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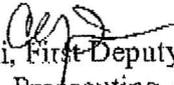
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Testimony In Support of SB 843, SD 1
Relating to Sentencing

Hearing before Committee on Judiciary
March 24, 2009

Submitted by Charlene Y. Iboshi,  First Deputy Prosecuting Attorney for
Jay T. Kimura, Prosecuting Attorney

Chair Karamatsu and Committee Members:

We support Senate Bill 843, SD 1.

The purpose of SB 843, SD 1, is to restore portions of what was Hawaii Revised Statutes section 706-603. These portions, which statutorily authorized a court to order a presentence mental or medical examination, were inadvertently repealed in 2005.

We strongly support the passage of this bill. Given that the repealed sections set forth parameters for the length of the examinations, as well as how the examiners were to be selected, we believe that restoration of this section is necessary.

Thank you for this opportunity to testify.

Testimony on behalf of the
Office of the Public Defender, State of Hawai'i
to the House Committee on Judiciary

March 24, 2009

RE: S.B. 843. S.D. 1: Relating To Sentencing.

Chair Karamatsu and Members of the Committee:

This bill proposes to restore a previously deleted statutory provision that would allow a court to order a defendant, before sentencing, to submit to mental or other medical observation and examination for a period not exceeding the length of permissible imprisonment.

Our office does not support reinserting this provision into our laws. We note that the court already has the means to order an evaluation of a defendant that the court fears may be "unfit" under section 704-404. So this proposed legislation is not needed to deal with such situations.

Rather, this bill would allow a court to invade the confidential province of a person's medical or mental health with no required criteria for doing so. We do not believe that this is a necessary power for the court to have. Indeed, we are unaware of any problem under current statutory provisions that need to be addressed by legislation such as this this.

Thank you for the opportunity to comment on this bill.