

STAND. COM. REP. NO. 3159

Honolulu, Hawaii

APR 05 2024

RE: H.B. No. 2159
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2159, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MENTAL HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of the Attorney General to assist with the preparation and filing of petitions for assisted community treatment and with the presentation of the case, unless declined by the petitioner;
- (2) Repeal language entitling the subject of a petition for assisted community treatment to legal representation by a public defender;
- (3) Provide a mechanism for the automatic screening of certain nonviolent defendants for involuntary hospitalization or assisted community treatment; and
- (4) Authorize courts to require certain probation violators to undergo a mental health evaluation and treatment program as a condition of continued probation.



Your Committee received testimony in support of this measure from the Judiciary, Department of Health, Office of the Public Defender, Hawaii Substance Abuse Coalition, 'Ohana Health Plan, Hawai'i Psychological Association, and one individual.

Your Committee received testimony in opposition to this measure from the ACLU of Hawai'i and one individual.

Your Committee received comments on this measure from the Department of the Attorney General and Hawaii Disability Rights Center.

Your Committee finds that individuals suffering from mental health challenges must be properly evaluated and assessed to determine what types of services they require, and what can be offered to them, whether inpatient, outpatient, or community based, upon the dismissal of a criminal case. Additionally, your Committee believes that permitting the court to divert a probation violator to mental health evaluation and treatment as a condition of continued probation rather than simply revoking the probation will provide the court with a valuable tool to both determine and address whether an individual may be having difficulty with the terms and conditions of their probation due to a mental disease, disorder, or defect. This measure will improve government response to individuals suffering from mental health challenges, particularly for those who may become or already are involved in the criminal justice system.

Your Committee has amended this measure by:

- (1) Inserting language providing that a judge may order that a subject be released during the pendency of a decision on a petition for assisted community treatment;
- (2) Inserting language allowing the family court to appoint an attorney for the subject of a petition for assisted community treatment if the interests of justice require one be appointed;
- (3) Inserting language to repeal the sunset date of June 30, 2024, for Act 111, Session Laws of Hawaii 2017, which will make permanent the orders to treat over objection



law in sections 334-161 and 334-162, Hawaii Revised Statutes;

- (4) Making it effective upon its approval; and
- (5) 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2159, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2159, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
 Committee on Judiciary
 JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2159 HD2SD1	HHS, JDC	04/02/24		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton				✓
TOTAL	4	—	—	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes