
A BILL FOR AN ACT

RELATING TO THE ADMINISTRATION OF JUSTICE.

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

1 SECTION 1. The legislature finds that for those defendants
2 who commit non-violent class C felonies but are found unfit to
3 proceed, there is no time limit as to how long these defendants
4 must remain in the custody or under the supervision of the
5 department of health. As such, these defendants could end up
6 being in the custody or under the supervision of the department
7 of health for a longer period than the term of incarceration
8 would have been if they had been convicted of the non-violent
9 class C felony.

10 The legislature further finds that there is a shortage of
11 personnel in the department of health as well as a severe
12 shortage of licensed psychiatrists and mental health social
13 workers. As such, care must be taken to ensure that the State's
14 finite resources are used to provide the utmost care and
15 supervision for those defendants who have a propensity for
16 violent behavior due to mental illness rather than keeping non-
17 violent defendants committed longer than necessary.



1 The purpose of this Act is to limit the period of
2 commitment to the department of health of defendants charged
3 with class C felonies that do not involve violence or attempted
4 violence.

5 SECTION 2. Section 704-406, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) If the court determines that the defendant lacks
8 fitness to proceed, the proceeding against the defendant shall
9 be suspended, except as provided in section 704-407, and the
10 court shall commit the defendant to the custody of the director
11 of health to be placed in an appropriate institution for
12 detention, care, and treatment; provided that the commitment
13 shall be limited in certain cases as follows:

14 (a) When the defendant is charged with a petty misdemeanor
15 not involving violence or attempted violence, the
16 commitment shall be limited to no longer than sixty
17 days from the date the court determines the defendant
18 lacks fitness to proceed; [~~and~~]

19 (b) When the defendant is charged with a misdemeanor not
20 involving violence or attempted violence, the
21 commitment shall be limited to no longer than one



1 hundred twenty days from the date the court determines
2 the defendant lacks fitness to proceed[-]; and

3 (c) When a defendant is charged with a class C felony not
4 involving violence or attempted violence, the
5 commitment shall be limited to no longer than
6 _____ days from the date the court determines the
7 defendant lacks fitness to proceed.

8 If the court is satisfied that the defendant may be released on
9 conditions without danger to the defendant or to another or risk
10 of substantial danger to property of others, the court shall
11 order the defendant's release, which shall continue at the
12 discretion of the court, on conditions the court determines
13 necessary; provided that the release on conditions of a
14 defendant charged with a petty misdemeanor not involving
15 violence or attempted violence shall continue for no longer than
16 sixty days, and the release on conditions of a defendant charged
17 with a misdemeanor not involving violence or attempted violence
18 shall continue for no longer than one hundred twenty days. A
19 copy of all reports filed pursuant to section 704-404 shall be
20 attached to the order of commitment or order of release on
21 conditions that is provided to the department of health. When



1 the defendant is committed to the custody of the director of
2 health for detention, care, and treatment, the county police
3 departments shall provide to the director of health and the
4 defendant copies of all police reports from cases filed against
5 the defendant that have been adjudicated by the acceptance of a
6 plea of guilty or nolo contendere, a finding of guilt,
7 acquittal, acquittal pursuant to section 704-400, or by the
8 entry of a plea of guilty or nolo contendere made pursuant to
9 chapter 853; provided that the disclosure to the director of
10 health and the defendant does not frustrate a legitimate
11 function of the county police departments; provided further that
12 expunged records, records of or pertaining to any adjudication
13 or disposition rendered in the case of a juvenile, or records
14 containing data from the United States National Crime
15 Information Center shall not be provided. The county police
16 departments shall segregate or sanitize from the police reports
17 information that would result in the likely or actual
18 identification of individuals who furnished information in
19 connection with the investigation or who were of investigatory
20 interest. No further disclosure of records shall be made except
21 as provided by law."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Non-violent Class C Felony; Lack of Fitness to Proceed;
Commitment

Description:

Limits the period of DOH commitment for those defendants charged with a non-violent class C felony and found to be unfit to proceed under chapter 704, HRS. Effective 7/1/2050. (HD2)

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