



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of H.B. 2680 H.D. 1
RELATING TO MENTAL HEALTH

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date and Time: Thursday, February 13, 2020 at 2:05 p.m.

Room: 325

1 **Department Position:** The Department of Health (“Department”) supports this measure as
2 written and offers comments.

3 **Department Testimony:** The subject matter of this measure intersects with the scope of the
4 Department’s Behavioral Health Administration (BHA) whose statutory mandate is to assure a
5 comprehensive statewide behavioral health care system by leveraging and coordinating public,
6 private and community resources. Through the BHA, the Department is committed to carrying
7 out this mandate by reducing silos, ensuring behavioral health care is readily accessible, and
8 person-centered. The BHA’s Adult Mental Health Division (AMHD) provides the following
9 testimony on behalf of the Department.

10 The Department supports addressing the needs of individuals who live with behavioral
11 health issues including provision of services by mental health emergency workers, emergency
12 examinations, emergency admissions, and, if necessary, involuntary commitment. We support
13 this measure as written including extending the maximum period of emergency hospitalization
14 to seventy two hours.

15 The Department, in collaboration with state agency partners through the task force and
16 working group of Act 90 and Act 263 Session Laws of Hawaii, 2019, supports the strengthening
17 of our behavioral health system especially the community continuum of supports and services,

1 through thoughtful revision of law, changed policies, enhanced and expanded programs, and
2 continued partnership with stakeholders.

3 Thank you for the opportunity to testify.

4 **Offered Amendments:** None.

5 **Fiscal Implications:** Undetermined.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Judiciary**

February 12, 2020

H.B. No. 2680 HD1: RELATING TO MENTAL HEALTH

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

We respectfully oppose passage of H.B. No. 2680 HD1, which would greatly broaden the term of “imminently dangerous to self and others.” It also proposes to increase the maximum period of emergency hospitalization from 48 to 72 hours.

Forty-five days to ninety days

Currently, “imminently dangerous to self or others” means that, without intervention, the person will likely become dangerous to self or dangerous to others within the next forty-five days. Without any justification, this measure seeks to amend the definition by increasing the number of days from forty-five days to ninety days. Neither professional psychiatric opinions nor data has been offered to support the necessity to amend the definition.

It appears that this proposed amendment is based on the suggestion by the Department of the Attorney General’s (DAG) written testimony before the House Committee on Human Services and Homelessness; the DAG relied on HRS chapter 587A, also known as the Child Protective Act, which defined “imminent harm” as “without intervention within the next ninety days, there is reasonable cause to believe that harm to the child will occur or reoccur.” We do not see how the definition used in a “child protective” context is applicable to the definition used in an “involuntary hospitalization” context. Ninety days appears to be an arbitrary number. Why not seventy-five days? Why not sixty days? Therefore, we simply do not see how broadening the definition by increasing the number of days from forty-five days to ninety days will fulfill the intent to protect communities and provide necessary treatment to individuals posing a danger to themselves or others.

Rather, instead of extending the period for protecting a child as in the Child Protective Act under HRS chapter 587A, this proposed legislation would increase the potential of a person, guilty of no crime, having their liberty taken away to be housed in a locked mental facility against their will.

Increasing maximum time for emergency hospitalization

H.B. No. 2680 also increases the maximum time for emergency hospitalization from 48 to 72 hours. As stated in our earlier written testimony, we oppose this change. This would allow a person to be held *without a court hearing* for three (3) days and, in some cases, up to five (5) or

six (6) days if a weekend or holiday occurs during the detention. This exceedingly long detention period based upon a police officer's opinion and a mental health emergency worker's over-the-telephone judgment is not justifiable.

The provisions of this bill would make it far too easy to conduct a mass sweep and detain all persons who suffer from mental illness and are unable to follow instructions by the authorities. The solution for dealing with our significant mentally ill population is not to detain and warehouse but to provide for sufficient treatment resources in the community.

