



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Health

Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

Friday, February 8, 2013, 2:30 p.m.
State Capitol, Conference Room 229

By

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Bill No. and Title: Senate Bill No. 1141, RELATING TO FORENSIC MENTAL HEALTH

Purpose: To make statutory changes to establish limits on the length of time an individual may remain on conditional release if charged with a misdemeanor, petty misdemeanor, or violation. To clarify under what circumstances the one-year conditional release status may be tolled. It also would require public agencies in possession of information about the defendant to provide that information to the court. These amendments are to assist in reducing the census at the Hawaii State Hospital.

Judiciary's Position:

The Judiciary is in support of this bill pending modification of the bill language to further clarify under what circumstances the one-year conditional release status may be tolled. There is one other circumstance that warrants tolling other than hospitalization that was left out of the bill that needs to be added. The following language below is recommended to replace the SECTION 5 language beginning on page 13 and continuing to page 15 of the bill:

SECTION 5. Section 704-413, Hawaii Revised Statutes, is amended

(1) By amending subsection (1) to read as follows:

“(1) Any person granted conditional release pursuant to this chapter shall continue to receive mental health or other treatment and care deemed appropriate by the director of health until discharged from conditional release. The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person's treating mental



health professional. If a mental health professional who is treating a person granted conditional release believes that either the person is not complying with the requirements of this section or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the probation officer of the person granted conditional release. The probation officer may order the person granted conditional release to be hospitalized for a period not to exceed seventy-two hours if the probation officer has probable cause to believe the person has violated the requirements of this subsection. No person shall be hospitalized beyond the seventy-two-hour period, as computed pursuant to section 1-29, unless a hearing has been held pursuant to subsection (4); provided that on or before the expiration of the seventy-two-hour period, a court may conduct a hearing to determine whether the person would benefit from further hospitalization, which may render a revocation of conditional release unnecessary. If satisfied, the court may order further temporary hospitalization for a period not to exceed ninety days, subject to extension as appropriate, but in no event for a period longer than one year. At any time within that period, the court may determine that a hearing pursuant to subsection (4) should be conducted. For any defendant charged with a petty misdemeanor, misdemeanor, or violation and granted conditional release pursuant to section 704-411(1)(b), the one-year term of conditional release shall be tolled:

- (a) During any period of hospitalization ordered pursuant to this section; and
- (b) In the case of a motion to revoke conditional release, from the filing date of the motion to the date of its determination by the court."

Thank you for the opportunity to testify on Senate Bill No. 1141.