



*The Judiciary, State of Hawai‘i*

**Testimony to the House Committee on Public Safety,  
Veterans, and Military Affairs**

Representative Gregg Takayama, Chair  
Representative Cedric Asuega Gates, Vice Chair

Wednesday, February 6, 2019 10:00 AM  
State Capitol, Conference Room 430

**WRITTEN TESTIMONY ONLY**

By

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit

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**Bill No. and Title:** House Bill No. 786 Relating to Mental Health Examinations

**Purpose:** Prohibits a court from committing a defendant to a suitable facility for a mental health examination for more than 30 days. Provides that if the required examinations cannot be conducted within 30 days, the court shall determine whether the defendant is eligible for supervised pretrial release or should be remanded to the custody of the Department of Public Safety. Provides that the court has continuing discretion to approve any agreement or stipulation of the parties to determine the fitness of a defendant to proceed with less than the number of required examinations.

**Judiciary’s Position:**

The Judiciary respectfully notes a concern with the provision requiring the mandatory transfer of a defendant committed to a hospital or other suitable facility, who has been found to require mental health treatment and is considered to be dangerous to the public so as to not be eligible for supervised pretrial release, to the custody of the department of public safety when one, or any, of the appointed examiners cannot complete his or her report in thirty days. This would appear to essentially stop any treatment that was ongoing pending the examinations and would likely lead to a further delay in the ultimate goal of obtaining a defendant’s fitness to proceed. In effect, this provision would impede defendant’s treatment through no fault of his own.

Thank you for the opportunity to testify on this measure.