Thank you for the opportunity to comment on H.B. No. 2680 HD1.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 2680, H.D. 1, RELATING TO MENTAL HEALTH.

LATE

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 13, 2020 **TIME:** 2:05 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Erin K.S. Torres, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments on this bill.

This measure broadens the term “imminently dangerous to self and others” in section 334-1, Hawaii Revised Statutes (HRS), to mean persons who will likely become dangerous within the next ninety days, rather than within the next forty-five days. It also increases the period of emergency hospitalization from 48 hours to 72 hours. The intent is to protect individuals suffering from mental illness or substance abuse as well as members of the public while providing treatment to individuals who pose a danger to themselves or others.

The Committee on Human Services and Homelessness followed the Department’s previous recommendation to expand the term “imminently dangerous to self and others” in section 334-1, HRS, to mean persons who will likely become dangerous within the next *ninety* days. (Emphasis added.) The Department would like to note that section 334-161(b) regarding orders for treatment over the patient’s objection currently states that “(f)or the purposes of this section, “imminently dangerous to self or others” means that, without intervention, the person will likely become dangerous to self or dangerous to others within the next *forty-five* days.” (Emphasis added.) For the purposes of clarity and consistency, the Department suggests that this

Committee consider deleting section 334-161(b) so that the definition of “imminently dangerous to self and others” is the same throughout chapter 334.

If this Committee chooses to pass this measure, we respectfully ask that it consider the suggestion made by the Department.



HB2680 HD1 Redefine Imminently Dangerous Needing Emergency Hospitalization

COMMITTEE ON JUDICIARY:

- Rep Chris Lee, Chair; Rep. Joy San Buenaventura, Vice Chair
- Thursday, Feb. 13th, 2020: 2:05 pm:
- Conference Room 325

Hawaii Substance Abuse Coalition Supports HB2680 HD1:

GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 non-profit alcohol and drug treatment and prevention agencies.

HSAC supports the revised HB2680 that follows the recommendations from several sources.

1. **The intent is to help and protect persons** who are suffering from mental illness or substance use disorders as well as others who may be harmed.
2. **High utilizers are excessive use of emergency rooms, police interventions, emergency workers, and jails** while often not engaging access to adequate mental health treatment or substance use disorder treatment. What they get is inadequate care over and over again.¹
3. **We are broadening our definition to allow systems more time to motivate them to access treatment services** by expanding the standards for involuntary hospitalization to people who are “without intervention, will likely to be imminently dangerous to themselves or others in the next 90 days,”
4. **To allow more time to develop referrals to community services by increasing the maximum time in ER** from 48 hours to 72 hours. Since most ERs don’t hold anyone longer than what is absolutely necessary, there would be more impetus to stay longer if adequate community services were available to refer to such as a Subacute Crisis Residential services followed by residential and/or outpatient treatment. This would alleviate the concerns about lack of ER capacity.
5. **The need for follow up services is great.** Homeless people, who have chronic conditions of mental illness, substance use disorders or both, have disproportionately high rates of chronic and acute health conditions, traumatic injuries as well as assaults.
6. **Without interventions, high utilizers will continue to overuse emergent care.** They are basically overusing emergent care thus competing priorities for needed services when they have potentially preventable deteriorations in health conditions. They tend to have a predisposing propensity to use emergent services; enabling factors such as personal

¹ PBS/NPR: WHYY; Anne Hoffman (2017): *High Utilizers tax state mental health services, but still don't get adequate care.* <https://whyy.org/articles/high-utilizers-tax-state-mental-health-services-but-still-dont-get-adequate-care/>

connections and community resources that direct them to use emergent care; and need factors that would require frequent emergent care.²

7. **Effective healthcare system transformation requires developing effective high utilizers' strategies.** High utilizers are reported to be 5% of the population yet account for up to 50% of healthcare expenditures. The high medical costs of recurring inpatient or emergency department visits is generally regarded as *preventable*.³

System transformation requires fundamental changes to produce high value care with improved outcomes at lower costs. As a community, we are wisely moving towards developing more community-based resources with higher quality treatments to improve coordinated care that would work towards reducing ER visits, incarceration, and the over utilization of police and emergency services.

