

H.B. NO. 1025

A BILL FOR AN ACT

RELATING TO SENTENCING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 706, Hawaii Revised Statutes, is
2 amended by adding to part I a new section to be appropriately
3 designated and to read as follows:

4 "§706- Presentence mental and medical examination.

5 (1) As used in this section, unless the context otherwise
6 requires:

7 "Conviction" means that a verdict has been rendered by a
8 judge or jury, or a plea of guilty or nolo contendere has been
9 accepted by the court.

10 "Licensed psychologist" means psychologists licensed under
11 chapter 465, but also includes psychologists exempt from
12 licensure under section 465-3(a)(3).

13 (2) Before imposing sentence, the court may order a
14 defendant who has been convicted of a felony or misdemeanor to
15 submit to mental or other medical observation and examination
16 for a period the court determines to be necessary for the
17 purpose, but the period shall not exceed the length of

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1 permissible imprisonment. In addition thereto or in the
 2 alternative, the court may appoint one or more qualified
 3 psychiatrists, physicians, or licensed psychologists to make the
 4 examination. The examiner or examiners shall be appointed from
 5 a list of certified examiners as determined by the state
 6 department of health. The report of the examination shall be
 7 submitted to the court."

8 SECTION 2. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Day
 BY REQUEST
 JAN 26 2009

Report Title:

Sentencing

Description:

To restore a statutory provision allowing for presentence mental health or medical examination of defendants for purposes of sentencing.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO SENTENCING.

PURPOSE: To restore a statutory provision allowing for presentence mental or medical examination of defendants for purposes of sentencing.

MEANS: Add a new section to part I of chapter 706, Hawaii Revised Statutes.

JUSTIFICATION: This bill is intended to restore a necessary statutory provision allowing for presentence mental or medical examination of defendants. On some occasions, it may be helpful to the sentencing court for defendants to undergo a mental or medical examination as part of the judiciary presentence investigation.

In 2005, the statutory provision was repealed as part of the revisions to section 706-603, Hawaii Revised Statutes, in section 4 of Act 112. The original wording of the statutory provision was derived from the Model Penal Code.

The amendments in 2005 to section 706-603 changed the section, making it necessary to create a new section for the restored statutory provision.

Impact on the public: None.

Impact on the department and other agencies: This bill will help the courts to better evaluate certain defendants to determine the most appropriate sentence.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

None.

OTHER AFFECTED
AGENCIES:

County prosecutors, and the Office of the
Public Defender.

EFFECTIVE DATE:

Upon approval.