

STAND. COM. REP. NO.

267

Honolulu, Hawaii

FEB 09 , 2023

RE: H.B. No. 1442
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Health & Homelessness, to which was referred H.B. No. 1442 entitled:

"A BILL FOR AN ACT RELATING TO REHABILITATION,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Expand the criminal justice diversion program to include nonviolent misdemeanants and defendants charged with promoting a dangerous drug in the third degree and establish a mechanism for defendants in the program to be automatically screened for involuntary hospitalization or assisted community treatment;
- (2) Amend the allowable period of court-ordered assisted community treatment and considerations for extension;
- (3) Allow the courts to divert a case where the defendant is charged with certain nonviolent petty misdemeanors or misdemeanors into certain evaluations, residential or rehabilitation treatments, or other courses or procedures;

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- (4) Allow courts to require certain probation violators to undergo mental health evaluation and treatment as a condition of continued probation;
- (5) Require the Department of Health to contract with behavioral health crisis centers in each county; and
- (6) Appropriate funds for various positions within the Judiciary and Department of Health.

Your Committee received testimony in support of this measure from the Governor's Coordinator on Homelessness; Department of Health; Judiciary; Hawaii Correctional System Oversight Commission; Honolulu Police Department; Institute for Human Services, Inc.; Hawai'i Health & Harm Reduction Center; and two individuals. Your Committee received comments on this measure from the Department of the Attorney General, Office of the Public Defender, and Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that this measure seeks to expand the criminal justice diversion program established under Act 26, Session Laws of Hawaii 2020, to include other offenders and automatic screening of participating defendants for involuntary hospitalization or assisted community treatment. The expedited fitness examinations and dismissal remedies under the program reduce the time that defendants would spend in custody during mental fitness determinations and provide defendants with faster access to mental health treatment. The other changes proposed by this measure will also help address those criminal defendants who have mental diseases, disorders, or defects that affect their mental competency to participate in a criminal trial. When found applicable by the courts, the diversion of these individuals to treatment programs results in a much more positive outcome than a release from custody without treatment, only to possibly reoffend a short time later.

Your Committee has amended this measure by:

- (1) Clarifying the facilities under which the Director of Public Safety and Chief Justice of the Hawaii Supreme Court are to establish procedures regarding telehealth resources;



- (2) Clarifying the instances in which the court is to appoint one qualified examiner to examine and report upon the defendant's fitness to proceed;
- (3) Specifying that the allowable period of court-ordered assisted community treatment is for no more than two years;
- (4) Changing the effective date to July 1, 3023, with section 25 to take effect on January 1, 3024, to encourage further discussion; and
- (5) Making a technical, nonsubstantive amendment for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health & Homelessness that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1442, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1442, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Health &
Homelessness,

Della A Belatti

DELLA AU BELATTI, Chair



