

Honolulu, Hawaii

FEB 07 , 2020

RE: H.B. No. 1619  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1619  
entitled:

"A BILL FOR AN ACT RELATING TO PENAL RESPONSIBILITY,"

begs leave to report as follows:

The purpose of this measure is to address issues of mental  
health during a judicial proceeding by:

- (1) Authorizing the courts to enter into collaborative  
agreements with the parties where there is reason to  
believe that the defendant has a physical or mental  
disease, disorder, or defect that will or has become an  
issue in the criminal case; and
- (2) Requiring an examination for penal responsibility to be  
conducted within fifteen days after a finding of fitness  
to proceed.

Your Committee received testimony in support of this measure  
from the Department of Health and one individual. Your Committee  
received testimony in opposition to this measure from the  
Department of the Prosecuting Attorney of the City and County of  
Honolulu and Hawaii Psychological Association. Your Committee  
received comments on this measure from the Judiciary, Office of  
the Public Defender, and Hawaii Disability Rights Center.



Your Committee finds that jails nationwide have become the default mental health method of treatment for numerous low-level defendants whose needs could be far more effectively addressed by diversion into behavioral health treatment services.

Your Committee notes the concerns of the Office of the Public Defender that a mentally impaired person allegedly committing a non-violent felony should not be treated differently from a mentally impaired person allegedly committing a violent felony. Specifically, the Office of the Public Defender is concerned with the reduction of qualified examiners from three to one for class C felonies not involving violence or attempted violence.

Your Committee also notes that the agreements referred to in this measure are those made in collaboration with the parties, the court, defendants, psychologists, psychiatrists, and examiners.

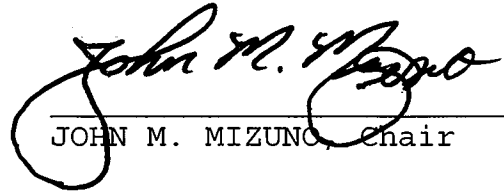
Your Committee has amended this measure by:

- (1) Based on the testimony of the Judiciary, removing the term "collaborative" when referring to the agreements covered by this measure;
- (2) Clarifying that in felony cases requiring three examiners, either one psychiatrist or one psychologist must be appointed;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1619, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1619, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on  
behalf of the members of the  
Committee on Health,

  
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JOHN M. MIZUNO, Chair



