

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on Judiciary
and Senate Committee on Ways and Means**

April 6, 2021

HB 310 HD2 SD1: RELATING TO MENTAL HEALTH

Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and Members of the Committees:

The Office of the Public Defender submits the following comments on HB 310 HD2 SD1.

The previous version of this measure, HD2, sought to amend the definition of the term “imminently dangerous to self and others” by increasing the number of days from forty-five days to ninety days. The measure also previously sought to unconstitutionally authorize the involuntary treatment of up to thirty days of patients who are subject to emergency hospitalization. Consequently, we opposed HD2.

Because HB 310 HD2 SD1 removed the amendment to the definition of “imminently dangerous to self or others” and the proposed amendment that would allow the involuntary administration of medication, we no longer have any opposition to this measure. Our reasons for having opposed HD2 were as follows:

1. Definition of “imminently dangerous to self or others”

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. Any attempt to amend the definition by increasing the number of days from forty-five days to ninety days would be without any justification. Neither professional psychiatric opinions nor data has been offered to support the necessity to amend the definition.

2. Authorization of involuntary treatment of individuals subject to emergency hospitalization for up to thirty days

The previous version of this measure would have authorized the involuntary treatment of up to thirty days individuals who are subject to emergency

hospitalization and to be forcibly subject to being medicated with the use of long-term injectable psychotropics without proper judicial review and in violation of the individual's significant due process rights.

At the outset, the term “decisional capacity” is problematic and likely unconstitutional as violative of due process and equal protection. The term is entirely subjective, not defined by the statute, and its interpretation left solely to the discretion of the psychiatrist or the advanced practice registered nurse (APRN).

Allowing the involuntary administration of medication (i.e., “treatment”) without affording the individual due process violates Hawai‘i and federal case law. The Hawai‘i Supreme Court in State v. Kotis, 91 Hawai‘i 319, 984 P.2d 78 (1999), citing the U.S. Supreme Court’s decision in Riggins v. Nevada, 504 U.S. 127, 112 S.Ct. 1810, 118 L.Ed.2d 479 (1992), recognized that *the forcible administration of antipsychotic drugs constitutes a “substantial” intrusion on an individual’s bodily integrity and liberty*. Both the U.S. Supreme Court and the Hawai‘i Supreme Court concluded that the following specific findings must be made before an individual (an incarcerated person in Kotis) may be involuntarily medicated with antipsychotic drugs:

- (1) the defendant actually poses a danger of physical harm to himself or others;
- (2) treatment with antipsychotic medication is medically appropriate; and
- (3) considering less intrusive alternatives, the treatment is essential to forestall the danger posed by the defendant.

This is the same standard that is currently applied when the Department of the Attorney General on involuntary medication petitions filed against persons who are involuntarily committed. Therefore, HD2 would have bypassed the constitutional protections established by the U.S. Supreme Court and the Hawai‘i Supreme Court and allowed a psychiatrist or APRN to involuntarily medicate an individual for up to thirty days in violation of the federal and state constitutions. A statute which acts in disregard of constitutional protections to allow the involuntary administration of medication without objective criteria or court intervention would be found unconstitutional by the courts.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THOMAS J. BRADY
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**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY**

**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**Thirty-First State Legislature
Regular Session of 2021
State of Hawai'i**

April 6, 2021

RE: H.B. 310, H.D. 2, S.D. 1; RELATING TO HEALTH.

Chair Rhoads, Chair Dela Cruz, Vice Chair Keohokalole, Vice Chair Keith-Agaran, members of the Senate Committee on Judiciary, and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **support** of H.B. 310, H.D. 2, S.D. 1.

While the Department's primary function is to fairly and effectively prosecute criminal offenses, our overarching concern is public safety and welfare. Thus, to the extent the assignment of a guardian ad litem helps to provide more timely and effective mental health treatment for a mental health patient—in cases where the patient is found to be lacking decisional capacity, and assessed to be in need of a guardian ad litem's assistance—the Department is in strong support of this mechanism.

