
A BILL FOR AN ACT

RELATING TO CRIMINAL DEFENDANTS' FITNESS TO PROCEED.

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 (2) to read as follows:
3 "(2) Upon suspension of further proceedings in the
4 prosecution, the court shall appoint [~~three qualified examiners~~
5 ~~in felony cases, and~~] one qualified examiner [~~in nonfelony~~
6 ~~cases,~~] to examine and report upon the defendant's fitness to
7 proceed. [~~In felony cases, the court shall appoint as examiners~~
8 ~~at least one psychiatrist and at least one licensed~~
9 ~~psychologist. The third examiner may be a psychiatrist,~~
10 ~~licensed psychologist, or qualified physician. One of the three~~
11 ~~examiners shall be a psychiatrist or licensed psychologist~~
12 ~~designated by the director of health. In nonfelony cases, the]~~
13 The court may appoint [~~as examiners~~] either a psychiatrist or a
14 licensed psychologist[-] as an examiner. [~~All examiners~~] An
15 examiner shall be appointed from a list of certified examiners
16 as determined by the department of health. The court, in
17 appropriate circumstances, may appoint an additional examiner or



1 examiners. The examination may be conducted while the defendant
2 is in custody or on release or, in the court's discretion, when
3 necessary the court may order the defendant to be committed to a
4 hospital or other suitable facility for the purpose of the
5 examination for a period not exceeding thirty days, or a longer
6 period as the court determines to be necessary for the purpose.
7 The court may direct that one or more qualified physicians or
8 psychologists retained by the defendant be permitted to witness
9 the examination. As used in this section, the term "licensed
10 psychologist" includes psychologists exempted from licensure by
11 section 465-3(a)(3) and "qualified physician" means a physician
12 qualified by the court for the specific evaluation ordered."

13 SECTION 2. Act 231, Session Laws of Hawaii 2016, is
14 amended by repealing section 5.

15 [~~"SECTION 5. Section 704-404, Hawaii Revised Statutes, is~~
16 ~~amended by amending subsection (2) to read as follows:~~

17 ~~"(2) Upon suspension of further proceedings in the~~
18 ~~prosecution, the court shall appoint three qualified examiners~~
19 ~~in felony cases, and one qualified examiner in nonfelony cases,~~
20 ~~to examine and report upon the physical and mental condition of~~
21 ~~the defendant. In felony cases, the court shall appoint at~~



1 ~~least one psychiatrist and at least one licensed psychologist.~~
2 ~~The third member may be a psychiatrist, licensed psychologist,~~
3 ~~or qualified physician. One of the three shall be a~~
4 ~~psychiatrist or licensed psychologist designated by the director~~
5 ~~of health[.] from within the department of health. In nonfelony~~
6 ~~cases, the court may appoint either a psychiatrist or a licensed~~
7 ~~psychologist. All examiners shall be appointed from a list of~~
8 ~~certified examiners as determined by the department of health.~~
9 ~~The court, in appropriate circumstances, may appoint an~~
10 ~~additional examiner or examiners. The examination may be~~
11 ~~conducted while the defendant is in custody or on release or, in~~
12 ~~the court's discretion, when necessary the court may order the~~
13 ~~defendant to be committed to a hospital or other suitable~~
14 ~~facility for the purpose of the examination for a period not~~
15 ~~exceeding thirty days, or a longer period as the court~~
16 ~~determines to be necessary for the purpose. The court may~~
17 ~~direct that one or more qualified physicians or psychologists~~
18 ~~retained by the defendant be permitted to witness the~~
19 ~~examination. As used in this section, the term "licensed~~
20 ~~psychologist" includes psychologists exempted from licensure by~~
21 ~~section 465-3(a)(3)."]~~



H.B. NO. 553

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

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

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INTRODUCED BY: Bill Adams

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JAN 20 2017



H.B. NO. 553

Report Title:

Criminal Defendants; Fitness to Proceed; Examinations

Description:

Provides that the court may appoint 1 qualified examiner, rather than 3, to evaluate a criminal defendant's fitness to proceed in a felony case.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