We appreciate the opportunity to provide testimony and are available for questions.

² National Center for Biotechnology Information: PubMed Central: U.S. National Library of Medicine: National Institutes of Health: *High Utilizers of Emergency Health Services in Population-Based Cohort of Homeless Adults*: Am J Public Health, (2013): <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3969147/>

³ National Center for Biotechnology Information: PubMed Central: U.S. National Library of Medicine: National Institutes of Health: *Is a Strategy Focused on Super-Utilizers Equal to the Task of Healthcare System Transformation - Yes*: Ann Fam Med, (2015): <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4291257/>

HB-2680-HD-1

Submitted on: 2/11/2020 5:33:56 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments	Yes

Comments:

While we are not specifically opposed to this bill, we question what it will accomplish. The current law of “45 days” was a compromise the legislature reached a few years and the law has barely been utilized since then. The term “imminently dangerous” traditionally meant what the term implies-something that will occur relatively soon. When the current law was amended, the Attorney General at that time was advocating for a 90 day window. We suggested at that time that perhaps a 30 day timeline might be appropriate. The legislature compromised on 45.

This is a policy decision and if the legislature believes that the additional time will bring more people into treatment then perhaps that is sufficiently beneficial to amend the law. On the other hand, there are stakeholders who will likely oppose the changes more strenuously than we do and if this provision were ever to be tested in the courts as a matter of constitutional law we continue to believe that a longer time window may be harder to justify.



Helping Hawai'i's psychiatrists provide the highest quality care.

Thursday, February 13, 2020

House Bill 2680 HD1
Testifying in Support

LATE

Aloha Chair Lee, Vice Chair San Buenaventura, and Members of the Committee on Judiciary,

The Hawai'i Psychiatric Medical Association (HPMA) **testifies in support** of HB2680 HD1 Relating to Mental Health. The House Draft broadens the term of "imminently dangerous to self and others" to persons who will likely be dangerous within the next 90 days, rather than within the next 45 days and increases the maximum period of emergency hospitalization from 48 to 72-hours.

HPMA appreciates the amendments made to this bill following prior testimony by the Department of Health and the Attorney General. With these changes, we believe the bill meets the original intent without inviting legal challenges.

Given Hawai'i's substantial shortage in mental health services, excessive numbers of mentally ill individuals in correctional facilities who have been charged with petty crimes but have not been able to be admitted to psychiatric facilities due to the strictness of the current involuntary commitment criteria, and the number of people living houseless who experience mental health issues, this bill helps address the need for immediate intervention when there is a threat of "imminent danger" to the individual themselves, or to others.

We applaud the Department of Health's commitment to assuring a comprehensive statewide behavioral health care system is robust enough to address the needs of the state. HPMA also supports the strengthening of Hawai'i's behavioral health systems continuum of supports and services and its capacity to respond in a more timely and appropriate manner to mentally ill individuals. We believe this bill moves the State one step closer in the right direction.

For all these reasons, we urge the committee to pass this bill.

Mahalo for the opportunity to testify,
Hawai'i Psychiatric Medical Association

HB-2680-HD-1

Submitted on: 2/11/2020 2:02:16 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

I am in strong support of this bill, and am a retired attorney who has spent much of my career assisting the most vulnerable persons in our society, including those with mental illness. I am a former president of the Hawaii State Bar Association, the Hawaii Women Lawyers, Institute for Human Services (IHS) and Hale Kipa (youth shelters), testifying here on my own behalf. I believe this bill strikes a better balance for safeguarding our most vulnerable and protecting their human rights.

