THE SENATE TWENTY-FOURTH LEGISLATURE, 2007 STATE OF HAWAII

S.B. NO. 237

JAN 1 9 2007

A BILL FOR AN ACT

RELATING TO FORENSIC EXAMINERS.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that currently, a court may order a physical or mental examination of a criminal 2 defendant pursuant to section 704-404, Hawaii Revised Statutes. 3 The forensic examination process typically takes several months 4 to complete. During this period, a pretrial defendant who may 5 have a serious mental disease or defect will be held in state 6 custody without receiving the appropriate mental health 7 8 treatment.

9 According to a random sampling of ninety-one pretrial defendants gathered by the Hawaii Disability Rights Center in 10 December 2003, an average of seventy-eight days passed from the 11 date of arrest to the date a forensic examination was requested. 12 13 An average of eighteen additional days transpired before the 14 court issued an order for a forensic examination. Thereafter, 15 an average of eighty-four days passed before the forensic examination report as filed and the court determined the 16 defendant's penal responsibility. The entire forensic 17

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1 examination process averaged one hundred eighty days from motion 2 to final adjudication. Thirty-five per cent of all pretrial defendants were ultimately found unfit to proceed in the 3 proceedings and were subsequently provided mental health 4 treatment by the State. During past legislative sessions, the 5 legislature considered several measures that were aimed at 6 streamlining the mental examination process. 7 The legislature further finds that the current compensation 8 9 paid to forensic examiners is insufficient to encourage 10 psychiatrists to perform mental health examinations. The lack 11 of available mental health professionals has contributed 12 substantially to the lengthy forensic examination process. Currently, forensic examiners are paid a flat fee of \$500. 13 This 14 fee has not increased since 1992.

15 The legislature further finds that it is neither reasonable 16 nor cost-efficient for a private practice mental health 17 professional to spend a full day traveling to, interviewing, and 18 evaluating a criminal defendant for that sum.

19 The purpose of this Act is to expedite the forensic
20 examination process by increasing the fee paid to forensic
21 examiners performing court-ordered mental health examinations of
22 criminal defendants.

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1	SECTION 2. Section 704-404, Hawaii Revised Statutes, is
2	amended by amending subsection (9) to read as follows:
3	"(9) The compensation of [persons] <u>a person</u> making or
4	assisting in the examination, other than [those] <u>a person</u>
5	retained by the nonindigent defendant, who [are] is not
6	undertaking the examination upon designation by the director of
7	health as part of [their] the person's normal duties as
8	[employees] <u>an employee</u> of the State or a county, shall be paid
9	by the State. The fee paid to a certified forensic examiner for
10	a court-ordered mental health examination shall be \$1,000 for
11	each defendant examined, plus an amount equal to the examiner's
12	general excise tax liability for the examination and any
13	reasonable expenses incurred for inter-island travel."
14	SECTION 3. There is appropriated out of the general
15	revenues of the State of Hawaii the sum of \$, or so
16	much thereof as may be necessary for fiscal year 2007-2008, and
17	the same sum, or so much thereof as may be necessary for fiscal
18	year 2008-2009, to increase the fee paid to forensic examiners
19	performing court-ordered mental health examinations of criminal
20	defendants.

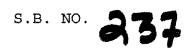
21 The sums appropriated shall be expended by the judiciary22 for the purposes of this Act.



SECTION 4. Statutory material to be repealed is bracketed 1 2 and stricken. New statutory material is underscored. SECTION 5. This Act shall take effect on July 1, 2007. 3 4

INTRODUCED BY: Smanne Chun alleland





Report Title: Judiciary; Forensic Examiners

Description:

Increases the fee paid to a forensic examiner who performs a court-ordered mental health evaluation of a criminal defendant; appropriates funds for that purpose for fiscal years 2007-2008 and 2008-2009.

