

STAND. COM. REP. NO. **3660**

Honolulu, Hawaii

JUN 24 2020

RE: H.B. No. 1620
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 1620, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE ADMINISTRATION OF
JUSTICE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the effect of finding a defendant charged with a misdemeanor or petty misdemeanor not involving violence or attempted violence unfit to proceed;
- (2) Amend the requirements for fitness determination hearings, court-appointed examiners, and examination reports;
- (3) Authorize the courts to enter into agreements to divert into residential, rehabilitative, and other treatment those defendants whose physical or mental disease, disorder, or defect is believed to have become or will become an issue in a judicial case;
- (4) Amend the requirements for appointing qualified examiners to perform examinations for penal responsibility; and



- (5) Require an examination for penal responsibility to be conducted within fifteen days after a finding of fitness to proceed.

Your Committee received testimony in support of this measure from the Department of Health; Judiciary; Hawaii Substance Abuse Coalition; Aloha House, Inc.; and three individuals. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu and Hawai'i Psychological Association. Your Committee received comments on this measure from the Department of the Attorney General and Hawaii Disability Rights Center.

Your Committee finds that the issue of mental health has resulted in the incarceration of numerous non-violent individuals charged with low-level and petty misdemeanors within the state prison facilities. As a result, these individuals in need of mental health treatment reside in these facilities without receiving mental health services. This measure supports the development and provision of alternative pathways leading to mental health services for individuals with lower level charges who are living with behavioral health issues.

Your Committee further finds that the issue regarding judicial proceedings in this measure requires further consideration and requests that your Committee on Judiciary examine this issue in its deliberation of this measure.

Your Committee has amended this measure by:

- (1) Clarifying the proceedings of the criminal justice diversion program, including resuming criminal cases for defendants who are deemed fit to proceed and, under the custody of the Director of Health, diverting defendants who cannot be determined as fit to proceed into the behavioral health system;
- (2) Clarifying provisions relating to court-appointed examiners when proceedings in prosecution are suspended due to doubt of a defendant's fitness to proceed;



- (3) Restoring language relating to the maximum days allotted for commitment of a defendant who is charged with a misdemeanor not involving violence or attempted violence;
- (4) Clarifying provisions relating to the requirements for appointing qualified examiners to perform examinations for penal responsibility;
- (5) Removing the time requirement for the ordering of the penal responsibility evaluation; and
- (6) 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 Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1620, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1620, H.D. 2, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:	
HB 1620 HD2	CPH, JDC	3-13-2020	
<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			
BAKER, Rosalyn H. (C)	✓		
CHANG, Stanley (VC)	✓		
NISHIHARA, Clarence K.			✓
RUDERMAN, Russell E.	✓		
THIELEN, Laura H.	✓		
WAKAI, Glenn	✓		
FEVELLA, Kurt		✓	
TOTAL	5	1	1
Recommendation:			
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted			
Chair's or Designee's Signature:			
			
Distribution:			
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one measure per Record of Votes