



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony IN SUPPORT of HB786 HD1
RELATING TO MENTAL HEALTH EXAMINATIONS**

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date and Time: Tuesday, February 19, 2019 at 2:05 p.m.

Room: 325

1 **Fiscal Implications:** Undetermined.

2 **Department Testimony:** The Department of Health (DOH) supports this measure. HB786
3 HD1 requires the DOH to submit a report to the legislature on its findings and recommendations
4 on procedures to improve processes related to court ordered examinations of the mental
5 condition of defendants pursuant to §704-406, Hawaii Revised Statutes.

6 The DOH recognizes the importance of developing, coordinating, and maintaining
7 efficient processes for court ordered examinations for all stakeholders involved and looks
8 forward to continued collaboration with the House Committee on Judiciary, other legislators, and
9 community stakeholders in finalizing this report.

10 Thank you for the opportunity to testify.

11 **Offered Amendments:** None.



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A, San Buenaventura, Vice Chair

Tuesday, February 19, 2019 2:05 PM
State Capitol, Conference Room 325

WRITTEN TESTIMONY ONLY

By
Shirley M. Kawamura
Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit

Bill No. and Title: House Bill No. 786, House Draft 1 Relating to Mental Health Examinations

Purpose: Requires the Department of Health to submit a report on improving and expediting mental health evaluations of specific defendants. (HB786 HD1)

Judiciary’s Position:

The Judiciary supports House Bill No. 786, House Draft 1. We share the goal of improving and expediting mental health evaluations of specific defendants, and are willing to participate in this important study.

Thank you for the opportunity to testify on this measure.



Hawai'i Psychological Association

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Committee on Judiciary

Representative Chris Lee, Chair

Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 19, 2019, 2:05 PM
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Comments on HB 786

The Hawai'i Psychological Association (HPA) observes that legislation is not necessary to reduce delays in court ordered evaluations of fitness to proceed, a serious problem which has increased incarceration times for pre-trial detainees over the last five years. Over the past ten years the number of court ordered evaluations of fitness to proceed has more than doubled. While staffing at the Adult Mental Health Division's Court Evaluation Branch has increased 40%, this has not been enough to keep pace with the need. This problem could be effectively remedied by hiring two additional psychological examiners.

Fitness to proceed examiners, on average, wait one month for the Judiciary's Adult Client Services Division to collect collateral mental health treatment and criminal history information for their review. This process could be accelerated by 1) hiring more pre-sentence probation officers dedicated to collecting the necessary records to be reviewed, 2) elevating the task to a higher priority within the Adult Probation office, 3) making the records electronically available to examiners, and 4) establishing incentives for treatment providers to send records in a timely fashion (which can include compliance as a necessary condition for renewing service contracts with the Department of Health, and judges issuing subpoenas for records that have not been sent).

A final concern is that reducing the number of examiners in felony cases continues to be offered as a method to increase timeliness of evaluations, a proposal that does not achieve this objective and which has been opposed by crucial stakeholders (e.g. prosecutors, public defenders, the Attorney General, Hawaii Disability Rights and HPA). Also, it would be helpful if

the Department of Health could also report on any efforts underway to establish certification and oversight of private examiners and to reinstate examiner training which was suspended ten years ago.

Thank you for your consideration.

Julie Takishima-Lacasa, PhD
Chair, HPA Legislative Action Committee