The Department greatly appreciates the amendments made by the prior joint committees, in maintaining the current requirement for psychiatrists and qualified APRN's to direct emergency hospitalization for all patients who are: "(1) Mentally ill or suffering from substance abuse; (2) **Imminently dangerous to self or others**; and (3) In need of care or treatment, or both."¹¹

For people who suffer from serious mental illness or substance abuse, who are also "imminently dangerous to self or others," the Department strongly believes that providing swift

¹¹ See HRS §334-59(d); also H.B. 310, H.D. 2, S.D. 1, at page 1, line 14, through page 2, line 12. Emphasis added.

and medically appropriate mental health treatment is both the most humane and safest approach for that person and for everyone around them.

Based on the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 345, H.D. 2, S.D. 1. Thank you for the opportunity to testify on this matter.



HB310 HD2 SD1 Involuntary Commitment for Substance Abuse and Mental Illness

COMMITTEE ON JUDICIARY:

- Sen. Karl Rhoads, Chair; Sen. Jarrett Keohokalole, Vice Chair

COMMITTEE ON WAYS AND MEANS:

- Sen. Donovan Dela Cruz, Chair; Sen. Gilbert Keith-Agaran, Vice Chair
- Tuesday, Apr. 6 2021: 9:55: Videoconference

Hina Mauka Supports H1310 HD2 SD1:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the CEO of Hina Mauka, providing services for substance use disorder and mental health including programs for prevention, adult addiction treatment, adolescent treatment, case management, and withdrawal management. Helping people on Oahu and Kauai.

37 states now include chronic substance abuse with mental health disorders.

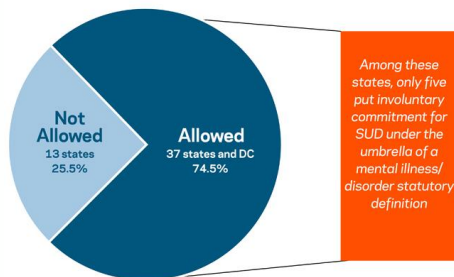


Figure 1. Legal Provision for Involuntary Commitment for Substance Use Disorders among U.S. states and DC (N=51)⁸

Among these states, only five put involuntary commitment for SUD under the umbrella of a mental illness/disorder statutory definition

For individuals with severe substance use disorder, several states are now implementing involuntary commitment laws for the first time or proposing changes to existing laws that would remove barriers to make commitment less difficult.

The substance abuse treatment gap between the need and access stems from stigma, lack of available effective treatment and the inability of some individuals to seek treatment voluntarily.¹

- Relatives and loved ones of an individual with a substance use disorder often feel helpless and disempowered when that individual is unable, due to an impaired brain, to make the rational decision to undergo and complete addiction treatment.

¹ Hazelden Betty Ford Foundation: Involuntary Commitment for Substance Use Disorders: <https://www.hazeldenbettyford.org/education/bcr/addiction-research/involuntary-commitment-edt-717>

- Situations can escalate to the point where relatives and loved ones feel unsafe or are afraid that the individual with the substance use disorder is at great risk for overdose and/or death.
- Involuntary commitment laws for substance use disorder can be a way to initiate the treatment these individuals need to avoid death and ultimately re-establish productive and healthy lives.

What Treatment is Best. People with severe substance use disorder are often recommended residential treatment that can ultimately transition, or step down, to outpatient treatment and other lower levels of care. Such determinations are made by professionals based on criteria established by the American Society of Addiction Medicine.² Addiction is like other chronic illnesses in that the sooner it is recognized and the longer it is treated, the better the chances of recovery.

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

² Mee-Lee, D. E. (2013). The ASAM criteria: Treatment criteria for addictive, substance-related, and co-occurring conditions. Rockville, MD: American Society of Addiction Medicine.

HB-310-SD-1

Submitted on: 4/1/2021 6:55:05 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	No

Comments:

We think the SD1 version correctly deleted or amended various provisions of the prior versions that had raised concerns. Regarding the assessment for the appointment of a surrogate or a guardian, we are open to this as a possible way to provide treatment, though we are not certain how exactly it would work or how effective it would be. We don't believe this provision of the law has been used in this context previously, and it is not clear how long it would take to find a surrogate and whether the person could be held at the hospital while all that was occurring. So, we have a lot of unanswered questions, and question whether this will work. However, we do remain willing and committed to being part of a constructive discussion on how to best provide treatment to individuals with a mental illness.



Hawai'i Psychological Association

For a Healthy Hawai'i

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donovan Dela Cruz, Chair

Senator Gilbert S. C. Keith-Agaran, Vice Chair

DATE: Tuesday, April 6, 2021- 9:55 AM - VIDEO CONFERENCE - Room 211
Testimony in Support with Comments on HB310 HD2 SD1 RELATING TO HEALTH Suggesting
Amendment

The Hawai'i Psychological Association (HPA) supports and provides these comments on HB310 HD2 SD1, which expands the definition of "imminently dangerous to self or others" in Chapter 334 of Hawaii Revised Statutes pertaining to mental health, mental illness, drug addiction, and alcoholism; and provides greater autonomy and authority for qualified mental health professionals to determine if a surrogate or guardian needs to be appointed to make appropriate health care decisions for the patient.

As a foundational matter, HPA believes it is ultimately more humane to involuntarily medicate those who need treatment, rather than continue their cycle of homelessness, victimization, jail and prison.

HPA believes that psychologists are fully qualified and equipped to determine if a surrogate or guardian needs to be appointed to make appropriate health care decisions for a mentally ill patient; and proposes the bill be amended on page 4, line 16:

"A patient who is seen in an emergency department or hospitalized on an emergency basis pursuant to this subsection, diagnosed with a serious mental illness or severe substance use disorder pursuant to subsection (b), and found to be lacking decisional capacity by a psychiatrist, **psychologist**, or by an advanced practice registered nurse having prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, shall be assessed to determine whether a surrogate under section 327E-5 or a guardian under article V of chapter 560 is needed to make appropriate health care decisions for the patient."

HPA also notes that by extending the time period of imminent dangerousness from 45 to 90 days, as is done in Section 2 of the bill, it is easier to medicate or hospitalize those who become dangerous after they stop medication. This is significant because oftentimes it takes many months for a person to decompensate and become dangerous after their medication loses their effectiveness.

Accordingly, this bill is a step forward in achieving safer, more effective treatment and humane conditions for the mentally ill. However, it does not address the lack of civil commitment psychiatric capacity at community hospitals. Thus, to fully effectuate the spirit of this bill, institutional capacity must be addressed. Homelessness and criminalization of the mentally ill is highly correlated with deinstitutionalization, a lack of psychiatric hospital beds, *and* overly strict civil commitment criteria.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Alex Lichten, Ph.D.

Chair, HPA Legislative Action Committee



THE INSTITUTE FOR HUMAN SERVICES, INC.
Ending the Cycle of Homelessness

Date: April 3, 2021

To: State Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole; Vice Chair

State Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Joint Hearing Date: 4/6/21, 9:55am

From: IHS, The Institute for Human Services, Inc.
Connie Mitchell, MS, APRN, Executive Director

Re: Testimony in Support of HB310 HD2 SD1, Relating to HEALTH

IHS, The Institute for Human Services, has been a critical safety net of our community for over 42 years, providing a full spectrum of services to help those in our community experiencing homelessness and encounters many disabled by mental illness and substance abuse. **IHS stands in strong support of HB310, SD1. However, we request the bill include an amendment to HRS 334-161 and 334-162, as explained below, that will help expand access to mental health treatment over the patient's objection when deemed appropriate.**

We welcome HB310 HD2 SD1's inclusion of an evaluation of the presenting patient's need for a surrogate decision maker or eligibility for guardianship, as a way to expedite a process for petitions for Assisted Community Treatment or guardianship, should either be appropriate. But those two processes take time and bypass an opportunity to treat someone who is clearly in need of treatment when they are brought to the hospital for evaluation to determine if they meet criteria to be held and treated.

