
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

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

1 SECTION 1. The legislature finds that:

2 (1) Hawaii has identified serious problems of high
3 incarceration and hospitalization rates of those with
4 severe mental illness;

5 (2) Assisted community treatment provides an opportunity
6 for people with severe mental illness to be treated in
7 the least restrictive setting; and

8 (3) Assisted community treatment reduces the trend towards
9 criminalizing mental illness.

10 Individuals with severe mental illness often cycle between
11 homelessness, emergency room treatment, incarceration, and
12 hospitalization. This situation reflects a failure to provide
13 needed treatment to persons who may need it most and that
14 failure is extremely costly. However, the legislature finds
15 that the situation can be mitigated if individuals are assisted
16 in being treated in the community.

17 In several states that have implemented assisted community
18 treatment, research shows that hospitalization rates have



1 dropped by half, the length of hospital stays has been reduced
2 by up to thirty days per patient, arrest rates have declined by
3 up to two-thirds, and days spent in correctional confinement
4 facilities have been reduced by seventy-two per cent. Moreover,
5 patients in one state program, despite having violent histories,
6 were found to be four times less likely to perpetrate serious
7 violence after being in an assisted community treatment program.

8 The purpose of this Act is to establish an assisted
9 community treatment program.

10 SECTION 2. Chapter 334, part VIII, Hawaii Revised
11 Statutes, is amended by amending its title to read as follows:

12 "PART VIII. [~~INVOLUNTARY OUTPATIENT~~] ASSISTED COMMUNITY
13 TREATMENT"

14 SECTION 3. Section 334-1, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By adding a new definition to read:

17 "Law enforcement officer" shall have the meaning provided
18 in section 710-1000."

19 2. By amending the definition of "dangerous to self" to
20 read:

21 "'Dangerous to self" means the person recently has
22 [~~threatened~~]:



1 (1) Threatened or attempted suicide or serious bodily
2 harm; or ~~[the person recently has behaved]~~

3 (2) Behaved in such a manner as to indicate that the
4 person is unable, without supervision and the
5 assistance of others, to satisfy the need for
6 nourishment, essential medical care, shelter or self-
7 protection, so that it is probable that death,
8 substantial bodily injury, or serious physical
9 debilitation or disease will result unless adequate
10 treatment is afforded."

11 3. By deleting the definitions of "gravely disabled" and
12 "obviously ill".

13 ~~["Gravely disabled" means a condition in which a person,~~
14 ~~as a result of a mental disorder, (1) is unable to provide for~~
15 ~~that individual's basic personal needs for food, clothing, or~~
16 ~~shelter; (2) is unable to make or communicate rational or~~
17 ~~responsible decisions concerning the individual's personal~~
18 ~~welfare; and (3) lacks the capacity to understand that this is~~
19 ~~so.~~

20 ~~"Obviously ill" means a condition in which a person's~~
21 ~~current behavior and previous history of mental illness, if~~
22 ~~known, indicate a disabling mental illness, and the person is~~



1 ~~incapable of understanding that there are serious and highly~~
2 ~~probable risks to health and safety involved in refusing~~
3 ~~treatment, the advantages of accepting treatment, or of~~
4 ~~understanding the advantages of accepting treatment and the~~
5 ~~alternatives to the particular treatment offered, after the~~
6 ~~advantages, risks, and alternatives have been explained to the~~
7 ~~person."]~~

8 SECTION 4. Section 334-59, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsections (a) and (b) to read:

11 "(a) Initiation of proceedings. An emergency admission
12 may be initiated as follows:

13 (1) If a [~~police~~] law enforcement officer has reason to
14 believe that a person is imminently dangerous to self
15 or others, [~~or is gravely disabled, or is obviously~~
16 ~~ill,~~] the officer shall call for assistance from the
17 mental health emergency workers designated by the
18 director. Upon determination by the mental health
19 emergency workers that the person is imminently
20 dangerous to self or others, [~~or is gravely disabled,~~
21 ~~or is obviously ill,~~] the person shall be transported
22 by ambulance or other suitable means, to a licensed



1 psychiatric facility for further evaluation and
2 possible emergency hospitalization. A ~~police~~ law
3 enforcement officer may also take into custody and
4 transport to any facility designated by the director
5 any person threatening or attempting suicide[-], or
6 may take into custody and transport to any designated
7 mental health program, any person subject to an
8 assisted community treatment order, issued pursuant to
9 part VIII of this chapter, for further evaluation and
10 possible emergency hospitalization. The officer shall
11 make application for the examination, observation, and
12 diagnosis of the person in custody. The application
13 shall state or shall be accompanied by a statement of
14 the circumstances under which the person was taken
15 into custody and the reasons therefor which shall be
16 transmitted with the person to a physician or
17 psychologist at the facility[-], or to a licensed
18 psychiatrist at a designated mental health program.

