

STAND. COM. REP. NO. 3457

Honolulu, Hawaii

APR 04 2008

RE: H.B. No. 466
H.D. 1
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 466, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose of this measure is to implement the recommendations of the task force convened pursuant to S.C.R. No. 117, S.D. 1, H.D. 1 (2006), to evaluate and recommend changes to minimize the census at the Hawaii State Hospital and promote community based health services for forensic patients.

Specifically, this measure:

- (1) Requires the Department of Health to submit to the Legislature specified yearly data on forensic patients;
- (2) Requires yearly court status hearings for individuals who are acquitted by reason of insanity to assess the need for further inpatient hospitalization;
- (3) Decreasing from ninety to thirty days following the revocation of conditional release, the time in which the Director of Health is required to make an application for either conditional release or discharge of the person;



- (4) Provides statutory guidance and clarification on the seventy-two hour hold and extended hold process for patients under conditional release;
- (5) Authorizes the Director of Health to petition the court in appropriate cases for legal discharge from conditional release or modification of the order granting conditional release on behalf of an individual served by the Department of Health; and
- (6) Makes an unspecified appropriation to the Judiciary to support the operations and expansion of the mental health court.

Your Committees received testimony in support of this measure from the Department of Health, Hawaii Disability Rights Center, and Hawaii Government Employees Association. Comments were received from the Judiciary.

Your Committees find that, in Hawaii, there is no limit to how long an individual may be on conditional release. Individuals whose mental condition status has changed sufficiently to no longer warrant conditional release, could potentially be on conditional release for the rest of their lives. Periodic mandatory court hearings under this measure ensures that courts hear all conditional release cases on a regular basis so that appropriate cases are continued on conditional release and other cases are legally discharged from conditional release.

Your Committees further find that enabling the Director of Health to petition the courts for discharges, where appropriate, will help to ease the overcrowding problem at the Hawaii State Hospital and protect the health and safety of the patients and staff at the hospital.

Your Committees recognize the following concerns raised in the testimony regarding the mandatory conditional release hearings:

- (1) There is a likelihood that the courts and treatment teams may not understand the difference between a seventy-two hour hold or extended hold and a conditional release revocation, which could result in a misapplication of revocation when a seventy-two hour



hold would be more appropriate; the measure may need more explicit language for clarification; and

- (2) With regard to funding the pilot mental health court on Oahu (the State's only mental health court), current funding is entirely by grant and therefore is of limited scope and influence; should the mental health court be expanded to include more patients of the Hawaii State Hospital, more substantial and permanent funding needs to be explored.

Your Committees urge that these concerns be addressed in Conference Committee deliberations on this measure.

Your Committees have amended this measure by:

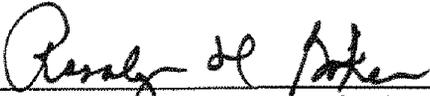
- (1) Requiring the court, except if the individual has applied for conditional release or discharge within the previous year, to conduct a hearing at specified annual intervals to assess the need for further hospitalization;
- (2) Increasing from thirty to forty-five days following the revocation of conditional release, the time in which the Director of Health is required to make an application for either conditional release or discharge of the person, if the Director is satisfied that specified conditions have been met;
- (3) Adding, from S.B. No. 2396, H.D. 1, a provision to establish that an attack on a person employed at a State-operated hospital or State-contracted mental health facility is assault in the second degree under the Penal Code;
- (4) Changing the effective date to July 1, 2025, to continue the discussions in this matter; and
- (5) Making technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 466, H.D. 1, S.D. 1, as amended



herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 466, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



ROSALYN H. BAKER, Chair



BRIAN T. TANIGUCHI, Chair