HB310 SD1 unfortunately deleted a provision approved by the House (HB310, HD2) that authorized treatment over objection for persons who have lost their decisional capacity due to serious mental illness or severe substance use disorder. The intent was to allow a short term of treatment for such persons to help them regain decisional capacity and curtail the burgeoning costs associated with repeated medical and judicial interventions with homeless individuals who

IHS, The Institute for Human Services, Inc. is Hawaii's oldest, largest and most comprehensive homeless services agency focused exclusively on ending and preventing homelessness in Hawaii. IHS is a 501 (c) (3) charitable non-profit organization. IHS EIN: 99-0199107





THE INSTITUTE FOR HUMAN SERVICES, INC.
Ending the Cycle of Homelessness

simply need effective treatment for their conditions. Without some type of provision for treatment of these individuals over the patient's objection, our police, social services, and emergency rooms will continue to incur high costs in shuttling homeless individuals through a system that fails to provide them effective means to regain their decisional capacity, their functionality and their ability to make productive decisions for themselves.

Since some object to the process that was deleted due to what they believe circumvents statutory requirements that must be honored in situations that persons are treated over their objection, we recommend an amendment that could help end this revolving door of human tragedies and senseless costs, by adding a new section to 334-163 regarding "Petition for administrative authorization process". This statutory process states that "A psychiatrist or advanced practice registered nurse who holds prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, who has examined and evaluated a person under the custody of the Director (of health) and concluded that the person meets the four criteria in section 334-161(a)(1)-(4) for treatment over the patient's objection, may file a petition with the director to initiate the administrative authorization process pursuant to HRS 334-162. With an amendment, The administrative panel could grant an order for treatment over the patient's objection, including the application of long acting antipsychotic medication, if the administrative panel determines that the person meets the criteria in section 334-161(a)(1)-(4), even if the person is not in a psychiatric facility nor under the custody the director." This amendment, or one to similar effect, would halt the revolving door at our emergency rooms that receive seriously mentally ill persons or those afflicted with co-occurring substance use disorders like methamphetamine addiction. They would also strike a balance between the need for responsive treatment needed by mentally ill persons disabled by their behavioral health conditions and their right to due process.

Currently, seriously mentally ill persons who are brought to an emergency room on an oral *ex parte* court order, might be treated with oral medications or even injections to calm them and reduce risk of harm. This bill could clarify that further treatment, including administration of a long-acting injectable antipsychotic medication is authorized. In many cases, (particularly with homeless persons who cannot be administered daily medications), this is the best practice to help restore decisional capacity, cognition, memory, organized thought, executive function and judgment to make possible the full extent of the individual's civil liberties.

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Instead, what we observe when a patient refuses behavioral health treatment, is that they are often released back into the community until the next time they are found endangering themselves or others, and returned to the hospital or arrested and incarcerated. Or worse yet, people realize that nothing will happen and the individual is left to languish on the streets until a medical emergency once again prompts an EMS call to transport to the emergency department or the person dies of medical conditions that go untreated.

In recent days, we have also seen an increase of violence on the streets, making some homeless persons more vulnerable to assault and others becoming perpetrators because of severe and persistent mental illness and addictions to drugs and alcohol, methamphetamine in particular.

Over 100 of our homeless residents are dying on our streets each year, at an average age of only 53-54. In other words, they lose 25-30 years of their expected lifespan due to the very real dangers of living on the street. These dangers are most vivid when a person suffering from severe mental illness or substance abuse no longer has decisional capacity for life-saving medical intervention and self preservation. Abandoning these individuals to their “freedom” to live on the streets while severely disabled is a death sentence for many of them. And yet, they are someone’s son or daughter, parent or loved one, and they deserve the same caring and curative treatment as would be offered to those with other life-threatening medical conditions.

In summary, this bill with the requested amendment would strike an appropriate balance by allowing our existing administrative process for involuntary treatment to be used for these incapacitated persons, even though they are not already in a psychiatric facility nor under the custody of the director of Health. This would help stabilize some of them and allow them to regain their decisional capacity. In so doing, we can help avoid the very real dangers of irreversible disability and death that these severely ill persons face if they are left on their own on the streets, and reduce the risk of harm to our citizens in general.

Please pass HB310, SD2 with the requested amendment **or some version that includes an efficient way forward in treating mentally ill persons** who have already demonstrated unhealthy and/or dangerous behavior in the community and brought to an emergency room. They have a right to treatment, despite having no capacity to consent.