- 19 (2) Upon written or oral application of any licensed
20 physician, psychologist, attorney, member of the
21 clergy, health or social service professional, or any
22 state or county employee in the course of employment,



1 a judge may issue an ex parte order orally, but shall
2 reduce the order to writing by the close of the next
3 court day following the application, stating that
4 there is probable cause to believe the person is
5 mentally ill or suffering from substance abuse[7] or
6 is imminently dangerous to self or others [~~7~~ ~~or is~~
7 ~~gravely disabled, or is obviously ill,~~] and in need of
8 care or treatment, or both, giving the findings [en]
9 upon which the conclusion is based, and directing that
10 a [~~police~~] law enforcement officer or other suitable
11 individual take the person into custody and deliver
12 the person to the nearest facility designated by the
13 director for emergency examination and treatment. The
14 ex parte order shall be made a part of the patient's
15 clinical record. If the application is oral, the
16 person making the application shall reduce the
17 application to writing and shall submit the same by
18 noon of the next court day to the judge who issued the
19 oral ex parte order. The written application shall be
20 executed subject to the penalties of perjury but need
21 not be sworn to before a notary public.



1 (3) Any licensed physician, physician assistant, or
2 psychologist who has examined a person and has reason
3 to believe the person is:

4 (A) Mentally ill or suffering from substance abuse;
5 (B) Imminently dangerous to self or others[, ~~or is~~
6 ~~gravely disabled, or is obviously ill~~]; and
7 (C) In need of care or treatment;

8 may direct transportation, by ambulance or other
9 suitable means, to a licensed psychiatric facility for
10 further evaluation and possible emergency
11 hospitalization. A licensed physician or physician
12 assistant may administer treatment as is medically
13 necessary, for the person's safe transportation. A
14 licensed psychologist may administer treatment as is
15 psychologically necessary.

16 (b) Emergency examination. A patient who is delivered for
17 emergency examination and treatment to a facility designated by
18 the director shall be examined by a licensed physician without
19 unnecessary delay, and may be given such treatment as is
20 indicated by good medical practice. A psychiatrist or
21 psychologist may further examine the patient to diagnose the
22 presence or absence of a mental disorder, assess the risk that



1 the patient may be dangerous to self or others, [~~or is gravely~~
2 ~~disabled, or is obviously ill,~~] and assess whether or not the
3 patient needs to be hospitalized."

4 2. By amending subsection (d) to read:

5 "(d) Emergency hospitalization. If the physician or the
6 psychologist who performs the emergency examination has reason
7 to believe that the patient is:

8 (1) Mentally ill or suffering from substance abuse;

9 (2) Imminently dangerous to self or others [~~, or is gravely~~
10 ~~disabled, or is obviously ill~~]; and

11 (3) In need of care or treatment, or both;

12 the physician or the psychologist may direct that the patient be
13 hospitalized on an emergency basis or cause the patient to be
14 transferred to another psychiatric facility for emergency
15 hospitalization, or both. The patient shall have the right
16 immediately upon admission to telephone the patient's guardian
17 or a family member including a reciprocal beneficiary, or an
18 adult friend and an attorney. If the patient declines to
19 exercise that right, the staff of the facility shall inform the
20 adult patient of the right to waive notification to the family
21 including a reciprocal beneficiary, and shall make reasonable
22 efforts to ensure that the patient's guardian or family



1 including a reciprocal beneficiary, is notified of the emergency
2 admission but the patient's family including a reciprocal
3 beneficiary, need not be notified if the patient is an adult and
4 requests that there be no notification. The patient shall be
5 allowed to confer with an attorney in private."

6 SECTION 5. Section 334-60.2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§334-60.2 Involuntary hospitalization criteria.** A person
9 may be committed to a psychiatric facility for involuntary
10 hospitalization, if the court finds:

- 11 (1) That the person is mentally ill or suffering from
12 substance abuse;
- 13 (2) That the person is imminently dangerous to self or
14 others [~~is gravely disabled or is obviously ill~~]; and
- 15 (3) That the person is in need of care or treatment, or
16 both, and there is no suitable alternative available
17 through existing facilities and programs which would
18 be less restrictive than hospitalization."

