

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 1069  
H.D. 2  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1069, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EFFECT OF FINDING OF UNFITNESS TO PROCEED,"

begs leave to report as follows:

The purpose and intent of this measure is to limit the time period of commitment to an appropriate institution or release on conditions when unfit defendants are charged with petty misdemeanors or nonviolent misdemeanors.

Your Committee received testimony in support of this measure from the Hawaii Disability Rights Center and one individual. Your Committee received oral testimony in support of this measure from the Director of Health. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu. Your Committee received comments on this measure from the Office of the Public Defender.

Your Committee finds that when a defendant lacks fitness to proceed, the criminal proceedings are suspended and the defendant is committed to the Director of Health to be placed in an appropriate institution for detention, care, and treatment. In actuality, a defendant's commitment to the Director of Health can be indefinite if the defendant continues to be found unfit to proceed, and the defendant may be held by the Director of Health



for a period that is longer than the period of incarceration that the defendant would have received had the defendant been sentenced to the maximum jail time allowed by law.

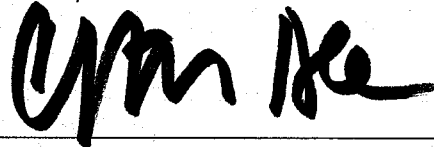
Your Committee notes that concerns were raised in testimony regarding the resources required to maintain a defendant in an appropriate facility or to monitor a defendant who is released on conditions.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2011; and
- (2) 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 and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1069, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1069, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

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



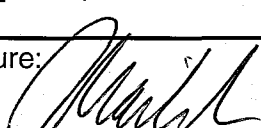
---

CLAYTON HEE, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>HB1069, HDZ</b>	Committee Referral: <b>JDL</b>	Date: <b>3/21/11</b>		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes