STAND. COM. REP. NO. 620

Honolulu, Hawaii

FEB 1 7 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:

- 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



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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. B FTURA. Chair



The Senate Thirty-Second Legislature State of Hawai'i

Record of Votes Committee on Health and Human Services HHS

Bill / Resolution No.:*	Committee Referral:			Date:				
5B1492	HH5/JDC. WAM 02/13/23							
The Committee is reconsidering its previous decision on this measure.								
If so, then the previous decision was to:								
The Recommendation is:								
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313								
Members		Aye	Aye (WR)	Nay	Excused			
SAN BUENAVENTURA, Joy A. (C)								
AQUINO, Henry J.C. (VC)								
MORIWAKI, Sharon Y.								
SHIMABUKURO, Maile S.L.								
AWA, Brenton								
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TOTAL		4						
Recommendation:								
Chair's or Designee's Signature:								
Distribution: Original File with Committee Re	Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy							

*Only <u>one</u> measure per Record of Votes

The Senate Thirty-Second Legislature State of Hawaiʻi

Record of Votes Committee on Judiciary JDC

Bill / Resolution No.:* 53 1492	Committee Referral: HHSJJDC, VAM			Date: 2/13/23				
The Committee is reconsidering its previous decision on this measure.								
The Recommendation is: Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313								
Members		Aye	Aye (WR)) Nay	Excused			
RHOADS, Karl (C)		V						
GABBARD, Mike (VC)								
ELEFANTE, Brandon J.C.								
SAN BUENAVENTURA, Joy A.								
AWA, Brenton								
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Recommendation:								
Chair's or Designee's Signature:								
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