19 SECTION 6. Section 334-60.5, Hawaii Revised Statutes, is
20 amended as follows:

- 21 1. By amending subsection (d) to read:



1 "(d) Hearings may be held at any convenient place within
2 the circuit. The subject of the petition, any interested
3 [~~person~~] party, or the court on its own motion may request a
4 hearing in another circuit because of convenience to the
5 parties, witnesses, or the court or because of the individual's
6 mental or physical condition."

7 2. By amending subsections (i) and (j) to read:

8 "(i) If after hearing all relevant evidence, including the
9 result of any diagnostic examination ordered by the court, the
10 court finds that an individual is not a person requiring
11 medical, psychiatric, psychological, or other rehabilitative
12 treatment or supervision, the court shall order that the
13 individual be discharged if the individual has been hospitalized
14 prior to the hearing.

15 (j) If the court finds that the criteria for involuntary
16 hospitalization under section 334-60.2(1) has been met beyond a
17 reasonable doubt and that the criteria under sections
18 334-60.2(2) and 334-60.2(3) have been met by clear and
19 convincing evidence, the court may issue an order to any
20 [~~police~~] law enforcement officer to deliver the subject to a
21 facility that has agreed to admit the subject as an involuntary
22 patient, or if the subject is already a patient in a psychiatric



1 facility, authorize the facility to retain the patient for
2 treatment for a period of ninety days unless sooner discharged.
3 The court may also authorize the involuntary administration of
4 medication, where the subject has an existing order for assisted
5 community treatment, issued pursuant to part VIII of this
6 chapter, relating to assisted community treatment, and in
7 accordance with the treatment prescribed by that prior order.

8 An order of commitment shall specify which of those persons
9 served with notice pursuant to section 334-60.4, together with
10 such other persons as the court may designate, shall be entitled
11 to receive any subsequent notice of intent to discharge,
12 transfer, or recommit.

13 [(j)] (k) The court may find that the subject of the
14 petition is an incapacitated or protected person, or both, under
15 article V of chapter 560, and may appoint a guardian or
16 conservator, or both, for the subject under the terms and
17 conditions as the court shall determine."

18 SECTION 7. Section 334-121, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§334-121 **Criteria for [~~involuntary outpatient~~] assisted**
21 **community treatment.** A person may be ordered to obtain



1 ~~[involuntary outpatient]~~ assisted community treatment if the
2 family court finds that:

3 (1) The person is ~~[suffering from a severe mental disorder~~
4 ~~or]~~ mentally ill or suffering from substance abuse;
5 and

6 (2) The person is ~~[capable of surviving]~~ unlikely to live
7 safely in the community ~~[with]~~ without available
8 supervision ~~[from family, friends, or others,]~~ based
9 on the professional opinion of a psychiatrist; and

10 (3) The person, at some time in the past: (A) has
11 received inpatient hospital treatment for ~~[a severe]~~
12 mental ~~[disorder]~~ illness or substance abuse~~[,]~~ or (B)
13 has been found to be imminently dangerous to self or
14 others, ~~[or is gravely disabled,]~~ as a result of ~~[a~~
15 ~~severe]~~ mental ~~[disorder]~~ illness or substance abuse;
16 and

17 (4) The person, based on the person's treatment history
18 and current ~~[behavior,]~~ condition, is now in need of
19 treatment in order to prevent a relapse or
20 deterioration which would predictably result in the
21 person becoming imminently dangerous to self or
22 others; and



1 (5) The person has a history of a lack of adherence to
2 treatment for mental illness or substance abuse, and
3 the person's current mental status or the nature of
4 the person's disorder limits or negates the person's
5 ability to make an informed decision to voluntarily
6 seek or comply with recommended treatment; and

7 (6) ~~[There is a reasonable prospect that the outpatient]~~
8 The assisted community treatment ~~[ordered will be~~
9 ~~beneficial to the person.]~~ is medically appropriate,
10 and in the person's medical interests; and

11 (7) Considering less intrusive alternatives, assisted
12 community treatment is essential to prevent the danger
13 posed by the person."

14 SECTION 8. Section 334-122, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~§~~§334-122[~~§~~]] **Definitions.** For the purposes of this
17 part:

18 [~~"Outpatient]~~ "Assisted community treatment" includes
19 medication specifically authorized by court order; individual or
20 group therapy; day or partial day programming activities;
21 services and training, including educational and vocational
22 activities; supervision of living arrangements; and any other

1 services prescribed to either alleviate the person's disorder or
2 disability, [tø] maintain or maximize semi-independent
3 functioning, or [tø] prevent further deterioration that may
4 reasonably be predicted to result in the need for
5 hospitalization[-] or more intensive or restrictive levels of
6 care in the community or incarceration for criminal behavior.

