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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The purpose of this Act is to:

2 (1) Authorize psychiatrists or advanced practice  
3 registered nurses, after examination of a person for  
4 assisted community treatment indication, to request  
5 the director of health to file an assisted community  
6 treatment petition;

7 (2) Require the department of the attorney general to  
8 assist with the preparation and filing of assisted  
9 community treatment petitions and related court  
10 proceedings for private petitioners, unless the  
11 petitioner declines the assistance;

12 (3) Authorize the family court to use online hearings for  
13 assisted community treatment petitions;

14 (4) Require the department of the attorney general to  
15 report to the legislature prior to the regular  
16 sessions of 2024 and 2025 on the number of requests



1 for assistance with petitions for assisted community  
2 treatment; and

3 (5) Appropriate funds to the judiciary.

4 SECTION 2. Section 334-121.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§334-121.5[+] Examination for assisted community  
7 treatment indication. A licensed psychiatrist or advanced  
8 practice registered nurse with prescriptive authority and who  
9 holds an accredited national certification in an advanced  
10 practice registered nurse psychiatric specialization associated  
11 with the licensed psychiatric facility where a person is located  
12 who was committed to involuntary hospitalization, delivered for  
13 emergency examination or emergency hospitalization, or  
14 voluntarily admitted to inpatient treatment at a psychiatric  
15 facility pursuant to part IV shall, [~~prior to~~] before the  
16 person's discharge, examine the person to determine whether an  
17 assisted community treatment plan is indicated pursuant to this  
18 part. If a plan is indicated, the psychiatrist or advanced  
19 practice registered nurse shall prepare the certificate  
20 specified by section 334-123[-] and may request assistance from  
21 the department of the attorney general pursuant to section 334-



1 123. The psychiatric facility may notify another mental health  
2 program for assistance with the coordination of care in the  
3 community for the person. Nothing in this section shall delay  
4 the appropriate discharge of a person from the psychiatric  
5 facility after the examination for assisted community treatment  
6 indication has been completed."

7 SECTION 3. Section 334-123, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§334-123 Initiation of proceeding for assisted community  
10 treatment. (a) Any interested party may file a petition with  
11 the family court alleging that another person meets the criteria  
12 for assisted community treatment. The petition shall state:

- 13 (1) Each of the criteria under section 334-121 for  
14 assisted community treatment;
- 15 (2) Petitioner's good faith belief that the subject of the  
16 petition meets each of the criteria under section 334-  
17 121;
- 18 (3) Facts that support the petitioner's good faith belief  
19 that the subject of the petition meets each of the  
20 criteria under section 334-121; and



1 (4) That the subject of the petition is present within the  
2 county where the petition is filed.

3 The hearing on the petition need not be limited to the  
4 facts stated in the petition. The petition shall be executed  
5 subject to the penalties of perjury but need not be sworn to  
6 before a notary public.

7 (b) The department of the attorney general shall assist  
8 with the preparation and filing of any petition brought pursuant  
9 to this section and any related court proceedings; provided  
10 that, if the petitioner is a private provider or other private  
11 individual, the petitioner may decline the assistance.

12 [~~b~~] (c) The petition may be accompanied by a certificate  
13 of a licensed psychiatrist or advanced practice registered nurse  
14 with prescriptive authority and who holds an accredited national  
15 certification in an advanced practice registered nurse  
16 psychiatric specialization who has examined the subject of the  
17 petition within twenty calendar days [~~prior to~~] before the  
18 filing of the petition. For purposes of the petition, an  
19 examination shall be considered valid so long as the licensed  
20 psychiatrist or advanced practice registered nurse with  
21 prescriptive authority and who holds an accredited national



1 certification in an advanced practice registered nurse  
 2 psychiatric specialization has obtained enough information from  
 3 the subject of the petition to reach a diagnosis of the subject  
 4 of the petition, and to express a professional opinion  
 5 concerning the same, even if the subject of the petition is not  
 6 fully cooperative. If the petitioner believes that further  
 7 evaluation is necessary before treatment, the petitioner may  
 8 request further evaluation.

9        [~~e~~] (d) The petition shall include the name, address,  
 10 and telephone number of at least one of the following persons in  
 11 the following order of priority: the subject of the petition's  
 12 spouse or reciprocal beneficiary, legal parents, adult children,  
 13 and legal guardian, if one has been appointed. If the subject  
 14 of the petition has no living spouse or reciprocal beneficiary,  
 15 legal parent, adult children, or legal guardian, or if none can  
 16 be found, the petition shall include the name, address, and  
 17 telephone number of at least one of the subject's closest adult  
 18 relatives, if any can be found."

19        SECTION 4. Section 334-124, Hawaii Revised Statutes, is  
 20 amended to read as follows:



1           "§334-124 Hearing date. The family court shall set a  
2 hearing date on a petition, and any subsequent hearing dates for  
3 the petition, as soon as possible."

4           SECTION 5. Section 334-126, Hawaii Revised Statutes, is  
5 amended by amending subsections (c) and (d) to read as follows:

6           "(c) Hearings may be held at any convenient place within  
7 the circuit. The subject of the petition, any interested party,  
8 or the family court upon its own motion may request a hearing in  
9 another court because of inconvenience to the parties,  
10 witnesses, or the family court or because of the subject's  
11 physical or mental condition. The court may use online hearings  
12 to accommodate the needs of the parties and witnesses, in  
13 accordance with family court rules.

