

FW: HB 1069 Testimony

Browne, Traci [traci.browne@doh.hawaii.gov]

Sent: Monday, February 07, 2011 3:23 PM
To: JUDtestimony
Attachments: HB1069_HTH_02-03-11_JUD.pdf (146 KB)

Good Afternoon

Has this testimony been posted to the Legislative website, as it was submitted on 2/3/11?

Thank you,

Traci I. Browne
AMHD Administrative Assistant
45-710 Keaahala Road
Kaneohe, Hawaii 96744
PH. (808) 236-8389
FAX: (808) 236-8490

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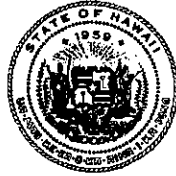
Good Afternoon

Attached is testimony for HB 1069, which will be heard on Thursday, February 03, 2011 at 2:00pm.

Thank you,

Traci I. Browne
AMHD Administrative Assistant
45-710 Keaahala Road
Kaneohe, Hawaii 96744
PH. (808) 236-8389
FAX: (808) 236-8490

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**STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378**

In reply, please refer to:
File:

House Committee on Judiciary

H.B. 1069, Time Frames to Regain Fitness to Proceed

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

Thursday, February 3, 2011, 2:00 p.m.

1 **Department's Position:** The Department of Health (DOH) strongly supports this bill.

2 **Fiscal Implications:** Placing a maximum time limit for fitness restoration in misdemeanor and petty
3 misdemeanor cases will result in fewer days of hospitalization at the Hawaii State Hospital (HSH) and
4 significant financial savings.

5 **Purpose and Justification:** If a criminal defendant is unable to participate meaningfully in court
6 proceedings, those proceedings are suspended, the person is found "unfit to proceed," and is then either
7 ordered to receive "fitness restoration" services at the Hawaii State Hospital or released on conditions to
8 be restored to fitness in the community. Fitness restoration comprises a combination of medication,
9 mental health treatment, and practical education about court proceedings. More than 85% of all fitness
10 restoration cases in Hawaii are remanded to the care and custody of the Director to be restored to fitness
11 as an inpatient at the HSH.

12 Unfit defendants cannot remain in custody or released on conditions indefinitely. The Supreme
13 Court (Jackson v Indiana, 1972) ruled that that fitness restoration may only continue for a "reasonable
14 period of time," with considerations made of the severity of the charge and the defendant's mental
15 condition. Several states have adopted since specific time frames for fitness restoration. Hawaii is not

1 one of them. Each year, many patients remain at the HSH for fitness restoration for many months
2 beyond what they might have served in jail for the same offense, if they had been found guilty.

3 This measure proposes to amend the current language that requires competency restoration in a
4 "reasonable period of time" for all grades of offenses by establishing a time frame of sixty days for
5 fitness restoration when the charge is a petty misdemeanor and one hundred-twenty days when the
6 charge is a non-violent misdemeanor. At the end of the proposed fitness restoration time frames, if the
7 defendant remains unfit, the court dismisses the charge and either releases the defendant or proceeds
8 with civil commitment if those criteria are met.

9 National and local data for fitness restoration indicate that most people will be "restored to
10 fitness" on average within 120 days after beginning treatment. Specific time frames are expected to
11 shorten the hospital stay of unfit defendants charged with petty misdemeanors or non-violent
12 misdemeanors, to allow Department to better manage the hospital census and staff resources.

13 Treating each patient at HSH costs approximately \$800 dollars a day. Any change that results
14 for a more rapid transition of patients out of the hospital setting when hospital level of support is no
15 longer required will result in significant savings for the public.

16 This measure will help DOH achieve the most efficient utilization of the most intensive and most
17 expensive level of public mental health care. Community safety, which is a significant issue for the
18 Department, is protected by the option for civil commitment of those who qualify, the time frames
19 being applicable only to non-violent charges, and a determination by the hospital staff and court that he
20 individual is appropriate for safe release from the hospital.

21 Thank you for the opportunity to testify on this bill.