

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 1492
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Health and Human Services and Judiciary,
to which was referred S.B. No. 1492 entitled:

"A BILL FOR AN ACT RELATING TO MENTAL HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of Health to respond to reports about persons having severe mental illness and in need of assistance and to assess whether those persons may fulfill the criteria for assisted community treatment;
- (2) Require the Department of Health to track and publicly report certain data relating to crisis reports, emergency mental health transports, and court-ordered treatments;
- (3) Require the court, when dismissing an involuntary hospitalization petition for a person, to assess whether the person meets the criteria for assisted community treatment and authorizing the court to order the person to obtain assisted community treatment, which may include medication;
- (4) Require the Department of the Attorney General to assist in the preparation and filing of certain assisted



community treatment petitions and related court proceedings; and

- (5) Appropriate moneys to the Department of Health for software and data collection and publication.

Your Committees received testimony in support of this measure from the Office of the Governor, Department of Health, Hawaii Substance Abuse Coalition, and five individuals. Your Committees received testimony in opposition to this measure from the Judiciary. Your Committees received comments on this measure from the Department of the Attorney General and Hawaii Disability Rights Center.

Your Committees find that the State has several key tools and programs to assist individuals with untreated severe mental illness. These include court-ordered plans of treatment, known in Hawaii as "assisted community treatment" or "ACT" orders, involuntary commitments to the state hospital or similar facility, court-ordered medication, and Department of Health crises programs, among others. This measure will complement programs already in place by granting providers and the judicial system more tools to ensure that individuals struggling with mental health issues receive appropriate treatment. Your Committees note the concerns raised in testimony that section 3 of this measure violates the due process clause and that courts are not independently capable of conducting clinical assessments. Accordingly, amendments to this measure are necessary to address these concerns.

Your Committees have amended this measure by:

- (1) Deleting language that would have required the court to assess whether the person meets the criteria for assisted community treatment and authorized the court to order the person to obtain assisted community treatment, including medication before dismissing an involuntary hospitalization petition for a person;
- (2) Inserting language to establish that a court's denial of a petition for involuntary commitment shall serve as notification to the Department of Health that the person should be evaluated for assisted community treatment;



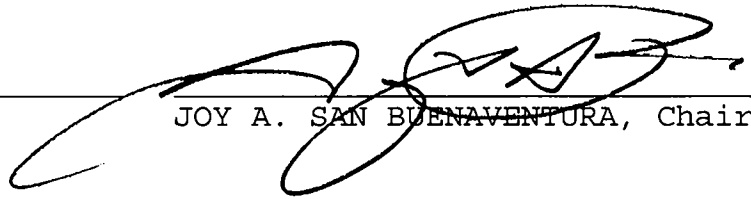
- (3) Incorporating changes proposed by the Department of the Attorney General to clarify the Department shall assist with the preparation and filing of certain petitions after July 1, 2023;
- (4) Amending section 1 to reflect its amended purpose;
- (5) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1492, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1492, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Health and Human
Services and Judiciary,



KARL RHOADS, Chair



JOY A. SAN BUENAVENTURA, Chair



