

Honolulu, Hawaii

FEB 04 2025

RE: S.B. No. 264  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Third State Legislature  
Regular Session of 2025  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 264 entitled:

"A BILL FOR AN ACT RELATING TO THE EXAMINATION OF CRIMINAL DEFENDANTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the amount of compensation for private-sector examiners who evaluate a criminal defendant's penal responsibility or fitness to proceed in a legal case; and
- (2) Appropriate funds.

Your Committee received testimony in support of this measure from the Judiciary, Department of Health, Office of the Public Defender, one member of the Kaua'i County Council, and Hawaii State Bar Association.

Your Committee finds that chapter 704, Hawaii Revised Statutes, requires the court in felony cases to appoint three examiners in various situations to aid the court in determining a defendant's fitness to proceed with the case; their responsibility for the offense alleged to have occurred; and once acquitted on the basis of a mental disease, disorder, or defect, whether they



may be released or remain in the public without danger or should be committed to the custody of the Director of Health. All of the examiners are appointed from a list of certified examiners as determined by the Department of Health, with two of the appointed examiners required to be psychiatrists, licensed psychologists, or qualified physicians chosen by the court from the certified list maintained by the Department of Health. The first two are private doctors that are paid by the court, while the final doctor is a Department of Health designee, a state employee. For the First Circuit there are currently only six examiners on the certified examiner list willing to take court appointments for the fees paid by the Judiciary. Although more examiners are potentially available, they are unwilling or unable to provide services to the court at the existing rate of \$1,000. The number of chapter 704 examinations has more than doubled in the last fourteen years, despite the number of examiners decreasing from fifteen in 2010 to the present six. Your Committee believes that, unless more doctors are enlisted to conduct these examinations, the courts will be unable to meet obligations required by statute and the state and federal constitutions. This measure will ensure the quality and availability of examiners willing and able to provide statutorily required examinations of criminal defendants in the State.

Your Committee has amended this measure by:

- (1) Changing the appropriation amount to an unspecified amount; and
- (2) Inserting an effective date of April 23, 2057, to encourage further discussion.

Your Committee notes that this measure, as amended, contains an unspecified appropriation amount. Should your Committee on Ways and Means choose to deliberate on this measure, your Committee respectfully requests that it consider inserting an appropriation amount of \$975,000, to establish the amount of compensation for private-sector examiners who evaluate a criminal defendant's penal responsibility or fitness to proceed in a legal case at \$2,000 for the examination, the drafting of the report, and any consultation, preparation, testimony, and attendance in court.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 264, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 264, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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KARL RHOADS, Chair



The Senate  
 Thirty-Third Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <i>SB 264</i>	Committee Referral: <i>JDC, WAM</i>	Date: <i>01/28/25</i>		
<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
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton	✓			
<b>TOTAL</b>	<i>5</i>	<i>—</i>	<i>—</i>	<i>—</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: <input checked="" type="checkbox"/> Original <input type="checkbox"/> Yellow <input type="checkbox"/> Pink <input type="checkbox"/> Goldenrod <small>File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy</small>				

\*Only one measure per Record of Votes