



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1025, RELATING TO SENTENCING.

**BEFORE THE:**

HOUSE COMMITTEE ON HUMAN SERVICES

**DATE:** Monday, February 2, 2009 **TIME:** 8:15 AM

**LOCATION:** State Capitol, Room 329  
*Deliver to: Committee Clerk, Room 315, 2 Copies*

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or Lance M. Goto, Deputy Attorney General

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Chair Mizuno and Members of the Committee:

The Attorney General strongly supports this bill.

The purpose of this bill is to restore a necessary statutory provision allowing for presentence mental or medical examination of defendants as part of the judiciary presentence investigation process. With respect to certain defendants, a mental or medical examination assists the court in determining appropriate sentencing provisions.

In 2005, the statutory provision was apparently inadvertently repealed by Act 112, Session Laws of Hawaii 2005. Act 112 created chapter 844D, Hawaii Revised Statutes (HRS), regarding forensic identification and the DNA database. Section 4 of Act 112 amended section 706-603, HRS, eliminating the DNA provisions that were incorporated into chapter 844D, and leaving only the provisions regarding the DNA analysis monetary assessment and the DNA registry special fund. Thus, while eliminating certain DNA provisions of section 706-603, Act 112 also apparently inadvertently removed the presentence examination provision.

This bill restores this important statutory provision by adding a new section to part I of chapter 706, HRS. The original wording of the statutory provision is derived from the Model Penal Code.

We respectfully request passage of this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
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**THE HONORABLE JOHN MIZUNO, CHAIR  
HOUSE HUMAN SERVICES COMMITTEE  
Twenty-fifth State Legislature  
Regular Session of 2009  
State of Hawai'i**

February 02, 2009

**RE: H.B. 1025; RELATING TO SENTENCING.**

Chair Mizuno, and members of the House Committee on Human Services, the Department of the Prosecuting Attorney submits the following testimony in support of HB 1025.

The purpose of HB 1025 is to restore portions of what was Hawaii Revised Statutes section 706-603. These portions, which statutorily authorized a court to order a presentence mental or medical examination were inadvertently repealed in 2005.

We strongly support the passage of this bill. Given that the repealed portions section set forth parameters for the length of the examinations, as well as the how the examiners were to be selected, we believe that restoration of this section is necessary.

For this reason, we support the passage of HB 1025 and thank you for this opportunity to testify.