

STAND. COM. REP. NO.

1092

Honolulu, Hawaii

MAR 03 , 2023

RE: H.B. No. 1154
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 1154, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GUARDIANSHIP,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Amend the Uniform Probate Code to:
 - (A) Allow courts to appoint emergency guardians for respondents who reside in psychiatric facilities, hospitals, and homeless shelters;
 - (B) Extend the appointment period for emergency guardians; and
 - (C) Clarify that guardians may consent to care, treatment, or service over the objection of wards; and
- (2) Require certain patients subject to emergency hospitalization to be assessed to determine whether a surrogate or guardian is needed to make appropriate health care decisions for the patient.

2023-2386 HB1154 HD2 HSCR HMSO



Your Committee received testimony in opposition to this measure from the Office of the Public Guardian, Commission to Promote Uniform Laws, American Civil Liberties Union of Hawai'i, and four individuals. Your Committee received comments on this measure from the Judiciary, Department of the Attorney General, Department of Health, Governor's Coordinator on Homelessness, Hawaii Disability Rights Center, Hawai'i Pacific Health, and The Queen's Health System.

Your Committee finds that existing law allows courts to appoint emergency guardians to avert substantial harm to a respondent's health, safety, and welfare. Your Committee believes that this authority should explicitly include situations where the respondent resides in a psychiatric facility, hospital, or homeless shelter.

Your Committee further finds that emergency departments may not always have access to psychiatrists and advanced practice nurses required to assess whether a person lacks decisional capacity and therefore needs a surrogate or guardian.

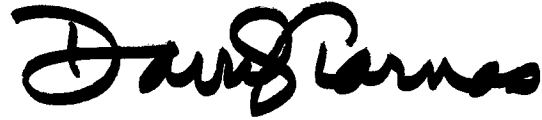
Accordingly, your Committee has amended this measure by:

- (1) Clarifying the authority for courts to appoint emergency guardians for respondents who reside in psychiatric facilities, hospitals, and homeless shelters;
- (2) Clarifying the patient and provider qualifications for assessments to determine whether a surrogate or guardian is needed for patients subject to emergency hospitalization; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1154, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1154, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



DAVID A. TARNAS, Chair