Gravely mentally ill persons are homeless and dying on our streets because we deem them not "imminently" dangerous to self or others, and so do not intervene as they die before our eyes. Our Medical Examiner reports that at least 127 homeless persons died on our streets in 2019, with an average age of death of 54, far below the national average of 78.6 years. Similar numbers of our homeless residents died in 2018, at an average age of 53. Without the changes sought by this bill, we will continue to deprive our mentally ill residents of life-saving treatment and stabilization they need.

I believe our best path forward at this time is via the changes sought by this bill, as we simultaneously work on better community alternatives and least restrictive treatments for our mentally ill residents.

Ellen Godbey Carson

HB-2680-HD-1

Submitted on: 2/11/2020 4:02:32 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erika Vargas	Individual	Support	No

Comments:

Full support

HB-2680-HD-1

Submitted on: 2/11/2020 6:01:34 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Martha Noborikawa	Individual	Support	No

Comments:

February 11, 2020

Dear Chairman Chris Lee and Vice chair Joy San Buenaventura,

I am writing in support of HB2680 relating to mental illness.

My 28 year old grandson was recently diagnosed with paranoid schizophrenia in November 2019. It has changed him from a caring, responsible, and hardworking young man to a violent, confused person who no longer resembles the grandson I've known since his birth. His doctor said he has no insight about his severe psychiatric impairment and refuses to take psychiatric medication and psychiatric care. My daughter(his mother) has been forced to call the police out fear for his violent outbursts such as punching holes in the walls of their home, hitting his mother, and punching the door of the elderly next-door neighbors who have done nothing to provoke him. Mental illness is a cruel thief that steals the minds and bodies of its victims. Schizophrenia, in particular, requires consistent medical oversight by doctors and trained professionals as well as consistent and appropriate medication, all of which my grandson refuses due to the paranoia.

I'm told by many other families at our National Alliance on Mental Illness(NAMI) meetings that this is an all too common problem where the sufferer desperately needs consistent medical attention, but refuses to accept it. My daughter calls the police for each violent outburst in which her son has been taken into Castle Hospital's mental illness ward, only to be released a short time later because they are not a long-term residential health care facility. It's my understanding that there are many mentally ill homeless and others with homes who desperately require long-term residential housing for the mentally ill, but our state lacks sufficient facilities. Without consistent medical oversight and medication. I'm told by medical professionals that my grandson's condition will worsen. We live in fear every day that he may harm himself, his mother, the elderly neighbors, or other innocent victims.

My grandson's mental illness has been devastating to our family because we don't have many options beyond calling the police, who may or may not take him to a mental health facility for a short time. My daughter is in the process of seeking legal guardianship for my grandson so that despite his refusal due to paranoia, he will receive

consistent medical oversight and much needed appropriate medication. Currently, it's incredibly frustrating not to be able to require him to get medical attention because he is an adult. I strongly believe this part of Hawaii's laws for the mentally ill must be changed so that the mentally ill adults receive the medical attention they obviously need, even if they don't recognize the need for themselves.

Due to our all too common experience with mental illness, I'm convinced that our state needs to address this growing problem by funding long-term residential housing facilities for the mentally ill. It is not kind nor compassionate to allow those who lack mental capacity to wander around living on the predatory streets, or to threaten the lives of others. My heart broke for the recently slain police officers and their families and friends, as well as those neighbors whose homes were lost to fire in the tragic and avoidable events on Hibiscus Drive caused by mental illness. Funding to avoid tragedies caused by mental illness is why I'm asking for your help to protect our state.

Please support H.B. 2680 which will protect the mentally ill and the public.

Mahalo for all you do to serve our community.

Sincerely,

Martha N

HB-2680-HD-1

Submitted on: 2/12/2020 12:12:22 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Naomi Bikle	Individual	Support	No

Comments:

HB-2680-HD-1

Submitted on: 2/12/2020 12:32:04 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Logan	Individual	Support	No

Comments:

Please help us improve our care for our most vulnerable community members to be equal to other states' guidelines.

LATE

HB-2680-HD-1

Submitted on: 2/12/2020 2:43:31 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alysa Lavoie	Individual	Support	No

Comments:

Strongly Support