



The Judiciary, State of Hawaii

**Testimony to the
Senate Committee on Health**
Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Tuesday, January 28, 2014, 8:30 a.m.
State Capitol, Conference Room 229

WRITTEN TESTIMONY ONLY

by

R. Mark Browning
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2352, Relating to Psychiatric Facilities.

Purpose: Proposes amendment to HRS section 334-60.7, notice of intent to discharge.

Judiciary's Position:

The Judiciary respectfully offers the following observations regarding procedural matters for those hearings to be held at the Family Court.

1. This bill allows discharge of a patient if no objections are filed within 5 days of the mailing of the notice. The language of the bill raises these questions: (a) Who memorializes the mailing and its receipt? (b) How is "mailing" defined—when the doctor drops the notice in a mailbox, the post office, or when it has been actually delivered? (c) Is this notice made in the context of a case proceeding? If so, does the notice have to refer to the case? (d) Is "5 days" to

be treated as 5 working days? (e) With whom is the objection "filed?" (f) If the objection is filed with the court, how will the hospital or the doctor know about it?

2. Is there anywhere a provision that requires the notice to be given a minimum number of days before discharge/voluntary commitment?

3. With all of these uncertainties, the court may not be able to provide the hearing within the time required in the bill. Currently, out of respect for the patients and to support medical facilities' need to conserve use of staff, the Family Court of the First Circuit holds mental health hearings at the Hawaii State Hospital and Queen's Medical Center. The bill's 72 hour hearings can only be accommodated by having the hearings at the Ronald T. Y. Moon Kapolei Courthouse.

Thank you for the opportunity to provide written comments on this matter.