14           (d) The hearing shall be closed to the public, unless the  
15 subject of the petition requests otherwise. Individuals  
16 entitled to notice are entitled to be present in the courtroom  
17 or other approved location for the hearing and to receive a copy  
18 of the hearing transcript or recording, unless the court  
19 determines that the interests of justice require otherwise."

20           SECTION 6. Section 334-127, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) If after hearing all relevant evidence, including the  
2 results of any diagnostic examination ordered by the family  
3 court, the family court finds that the criteria for assisted  
4 community treatment under section 334-121(1) have been met  
5 beyond a reasonable doubt and that the criteria under section  
6 334-121(2) to [~~334-121~~](4) have been met by clear and convincing  
7 evidence, the family court shall order the subject to obtain  
8 assisted community treatment for a period of no more than one  
9 year. The written treatment plan submitted pursuant to section  
10 334-126(g) shall be attached to the order and made a part of the  
11 order.

12           If the family court finds by clear and convincing evidence  
13 that the beneficial mental and physical effects of recommended  
14 medication outweigh the detrimental mental and physical effects,  
15 if any, the order may authorize types or classes of medication  
16 to be included in treatment at the discretion of the treating  
17 psychiatrist or advanced practice registered nurse with  
18 prescriptive authority and who holds an accredited national  
19 certification in an advanced practice registered nurse  
20 psychiatric specialization.



1           The court order shall also state who should receive notice  
2 of intent to discharge early in the event that the treating  
3 psychiatrist or advanced practice registered nurse with  
4 prescriptive authority and who holds an accredited national  
5 certification in an advanced practice registered nurse  
6 psychiatric specialization determines, [~~prior to~~] before the end  
7 of the [~~court-ordered~~] court-ordered period of treatment, that  
8 the subject should be discharged early from assisted community  
9 treatment.

10           Notice of the order shall be provided to the director, the  
11 interested party who filed the petition, and those persons  
12 entitled to notice pursuant to section 334-125."

13           SECTION 7. Section 334-131, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15           "(b) The notice shall be filed with the family court  
16 [~~which~~] that issued the order for assisted community treatment,  
17 and served by personal service or by certified mail on the  
18 interested party who filed the petition and those persons whom  
19 the order for assisted community treatment specifies as entitled  
20 to receive notice."





1 SECTION 8. Section 334-133, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Before the expiration of the period of assisted  
5 community treatment ordered by the family court, any interested  
6 party may file, or may request the department of the attorney  
7 general to file, a petition with the family court for an order  
8 of continued assisted community treatment. The petition shall  
9 be filed, and unless the court determines the existence of a  
10 guardian, a guardian ad litem appointed, and notice provided in  
11 the same manner as under sections 334-123 and 334-125."

12 2. By amending subsection (c) to read:

13 "(c) Nothing in this section shall preclude the subject's  
14 stipulation to the continuance of an existing [~~court~~] order.  
15 This section shall be in addition to the provisions on the  
16 objection to discharge."

17 SECTION 9. Act 221, Session Laws of Hawaii 2013, as  
18 amended by Act 114, Session Laws of Hawaii 2016, is amended by  
19 amending section 24 to read as follows:

20 "SECTION 24. This Act shall take effect on January 1,  
21 2014; provided that:



- 1 (1) Petitions filed pursuant to section 334-123, Hawaii  
2 Revised Statutes, for assisted community treatment  
3 involving a designated mental health program that is a  
4 state-operated provider shall not be filed until after  
5 July 1, 2015;
- 6 (2) Any private provider wishing to file a petition  
7 pursuant to section 334-123, Hawaii Revised Statutes,  
8 for assisted community treatment may do so after  
9 January 1, 2014, [~~using its own resources,~~] if the  
10 petitioner is to be the designated mental health  
11 program; [~~and~~]
- 12 (3) Any interested party wishing to file a petition  
13 pursuant to section 334-123, Hawaii Revised Statutes,  
14 for assisted community treatment may do so after  
15 January 1, 2014, [~~using the party's own resources,~~] if  
16 the designated mental health program is a private  
17 provider[-]; and
- 18 (4) After July 1, 2023, the department of the attorney  
19 general shall assist with the preparation and filing  
20 of any petition brought pursuant to section 334-123,  
21 Hawaii Revised Statutes, and any related court



1           proceedings; provided further that if the petitioner  
2           is a private provider or other private individual, the  
3           petitioner may decline the assistance."

4           SECTION 10. The department of the attorney general shall  
5 submit reports on the number of requests for petitions for  
6 assisted community treatment to the legislature no later than  
7 forty days prior to the convening of the regular sessions of  
8 2024 and 2025.

9           SECTION 11. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$            or so  
11 much thereof as may be necessary for fiscal year 2023-2024 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2024-2025 for the judiciary to obtain applicable resources  
14 to effectuate this Act, including increased compensation for  
15 guardians ad litem appointed to assisted community treatment  
16 cases.

17           The sums appropriated shall be expended by the judiciary  
18 for the purposes of this Act.

19           SECTION 12. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21           SECTION 13. This Act shall take effect on June 30, 2050.



**Report Title:**

Assisted Community Treatment; Petitions; Attorney General;  
Judiciary; Report; Appropriation

**Description:**

Requires the Department of the Attorney General to assist with the preparation and filing of assisted community treatment petitions and related court proceedings for private petitioners, unless the petitioner declines the assistance. Authorizes the Family Court to use online hearings for assisted community treatment petitions. Requires the Department of the Attorney General to report to the Legislature prior to the Regular Sessions of 2024 and 2025 on the number of requests for assistance with petitions for assisted community treatment. Appropriates funds. Effective 6/30/2050. (SD2)

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

