
A BILL FOR AN ACT

RELATING TO RECORDS OF DEFENDANTS COMMITTED TO A HOSPITAL
CONTROLLED BY THE DIRECTOR OF HEALTH OR TO CUSTODY OF
DIRECTOR OF HEALTH.

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

1 SECTION 1. Section 704-404, Hawaii Revised Statutes, is
2 amended by amending subsection (8) to read as follows:

3 "(8) The court shall obtain all existing[~~7~~] medical,
4 mental health, social, police, and juvenile records, including
5 those expunged, and other pertinent records in the custody of
6 public agencies, notwithstanding any other statutes, and make
7 such records available for inspection by the examiners. If,
8 pursuant to this section, the court orders the defendant
9 committed to a hospital or other suitable facility under the
10 control of the director of health, then the court shall provide
11 copies of all aforementioned records to the director of health
12 with the exception of those expunged."

13 SECTION 2. Section 704-406, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) If the court determines that the defendant lacks
16 fitness to proceed, the proceeding against the defendant shall
17 be suspended, except as provided in section 704-407, and the



1 court shall commit the defendant to the custody of the director
2 of health to be placed in an appropriate institution for
3 detention, care, and treatment. If the court is satisfied that
4 the defendant may be released on condition without danger to the
5 defendant or to the person or property of others, the court
6 shall order the defendant's release, which shall continue at the
7 discretion of the court on conditions the court determines
8 necessary. A copy of the report filed pursuant to section
9 704-404 shall be attached to the order of commitment or order of
10 release on conditions. When the defendant is committed to the
11 custody of the director of health for detention, care, and
12 treatment, unless already provided pursuant to section
13 704-404(8), the court shall provide the director of health
14 copies of all existing medical, mental health, social, police,
15 and juvenile records, including other pertinent records in the
16 custody of public agencies obtained pursuant to section
17 704-404(8), with the exception of expunged records. Records
18 shall not be re-disclosed except to the extent permitted by
19 law."

20 SECTION 3. Section 704-411, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



1 "(1) When a defendant is acquitted on the ground of
2 physical or mental disease, disorder, or defect excluding
3 responsibility, the court, on the basis of the report made
4 pursuant to section 704-404, if uncontested, or the medical or
5 psychological evidence given at the trial or at a separate
6 hearing, shall make an order as follows:

7 (a) The court shall order the defendant to be committed to
8 the custody of the director of health to be placed in
9 an appropriate institution for custody, care, and
10 treatment if the court finds that the defendant:

11 (i) Is affected by a physical or mental disease,
12 disorder, or defect;

13 (ii) Presents a risk of danger to self or others; and

14 (iii) Is not a proper subject for conditional release;

15 provided that the director of health shall place
16 defendants charged with misdemeanors or felonies not
17 involving violence or attempted violence in the least
18 restrictive environment appropriate in light of the
19 defendant's treatment needs and the need to prevent
20 harm to the person confined and others[+]. Unless
21 already provided pursuant to sections 704-404(8) or
22 704-406(1), the court shall provide the director of



1 health copies of all existing medical, mental health,
2 social, police, and juvenile records, including other
3 pertinent records in the custody of public agencies
4 that have been obtained pursuant to section
5 704-404(8), with the exception of expunged records.
6 Records shall not be re-disclosed except to the extent
7 permitted by law;

8 (b) The court shall order the defendant to be released on
9 such conditions as the court deems necessary if the
10 court finds that the defendant is affected by physical
11 or mental disease, disorder, or defect and that the
12 defendant presents a danger to self or others, but
13 that the defendant can be controlled adequately and
14 given proper care, supervision, and treatment if the
15 defendant is released on condition; or

16 (c) The court shall order the defendant discharged if the
17 court finds that the defendant is no longer affected
18 by physical or mental disease, disorder, or defect or,
19 if so affected, that the defendant no longer presents
20 a danger to self or others and is not in need of care,
21 supervision, or treatment."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Records of Defendants Committed to a Hospital Controlled by the
Director of Health or to Custody of Director of Health

Description:

Requires the courts to provide the director of health with the
records of defendants court-ordered to the state hospital or
related facility under the cognizance of the department. (SD1)

