

Honolulu, Hawaii

FEB 28 , 2020

RE: H.B. No. 1620
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1620, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ADMINISTRATION OF JUSTICE,"

begs leave to report as follows:

The purpose of this measure is to amend:

- (1) The effect of finding a defendant charged with a misdemeanor or petty misdemeanor not involving violence or attempted violence unfit to proceed; and
- (2) The requirements for fitness determination hearings, court-appointed examiners, and examination reports.

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



Your Committee finds that the issue of mental health has plagued Hawaii communities for years, resulting in the incarceration of numerous nonviolent defendants who have been charged with petty misdemeanors.

Your Committee also finds that defendants are often incarcerated without treatment and due process while awaiting mental health evaluations after the issue of mental health arises during a judicial proceeding. Due to the cost of incarcerating these defendants and the high rate of recidivism because of a lack of treatment, your Committee believes that these defendants should be allowed to opt out of judicial proceedings by entering into agreements at any stage of the process.

Your Committee has amended this measure by:

- (1) Deleting the effect of a court finding unfitness to proceed in cases where the defendant is charged with a misdemeanor offense;
- (2) Inserting the language from H.B. No. 1619, H.D. 1 (2020), which:
 - (A) Authorizes the courts to enter into agreements to divert into residential, rehabilitative, and other treatment defendants whose physical or mental disease, disorder, or defect is believed to have become or will become an issue in a judicial case;
 - (B) Amends the requirements for appointing qualified examiners to perform examinations for penal responsibility; and
 - (C) Requires an examination for penal responsibility to be conducted within fifteen days after a finding of fitness to proceed; and
- (3) 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No.



1620, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1620, H.D. 2.

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



CHRIS LEE, Chair



State of Hawaii
House of Representatives
The THIRTIETH Legislature

HSCR 989-20

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 1620 HD1	Committee Referral: HLT, JUD	Date: 2/26/20		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. LEE, Chris (C)	/			
2. SAN BUENAVENTURA, Joy A. (VC)	/			
3. BROWER, Tom	/			
4. CREAGAN, Richard P.				/
5. LOWEN, Nicole E.	/			
6. McKELVEY, Angus L.K.				/
7. NAKASHIMA, Mark M.	/			
8. PERRUSO, Amy A.	/			
9. SAY, Calvin K.Y.	/			
10. TAKAYAMA, Gregg	/			
11. YAMANE, Ryan I.				/
12. THIELEN, Cynthia	/			
TOTAL (12)	9			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 10pt;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				