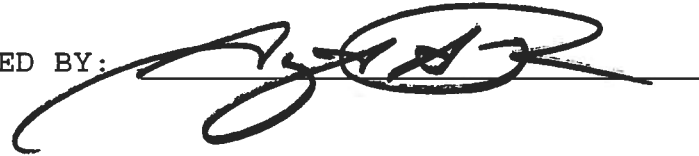
17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. J. R.", written over a horizontal line.

JAN 24 2019



H.B. NO. 1556

Report Title:

Mental Health Evaluations; Fitness to Proceed; Involuntary Commitment

Description:

Prohibits a court from committing a defendant to a suitable facility for a mental health examination for more than 30 days. Provides that if the required examinations cannot be conducted within 30 days, the court shall determine whether the defendant is eligible for supervised pretrial release or should be remanded to the custody of the Department of Public Safety. Provides that the court has continuing discretion to approve any agreement or stipulation of the parties to determine the fitness of a defendant to proceed with less than the number of required examinations.

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