

Honolulu, Hawaii

FEB 13 2020

RE: S.B. No. 2033
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 S.B. No. 2033 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) Establish a different process for the confinement of a defendant charged with a misdemeanor or petty misdemeanor not involving violence or attempted violence who is unfit to proceed from the existing process of confining a defendant charged with a felony, who is also unfit to proceed; and
- (2) Amend the requirements, as appropriate, for fitness determination hearings, court-appointed examiners, examination reports, treatment, hospitalization, and confinement.

Your Committee received testimony in support of this measure from the Maui Police Department and one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, 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 Judiciary, Department of the Attorney General, Department of Health, 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 would enable an individual an opportunity to be turned over to the custody of the Director of Health and placed in an institution for detention, assessment, care, and treatment, allowing for a mental health clinical team to adequately focus on the proper treatment plan for the individual.

To assist the Committee on Judiciary with its deliberation on this measure, your Committee notes the comments and concerns raised by the Hawai'i Psychological Association regarding the two-day time period for a final opinion on fitness to proceed and need to hire additional examiners to perform screenings.

Your Committee has amended this measure by:

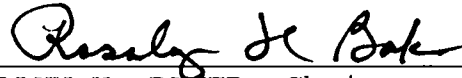
- (1) Clarifying that, under certain conditions, the court may suspend the proceedings, order the defendant to be transferred to the custody of the Director of Health and placed in an appropriate institution for further examination and assessment for up to seven days, and dismiss the charges with or without prejudice;
- (2) Replacing the term "appropriate institution" with "hospital or other suitable facility" for consistency and to allow for flexibility of placement of patients;
- (3) Clarifying the language regarding court appointed examiners to be consistent with section 704-404, Hawaii Revised Statutes;
- (4) Deleting language that would have required an opinion from the examiners on fitness to proceed for reports submitted for the issues of discharge, conditional release, and discharge from conditional release; and



- (5) Inserting an effective date of July 1, 2050, to encourage further discussion.

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 S.B. No. 2033, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2033, 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:		
SB2033	CPH, JDC	1/29/20		
<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	6			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