

S.B. NO. 3140

JAN 24 2024

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A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The purposes of this part are to:

(1) Provide for the examination of defendants through telehealth; and

(2) Appropriate funds to provide additional job positions and resources for the implementation of this part.

SECTION 2. Chapter 704, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§704- Examination of defendants via telehealth. (1) Examiners who have been appointed by the court under section 704-404, may be allowed to conduct their examination of defendants via telehealth pursuant to this chapter.

(2) Examination of defendants pursuant to this chapter may be conducted via telehealth at any facility under the jurisdiction of the director of health, the director of law enforcement, or the chief justice.

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1       (3) Each facility shall establish procedures regarding the  
2 provision and use of telehealth resources at appropriate  
3 facilities. The procedures shall ensure the widest availability  
4 of telehealth resources feasible at appropriate facilities.

5       (4) For purposes of this section, "telehealth" means the  
6 provision of healthcare or examination remotely by means of  
7 telecommunications technology by a healthcare professional or  
8 examiner in accordance with the requirements of section 453-  
9 1.3."

10       SECTION 3. Section 704-421, Hawaii Revised Statutes, is  
11 amended to read as follows:

12       "~~§~~704-421~~§~~ Proceedings for defendants charged with  
13 petty misdemeanors not involving violence or attempted violence;  
14 criminal justice diversion program. (1) In cases where the  
15 defendant is charged with a petty misdemeanor not involving  
16 violence or attempted violence, if, at the hearing held pursuant  
17 to section 704-404(2)(a) or at a further hearing held after the  
18 appointment of an examiner pursuant to section 704-404(2)(b),  
19 the court determines that the defendant is fit to proceed, then  
20 the proceedings against the defendant shall resume. In all  
21 other cases under this section where fitness remains an  
22 outstanding issue, the court shall continue the suspension of

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1 the proceedings and either commit the defendant to the custody  
2 of the director of health to be placed in a hospital or other  
3 suitable facility for further examination and assessment[-] or,  
4 in cases where the defendant is not imminently dangerous to self  
5 or others and need not be committed to the director of health  
6 for the purpose of the fitness examination under section 704-  
7 404(2), the court may order that the defendant be released on  
8 terms and conditions.

9 (2) [~~Within seven days from the commitment of the~~  
10 ~~defendant to the custody of the director of health, or as soon~~  
11 ~~thereafter as is practicable, the director of health] In cases  
12 under this section where the defendant's fitness to proceed  
13 remains an outstanding issue at the hearing held pursuant to  
14 section 704-404(2)(a) or a further hearing held after the  
15 appointment of an examiner pursuant to section 704-404(2)(b), as  
16 applicable, the director of health, within fourteen days of that  
17 hearing or as soon thereafter as is practicable, shall report to  
18 the court on the defendant's current capacity to understand the  
19 proceedings against the defendant and defendant's current  
20 ability to assist in the defendant's own defense. If, following  
21 the report, the court finds defendant fit to proceed, the  
22 proceedings against defendant shall resume. In all other cases,~~

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1 the court shall dismiss the charge with or without prejudice in  
2 the interest of justice. [~~The director of health may at any~~  
3 ~~time proceed under the provisions of section 334-60.2 or 334-~~  
4 ~~121.] "~~

5 SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$500,000 or so much  
7 thereof as may be necessary for fiscal year 2024-2025 for the  
8 purposes of this Act.

9 The sum appropriated shall be expended by the department of  
10 health for the purposes of this part.

11 PART II

12 SECTION 5. The purpose of this part is to authorize the  
13 department of health to implement behavioral health crisis  
14 centers to provide intervention and stabilization services for  
15 persons experiencing a mental illness or substance use disorder  
16 crisis, including a dedicated first responder drop-off area for  
17 potential clients.

18 SECTION 6. Chapter 334, Hawaii Revised Statutes, is  
19 amended by adding to part I a new section to be appropriately  
20 designated and to read as follows:

21 "§334- Behavioral health crisis centers. (a) Pursuant  
22 to the authority and functions established under sections

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1 334-2.5(a)(3)(B) and 334-3(a)(5), the director may establish or  
2 contract with behavioral health crisis centers to provide care,  
3 diagnosis, or treatment for persons experiencing a mental  
4 illness or substance use disorder crisis.

5 (b) Each behavioral health crisis center established or  
6 contracted with pursuant to this section shall:

7 (1) Screen, assess, admit, refer, or redirect a person  
8 experiencing a mental illness or substance use  
9 disorder crisis;

10 (2) Provide assessment and support for the person's  
11 medical stability while at the crisis center;

12 (3) Accept walk-ins and referrals and provide services  
13 regardless of the person's ability to pay, subject to  
14 subsection (c);

15 (4) Provide services while open to the public for  
16 services; and

17 (5) Offer a dedicated first responder drop-off area.

18 (c) No person shall be denied services or receive delayed  
19 services at a behavioral health crisis center operating under  
20 this section because of inability to pay.

21 (d) Subject to section 334-6, crisis centers shall make  
22 every reasonable effort to collect appropriate reimbursement for

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1 the cost of providing services from persons able to pay for  
2 services, insurance, or third-party payors.

3 (e) The director shall adopt rules pursuant to section  
4 334-9 to implement this section, including rules specifying  
5 standards for behavioral health crisis center eligibility  
6 criteria, clinical procedures, staffing requirements, and  
7 operational, administrative, and financing requirements."

8 SECTION 7. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$6,000,000 or so much  
10 thereof as may be necessary for fiscal year 2024-2025 for the  
11 director of health to establish or contract with behavioral  
12 health crisis centers pursuant to this part.

13 The sum appropriated shall be expended by the department of  
14 health for the purposes of this part.

15 SECTION 8. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act, upon its approval, shall take effect  
18 on July 1, 2024.

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INTRODUCED BY: 

21

BY REQUEST

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**Report Title:**

Mental Health; Fitness To Proceed; Examination via Telehealth;  
Behavioral Health Crisis Centers; Appropriations

**Description:**

Authorizes examination of defendants via telehealth. Amends conditions for a defendant's release or examination of fitness to proceed. Authorizes the Department of Health to implement behavioral health crisis centers. Effective 7/1/2024.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO MENTAL HEALTH.

PURPOSE: To expand the scope of criminal justice diversion programs to certain petty misdemeanants, support the expansion of post-booking criminal justice diversion, and authorize the Department to establish behavioral health crisis centers.

MEANS: Add a new section to chapter 704, Hawaii Revised Statutes (HRS), amend section 704-421, HRS, and add a new section to part I of chapter 334, HRS.

JUSTIFICATION: Diversion programs provide opportunities for individuals to link with appropriate treatment supports. By establishing behavioral health crisis centers, this bill enhances the diversion program authorized by Act 26, Session Laws of Hawaii 2020, by providing more treatment and service options for the courts and law enforcement to use to fill a gap in the current health care continuum for both prevention and post-arrest stabilization.

Impact on the public: This bill will improve public safety in general, improve personal safety and wellness for persons with mental illness, and lead to more efficient use of public resources.

Impact on the department and other agencies: Behavioral health crisis centers will provide additional resources and enhanced authority for the Judiciary, Office of the Public Defender, and county law enforcement agencies.

GENERAL FUND: \$6,500,000.

OTHER FUNDS: None.



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PPBS PROGRAM  
DESIGNATION: HTH 495.

OTHER AFFECTED  
AGENCIES: Judiciary, Department of Public Safety, and  
county law enforcement agencies.

EFFECTIVE DATE: July 1, 2024.