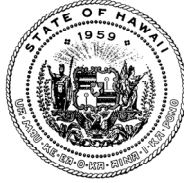


JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A, M.P.H  
DIRECTOR OF HEALTH  
KA LUNA HO'ŌKELE

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of H.B. 2159  
RELATING TO MENTAL HEALTH**

REPRESENTATIVE DELLA AU BELATTI, CHAIR  
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Friday, February 2, 2024, 9:45 a.m. in Room 329 and Via Videoconference

- 1 **Fiscal Implications:** Undetermined.
- 2 **Department Position:** The Department supports this measure and offers comments.
- 3 **Department Testimony:** The Adult Mental Health Division (AMHD) provides the following
- 4 testimony on behalf of the Department.

5           The Department supports this measure and concurs that ACT orders provide a  
6 potentially highly effective means to improve treatment adherence and achieve significantly  
7 better health outcomes for individuals suffering from serious mental illnesses. Furthermore, the  
8 Department supports the requirement of the Department of the Attorney General to assist with  
9 the preparing and filing of any petition brought pursuant to the Hawaii Revised Statutes, and  
10 with the presentation of the case at any related court proceedings.

11           In the community, the Department benefits from Attorney General assistance in  
12 preparing and filing ACT petitions. However, some community providers have used their own  
13 attorneys to complete these petitions. Currently, the majority of petitions have been done by  
14 the community.

1           The Department's recommendations reflect the operational reality of the Hawaii State  
2 Hospital and the AMHD, discussions with the Department of the Attorney General are needed.

3   **Offered Amendments:** None.

4   Thank you for the opportunity to testify on this measure.

**HB-2159**

Submitted on: 1/31/2024 4:14:05 PM

Testimony for HLT on 2/2/2024 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Louis Erteschik	Hawaii Disability Rights Center	Comments	Remotely Via Zoom

Comments:

Last year the Legislature authorized the Attorney General to assist in the filing and preparation of ACT Petitions. This Bill greatly expands their role to make them a full participant in what is supposed to be a legal proceeding. We understand that Petitions are often filed by people who are unfamiliar with the legal system and so we can understand how the Attorney General would be helpful to them.

However, a few years ago the Legislature made the decision to strip Respondents in these proceedings of their right to be represented by the Public Defender. It substituted a Guardian Ad Litem who I think all lawyers will agree is not the same thing. A Guardian Ad Litem may advocate for the so called " best interests" of the Respondent while a Public Defender may be more likely to advocate for the articulated wishes of that individual. At the time that decision was made, most of the Petitioners were unrepresented as well so there arguably may have been less of an imbalance. However, if this measure passes the scales will be substantially tilted against the Respondents in these cases and that may well create serious due process considerations that need to be examined. Certainly if the Legislature is going to consider having the Attorney General be a full party to the case, it should equally consider restoring the right to free counsel for the individuals who are the subject of the proceedings.