

Honolulu, Hawaii

MAR 24 2023

RE: H.B. No. 1156  
H.D. 2  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred H.B. No. 1156, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the provision of long-acting psychotropic medication to patients who are subject to emergency examination or hospitalization;
- (2) Authorize certain health care facilities to request the Director of Health to file a petition for an order for treatment over a patient's objection;
- (3) For requests that satisfy the requirements for administration of treatment over a patient's objection, require the Director of Health to pursue a petition to request an order for treatment over the patient's objection or convene an administrative panel, under certain conditions;
- (4) Expand which individuals may be ordered to receive treatment over an individual's objection;



- (5) Require the Family Court or an administrative panel to file a final order on a petition to request an order for treatment over the patient's objection within thirty days of the date the petition is filed;
- (6) Authorize psychiatrists, advanced practice registered nurses, and interested parties to request the Director of Health to file an assisted community treatment petition;
- (7) For requests that satisfy the criteria for assisted community treatment, require the Director of Health to file a petition for assisted community treatment within a certain number of days;
- (8) Require the Family Court to file a final order on an assisted community treatment petition within thirty days of the date the petition is filed;
- (9) Authorize the Family Court to use online hearings for assisted community treatment petitions;
- (10) Authorize the subject of a petition for assisted community treatment to stipulate to the petition and the Family Court to enter the stipulated order without an evidentiary hearing, under certain circumstance; and
- (11) Require the Department of Health to report to the Legislature on the number of requests for petitions for assisted community treatment submitted to the Director of Health after a certain date.

Your Committee received testimony in support of this measure from the State Council on Mental Health; The Institute for Human Services, Inc.; and two individuals. Your Committee received testimony in opposition to this measure from the Department of Health, Hawaii Disability Rights Center, American Civil Liberties Union of Hawai'i, and one individual. Your Committee received comments on this measure from the Judiciary and The Queen's Health System.

Your Committee finds that certain individuals presented to hospitals in emergency situations may be living with a chronic



mental illness or experiencing a psychiatric crisis that requires stabilization. In these situations, due to the importance of timely treatment, it may be necessary to administer certain appropriate medications over a patient's objection. This measure would expedite the process for obtaining authorization to treat over objection, including for assisted community treatment, to ensure individuals living with behavioral health issues receive the care they need at the appropriate time.

However, your Committee notes the concerns raised in testimony that part I of this measure, as currently written, violates individuals' constitutional protections, particularly for individuals living with disabilities and mental health conditions. In addition, this measure, as currently written, does not adhere to the judicial procedure for the involuntary treatment of an individual established in state case law, is infeasible to implement, and would lead to greater inefficiencies and costs.

Your Committee further notes the concerns raised by the Judiciary regarding part II of this measure. Specifically, the Judiciary notes concerns that the proposed requirement for the Family Court to file a final order on a petition for assisted community treatment within thirty days of the date the petition is filed unless exigent circumstances exist is not clearly defined and may result in unintended consequences. Additionally, the Judiciary notes that the statutory definition of an individual who qualifies for assisted community treatment may preclude the individual from knowingly and voluntarily stipulating to a proposed order for treatment. Amendments to this measure are therefore necessary to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have:
  - (A) Authorized the provision of long-acting psychotropic medication to patients who are subject to emergency examination or hospitalization;
  - (B) Authorized certain health care facilities to request the Director of Health to file a petition for an order for treatment over a patient's objection;



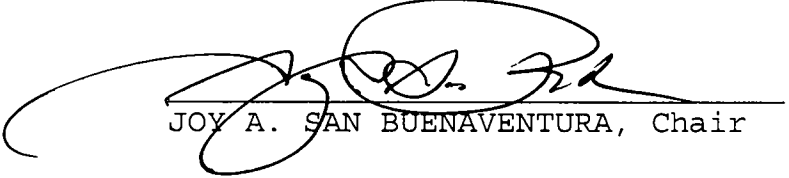
- (C) For requests that satisfy the requirements for administration of treatment over a patient's objection, required the Director of Health to pursue a petition to request an order for treatment over the patient's objection or convene an administrative panel, under certain conditions;
  - (D) Expanded which individuals may be ordered to receive treatment over an individual's objection; and
  - (E) Required the Family Court or an administrative panel to file a final order on a petition to request an order for treatment over the patient's objection within thirty days of the date the petition is filed;
- (2) Deleting language that would have required the Family Court to endeavor to file a final order on a petition for assisted community treatment within thirty days of the date the petition is filed unless exigent circumstances exist;
  - (3) Deleting language that would have authorized the subject of a petition for assisted community treatment to stipulate to the petition, including the proposed treatment plan, and the Family Court to enter the stipulated order without an evidentiary hearing, under certain circumstances;
  - (4) Inserting an appropriation of an unspecified amount for the Judiciary to obtain applicable resources to effectuate this measure;
  - (5) Inserting an effective date of June 30, 2050, to encourage further discussion; and
  - (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this



report, your Committee is in accord with the intent and purpose of H.B. No. 1156, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1156, H.D. 2, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Health and Human  
Services,



JOY A. SAN BUENAVENTURA, Chair



