
A BILL FOR AN ACT

RELATING TO EXAMINATIONS OF FITNESS TO PROCEED.

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

1 SECTION 1. Section 704-404, Hawaii Revised Statutes, is
2 amended by amending subsection (2) to read as follows:

3 "(2) Upon suspension of further proceedings in the
4 prosecution, the court shall appoint three qualified examiners
5 in felony cases, and one qualified examiner in nonfelony cases,
6 to examine and report upon the defendant's fitness to proceed.
7 In felony cases, the court shall appoint as examiners at least
8 one psychiatrist and at least one licensed psychologist. The
9 third examiner may be a psychiatrist, licensed psychologist, or
10 qualified physician. One of the three examiners shall be a
11 psychiatrist or licensed psychologist designated by the director
12 of health. In nonfelony cases, the court may appoint as
13 examiners either a psychiatrist or a licensed psychologist. All
14 examiners shall be appointed from a list of certified examiners
15 as determined by the department of health. The court, in
16 appropriate circumstances, may appoint an additional examiner or
17 examiners. The examination may be conducted while the defendant
18 is in custody or on release or, [~~in the court's discretion,~~]



1 when necessary [~~the court may order~~], the defendant [~~to~~] may be
2 [~~committed~~] transferred to a hospital or other suitable
3 facility, pursuant to section 334-74 regarding transfer of
4 residents of correctional facilities, or pursuant to any
5 agreements entered into between the department of health and the
6 department of public safety regarding transfer of detainees of
7 community correctional centers, for the purpose of the
8 examination [~~for a period not exceeding thirty days, or a longer~~
9 ~~period as the court determines to be necessary for the purpose~~].

10 The court may direct that one or more qualified physicians or
11 psychologists retained by the defendant be permitted to witness
12 the examination. As used in this section, the term "licensed
13 psychologist" includes psychologists exempted from licensure by
14 section 465-3(a)(3) and "qualified physician" means a physician
15 qualified by the court for the specific evaluation ordered."

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Fitness to Proceed; Examination; Department of Health

Description:

Clarifies provisions regarding examinations of defendants' fitness to proceed in the prosecution. Authorizes the department of health and department of public safety to enter into an agreement concerning the transfer of detainees in a community correctional center. Effective 7/1/2050. (SD1)

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