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THE INSTITUTE FOR HUMAN SERVICES, INC.
Ending the Cycle of Homelessness

Thank you for considering my testimony, offered on behalf of IHS and the many homeless mentally ill people we continue to serve and protect across our island.

IHS, The Institute for Human Services, Inc. is Hawaii's oldest, largest and most comprehensive homeless services agency focused exclusively on ending and preventing homelessness in Hawaii. IHS is a 501 (c) (3) charitable non-profit organization. IHS EIN: 99-0199107

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THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Members, Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Members, Senate Committee on Ways and Means

From: Sondra Leiggi-Brandon, Vice President, Behavioral Health, The Queen's Medical Center

Colette Masunaga, Director, Government Relations & External Affairs, The Queen's Health Systems

Date: April 6, 2021

Re: Comments Re: HB310, HD2, SD1: Relating to Health

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comment on HB310, HD2, SD1 which makes revisions to the MH4 statute by requiring an assessment to determine if a surrogate or guardian is needed to make health care decisions for patients. The intent of the measure is to increase access to treatment, however, it has been our experience that the surrogate and guardianship process could take a significant amount of time. Additionally, even if a surrogate is determined for a patient, there would still need to be a mental health care directive in place that would authorize treatment. This must be done in advance of a patient coming to a facility after they have decompensated in their condition.

We note that over half of the MH-1 transports to The Queen's Medical Center, Punchbowl campus, do not meet the criteria for involuntary hospitalization and could be treated at alternative sites to the Emergency Department. Which is why there is an urgent need to increase community resources to provide such services for those who are in crisis but may not rise to the level of requiring inpatient care. Queen's continues to work with the Department of Health on the statewide Mental Health Emergency Worker (MHEW) program to strengthen the continuum of care for patients by effectively screen individuals in crisis and triage them to receiving sites and services as needed. Mahalo for the opportunity to provide comments on this measure.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

HB-310-SD-1

Submitted on: 4/4/2021 7:29:49 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

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

Comments:

Dear Chair and Committee Members,

Please support this bill to stop the revolving doors in and out of emergency rooms for mentall incapacitated individuals and those needing drug rehab. I see these people in Hilo and Volcano living on the streets or squatting in unoccupied houses. Some are threatening our communities with crime. They rather need interventions to support and protect them. Guardianship would best serve them, the healthcare system and the community.

Respectfully,

Diane Ware, Volcano

HB-310-SD-1

Submitted on: 4/1/2021 9:32:07 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

You are trying to turn people in to Slaves!



Marshall W. Hung - Former Developer for Honolulu
215 N. King Street, Suite 1000, Honolulu, HI 96817
W: 808.526.2027 ext. 6 F: 808.526-2066

April 5, 2021

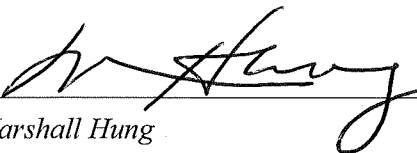
Re: Testimony for Bill HB 310, HD2, SD1: HB310 SD1

To Whom It May Concern,

I support this bill's provision to require assessment for the need for a surrogate decision maker or guardian for persons who are brought in for emergency evaluation as being mentally ill, imminently dangerous, and in need of treatment, and who lack decisional capacity.

I also requested an amendment of this bill to provide an appropriate means to offer effective treatment to these individuals over their objection, when they lack decisional capacity. This could be done by amending HRS 334-161 and 334-162, to allow treatment over objection for persons who are not in psychiatric facilities or in the custody of the Director of Health. Without that provision or some other means to treat these individuals over the patient's objection, our police, social services, and emergency rooms will continue to a revolving door of human tragedy and high costs. Our homeless residents are being shuffled through a system that fails to provide them effective means to regain their decisional capacity, their functionality and their ability to make productive decisions for themselves. Over 100 of our homeless residents are dying on our streets each year, at an average age of only 54. They lose decades of their expected lifespan due to the very real dangers of living on the street without appropriate medical and psychiatric care to stabilize them. Please amend this bill to restore an effective means to provide treatment to them.