7 "Designated mental health program" includes a state-
8 operated or private provider who is authorized to provide mental
9 health services, including but not limited to inpatient
10 treatment, outpatient treatment, case management, day treatment,
11 or crisis services.

12 "Interested party" means a parent, grandparent, spouse,
13 sibling, adult child, reciprocal beneficiary, service provider,
14 case manager, outreach worker, or mental health professional.

15 ~~["Outpatient treatment psychiatrist" means the psychiatrist~~
16 ~~who is responsible for the management and supervision of a~~
17 ~~person's outpatient treatment under order of the court.]~~

18 "Subject of the order" means a person who has been ordered
19 by the court to obtain [outpatient] assisted community
20 treatment.

21 "Subject of the petition" means the person who, under a
22 petition filed under section 334-123, is alleged to meet the



1 criteria for [~~involuntary outpatient~~] assisted community
2 treatment.

3 "Treating psychiatrist" means the psychiatrist who is
4 responsible for the management and supervision of a person's
5 treatment under order of the court."

6 SECTION 9. Section 334-123, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§334-123 [~~Petition-~~] Initiation of proceeding for
9 assisted community treatment. (a) Any [~~person~~] interested
10 party may file a petition with the family court alleging that
11 another person meets the criteria for [~~involuntary outpatient~~]
12 assisted community treatment. The petition shall state:

- 13 (1) Each of the criteria numbered (1) through [~~(6)~~] (7)
14 for [~~involuntary outpatient~~] assisted community
15 treatment, as set out in section 334-121;
- 16 (2) Petitioner's good faith belief that the subject of the
17 petition meets each of the criteria numbered (1)
18 through [~~(4)~~] (7) set forth in section 334-121;
- 19 (3) Facts which support petitioner's good faith belief
20 that the subject of the petition meets each of the
21 criteria numbered (1) through [~~(4)~~] (7) set forth in



1 section 334-121 [~~provided that the hearing on the~~
2 ~~petition need not be limited to the stated facts~~]; and

3 (4) The subject of the petition is present within the county
4 where the petition is filed.

5 The hearing on the petition need not be limited to the
6 facts stated in the petition. The petition shall be executed
7 subject to the penalties of perjury. [~~The petition need not~~
8 ~~express any belief, or state any supporting facts, with~~
9 ~~reference to the criteria set forth in section 334-121(5) and~~
10 ~~(6), but all six criteria will be addressed at the hearing.~~]

11 (b) The petition may [~~but need not,~~] be accompanied by
12 [~~any statement~~] a certificate of a licensed psychiatrist [~~or~~
13 ~~other mental health professional~~] who has examined the subject
14 of the petition at any time prior to the submission of the
15 petition.

16 (c) If the subject of the petition has refused to submit
17 to examination by a licensed psychiatrist, the fact of the
18 refusal shall be alleged in the petition."

19 SECTION 10. Section 334-124, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~[+]§334-124[+]~~ **Hearing date.** The family court shall set
2 a hearing date on a petition as soon as possible, but within ten
3 days after filing of the petition."

4 SECTION 11. Section 334-125, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§334-125 Notice.** (a) Notice of the hearing shall be:

7 (1) Served personally on the subject of the petition
8 pursuant to family court rules; and

9 (2) ~~[Delivered]~~ Served personally or ~~[mailed]~~ by certified
10 or registered mail, return receipt requested,
11 deliverable to the addressee only, to as many as are
12 known to the petitioner of the subject's spouse or
13 reciprocal beneficiary, legal parents, adult children,
14 and legal guardian, if one has been appointed~~[-~~

15 ~~Petitioner shall certify that such notices have been~~
16 ~~mailed, and to whom, but proof of receipt of such~~
17 ~~notices is not required. Notice shall also be served~~
18 ~~on any other person that the court designates.];~~

19 (3) Served on the public defender, attorney for the
20 subject of the petition, or other court appointed
21 attorney as applicable; and



1 (4) Given to such other persons as the court may
2 designate.

3 (b) The notice shall include the following:

4 (1) The date, time, place of hearing, a clear statement of
5 the purpose of the [hearing] proceedings and possible
6 consequences to the subject, and a statement of the
7 legal standard upon which [~~involuntary outpatient~~]
8 assisted community treatment is [~~authorized,~~] being
9 considered;

10 (2) A copy of the petition; [~~and~~]

11 (3) Notice that the subject of the petition is entitled to
12 [~~be represented by~~] the assistance of an attorney, and
13 that the [~~court will appoint a public defender or~~
14 ~~other attorney for the subject if the subject desires~~
15 ~~one and is indigent.~~] public defender has been
16 notified of these proceedings; and

17 (4) Notice that if the subject does not want to be
18 represented by the public defender, the subject may
19 contact the subject's own attorney.

