

A Bill for an Act Relating to the Hawaii Penal Code.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 704-404, Hawaii Revised Statutes, is amended by amending subsection (2) to read:

“(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist or qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose, and may direct that one or more qualified physicians retained by the defendant be permitted to witness and participate in the examination.”

SECTION 2. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (3) to read:

“(3) When ordering such a hearing the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist or a qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination and may direct that qualified physicians retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8) and (9).”

SECTION 3. Section 704-414, Hawaii Revised Statutes, is amended to read:

**“Sec. 704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release.** Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge or for modification of conditions of release, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist or qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. To facilitate such examination and the proceedings thereon, the court may

cause such person, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians retained by the person be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8) and (9).”

SECTION 4. Section 706-603, Hawaii Revised Statutes, is amended to read:

**“Sec. 706-603 Pre-sentence psychiatric and medical examination.** Before suspending or imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to mental and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or certified clinical psychologists to make the examination. If a single examiner is appointed, he shall be a qualified psychiatrist or certified clinical psychologist. If a three member panel is appointed one shall be a psychiatrist and one shall be a certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist or qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. The report of the examination shall be submitted to the court.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved April 10, 1979.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.