Respectfully yours,



Marshall Hung

ph. 808-5262027

Testimony of Ellen Godbey Carson in Support of HB310, HD2, SD1,

To: State Senate Committee on Judiciary & State Senate Committee on Ways and Means

Hearing Date: 4/6/21, 9:55am

I write in support of HB310, HD2, SD1, and respectfully request an amendment, as explained below, to help expand access to treatment over the patient's objection.

While I write as an individual, I have served as President and director of Institute for Human Services, President of the Hawaii State Bar Association, and member of the Church of the Crossroads Peace and Justice Mission Team, spending many years helping Hawaii find better systemic ways to address its dual crises of homelessness and lack of affordable housing.

I support this bill's inclusion of the presenting patient's need for a surrogate decision maker or eligibility for guardianship, as a way to expedite a process for petitions for Assisted Community Treatment or guardianship, should either be appropriate.

This bill was originally designed to provide life-saving treatment for our most vulnerable homeless residents, who have lost decisional capacity due to serious mental illness or drug addiction. However, the current version of this bill (HB310, SD2, SD1) sadly lacks a provision earlier approved by the House (HB310, HD2) that authorized treatment over objection for such persons. Without that provision or some other type of treatment of these individuals over the patient's objection, our police, social services, and emergency rooms will continue to a revolving door of human tragedy and high costs. Our homeless residents are being shuffled through a system that fails to provide them effective means to regain their decisional capacity, their functionality and their ability to make productive decisions for themselves.

Please amend this bill adding a new section to authorize treatment over objection, when a medical provider has examined and determined that an individual meets the legal criteria for such treatment in section 334-161(a)(1)-(4), without requiring that the person is not in the custody of the Director of Health, nor in a psychiatric facility. Such treatment could include long-acting antipsychotic medication, that has been able to stabilize these persons and help them regain essential functioning. The due process rights of these persons can still be protected by the administrative authorization process in HRS 334-162. This would strike an appropriate balance between the need for responsive treatment needed by mentally ill persons disabled by their behavioral health conditions and their right to due process.

Over 100 of our homeless residents are dying on our streets each year, at an average age of only 53-54. They lose 25-30 years of their expected lifespan due to the very real dangers of living on the street. We should not lose another year in our efforts to put in place effective solutions for this tragedy. Abandoning these individuals to their "freedom" to live on the streets while severely disabled is a death sentence for too many. They deserve the same caring and curative treatment as would be offered to others with life-threatening medical conditions. Thank you for considering my testimony.

TO THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair
COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

DATE: Tuesday, April 6, 2021
TIME: 9:55 a.m.
PLACE: Conference Room 211 & Videoconference
TIMESLOT: WAM

POSITION: **STRONG SUPPORT HB130 HD2 SD1**

Bill HB 310 is both necessary and humane, the passage of HB 310 supports the current ACT (Assisted Community Treatment) program by amending HRS 334-59 (and all other relevant statute language) to allow for a person suffering from severe mental illness to receive timely and appropriate care and treatment. Through the passage of this bill, persons that are brought to an emergency department for evaluation, hospitalized in a psychiatric facility, under an emergency hospitalization or involuntary commitment order, or while being considered for assisted community treatment will benefit from this policy change.

Speaking of my personal experience I have seen many times where enabling language could have been used to allow for persons that do not seem to have “decisional capacity” or present symptoms that may indicate a serious mental illness or severe substance use disorder. Symptoms such as defecating in the open and taking one’s hand smearing defecation on walls, urinating on themselves out in the public space, engaging in lewd self-stimulatory behavior in public, yelling and screaming at as to have a conversation with someone or something that does not appear to typical members of the population.

If an individual were to walk down Chinatown, or parts of King Street, or the former Walgreens location on Keeaumoku Street; we can see that there is a definite need for passage of this bill. This bill is not meant as a mechanism for removing persons as mentioned in the bill for society to keep them “out of sight out of mind”. Rather, this bill is to provide the hope and care that we should expect society to deliver with sympathy and compassion and the hope that one day that person under care may be able to integrate back in typical society.

In closing, this bill should pass out of this committee and is a step in the right direction toward a clinical approach in dealing with treatment-resistant populations along with providing for increased health and safety of the population. All amendments to this bill should be with the intent of reducing

possible ambiguous language or enhancing the intent of the enabling language. Thank you for taking the time in reading my testimony.

Mahalo,

Kendrick Farm

HB-310-SD-1

Submitted on: 4/5/2021 9:35:44 AM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marya Grambs	Individual	Support	No

Comments:

I want to support an amendment which will offer treatment to these individuals over their objection. This is for those individuals who are severely psychotic -- delusional, hallucinating, living in degraded and dangerous circumstances (homeless women are routinely raped), not knowing that they are ill because anosognosia (the lack of awareness of being sick) is a feature of their psychosis: they refuse treatment because they believe they aren't sick.

Without that provision to treat these individuals over their objection, our police, social services, homeless programs, and emergency rooms will continue to be a revolving door of human tragedy and high costs. Hawaii's homeless individuals are dying AN AVERAGE OF 25 YEARS earlier than non-homeless persons.

If you were someone suffering from severe mental illness like this, and could get treatment when you didn't know you were sick and didn't want the treatment, once you got healthy you would look back on this time and be very grateful that you received that help. You would not want to have continued living in such degradation.

LATE

HB-310-SD-1

Submitted on: 4/6/2021 8:09:59 AM

Testimony for JDC on 4/6/2021 9:55:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Oppose	No

Comments:

I am submitting testimony in strong opposition to this bill. This bill is contradictory as it purports to allow a "single practitioner" to determine if an individual is so ill that they require forced hospitalization while also saying that it is up to the individual to request assistance by family, friend, attorney or otherwise "waive" this right. This is a lot of burden to place on an individual that is apparently so ill that they are being subjected to forced hospitalization without judicial review and at the decision of a single psychiatrist or nurse practitioner.

I have a family member with serious mental illness under conservatorship in CA and am familiar with their system. In CA the court is involved in decisions for forced hospitalization beyond the initial few days of emergency hospitalization. This process has been streamlined at hospital emergency rooms with the assistance of hospital based case managers and usually (as in my family members case) with proper evidence and diagnosis to allow for a next phase of in-patient stabilization treatment of approximately two weeks. Then the individual must be assessed again for additional forced hospitalization/treatment. During that two weeks, a case manager again is utilized to gather evidence for additional application to the court or to work with the individual on voluntary care plans.

This bill has not been well thought out to protect the individual's rights, the providers of medical services, or the state. The evidence of this is in the rapid and extreme changes included in the amendments to this bill and testimony of the Attorney General's office as filed previously on this bill.

The intent to get treatment for very ill individuals is a good one. I personally am glad that my family member in CA was eventually forced to receive care and treatment. It was not easy but happened through all parties working with each other and the judiciary. Forced treatment and hospitalization is not an easy step and should not be. My family member is safe now but also has severe side effects from long term use of psychotropics and lives in a 60 bed facility that is not locked but has very regimented care.

Our state and its lawmakers need to also put energy into encouraging board and cares and various levels of care facilities for those who have mental illness or are dual diagnosis. (For example, my family member in CA is in a facility managed by a company that runs multiple facilities in a few different states.) This is the crucial component that is missing.

Please see the words of Department Of Public Safety Parole Chair, Fred Hyun, in the DPS 1/14/2021 informational briefing to the House Committee where he speaks about the lack of beds in the community for those with dual diagnosis/mental illness. This is important as a psychiatrist at OCCC said in an online panel discussion on 9/16/2020 that on any given day in OCCC, around 30% of males and 50% of females have major mental illness.

Also, in a 2/14/2021 presentation to a Kailua Neighborhood Board subcommittee, Greg Payton of Mental Health Kokua, spoke about the need for more hygiene centers in communities throughout Oahu to engage persons needing assistance and beds, housing, beds, housing.

This bill is not the right one to achieve the intent of getting people the help that they need. The focus also needs to be on various levels of care homes/beds with the goal of independent living to the full extent possible.

Thank you-

Raelyn Reyno Yeomans