20 [~~(c) The family court may continue a hearing for failure~~
21 ~~to timely notify or a person entitled to be noticed.~~] "



1 SECTION 12. Section 334-126, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~{}~~§334-126~~{}~~ Hearing~~{}~~ on petition. (a) The court
4 may adjourn or continue a hearing for failure to timely notify a
5 person entitled to be notified.

6 ~~{(a)}~~ (b) The time and form of the procedure incident to
7 hearing the issues in the petition shall be provided by family
8 court rule and consistent with this part.

9 ~~{(b) The hearing}~~ (c) Hearings may be held at any
10 convenient place within the circuit. The subject of the
11 petition, any interested ~~{person,}~~ party, or the family court
12 upon its own motion may request a hearing in another court
13 because of inconvenience to the parties, witnesses, or the
14 family court or because of the subject's physical or mental
15 condition.

16 ~~{(e)}~~ (d) The hearing shall be closed to the public,
17 unless the subject of the petition requests otherwise.

18 ~~{(d)}~~ (e) The subject of the petition shall be present at
19 the hearing. However, if the subject has been served with the
20 petition and does not appear at the hearing, the court, in its
21 discretion, may go forward with the hearing.



1 ~~[(e)]~~ (f) The subject of the petition need not, but may,
2 be represented by an attorney. If the subject desires an
3 attorney and is indigent, or if the family court determines that
4 the legal or factual issues raised are of such complexity that
5 the assistance of an attorney is necessary for an adequate
6 presentation of the merits or that the subject of the petition
7 is unable to speak for the subject's self, the family court
8 shall order the appointment of a public defender or other
9 attorney to represent the subject and continue the hearing for
10 not more than ~~[five]~~ seven days.

11 ~~[(f)]~~ (g) If the subject of the petition is represented by
12 an attorney, the attorney shall be allowed adequate time for
13 investigation of the matters at issue and for preparation~~[-The~~
14 ~~attorney]~~, and shall be permitted to present the evidence
15 ~~[believed]~~ that the attorney believes necessary for a proper
16 disposition of the proceeding.

17 ~~[(g)]~~ (h) No subject of the petition shall be ordered to
18 receive ~~[involuntary-outpatient]~~ assisted community treatment
19 unless at least one psychiatrist testifies in person at the
20 hearing who has personally ~~[examined]~~ assessed the subject
21 within the time period commencing ~~[five]~~ ten calendar days
22 before the filing of the petition and ending at the time of the



1 psychiatrist's testimony. The psychiatrist's testimony shall
2 state the facts which support the allegation that the subject
3 meets all the criteria for [~~involuntary outpatient~~] assisted
4 community treatment, [~~the recommended outpatient~~] provide a
5 written treatment [~~, and~~] plan, which shall include non-mental
6 health treatment if appropriate, provide the rationale for the
7 recommended [~~outpatient~~] treatment [~~-~~], and identify the
8 designated mental health program responsible for the
9 coordination of care.

10 If the recommended [~~outpatient~~] assisted community
11 treatment includes medication, the psychiatrist's testimony
12 shall describe the types or classes of [~~medication(s)~~]
13 medication which should be authorized, and describe the physical
14 and mental beneficial and detrimental effects of such
15 [~~medication(s)~~] medication.

16 If the subject of the petition has refused to be examined
17 by a licensed psychiatrist, the family court may request the
18 subject to consent to examination by a psychiatrist appointed by
19 the court or employed at a community mental health center. If
20 the subject of the petition does not consent and the family
21 court finds sufficient evidence to believe that the allegations
22 in the petition are true, the family court may order the



1 commitment of the subject to a psychiatric facility for
2 examination. The commitment shall not be for more than [~~twenty~~
3 ~~four~~] forty-eight hours. The examining psychiatrist shall
4 submit the findings and recommendations to the family court[-]
5 in the form of a written treatment plan.

6 The subject of the petition's refusal to submit voluntarily
7 to examination shall be treated as a denial that the subject is
8 [~~suffering from a severe mental disorder or~~] mentally ill or
9 suffering from substance abuse, and a denial that the subject
10 otherwise fits within the criteria for a court order of
11 [~~involuntary outpatient~~] assisted community treatment.

12 Nothing herein shall be construed in a way that limits the
13 subject of the petition's privilege against self-incrimination.

14 [~~(h)~~] (i) The subject of the petition may secure [~~one or~~
15 ~~more~~] a psychiatric [~~examinations~~] examination and present the
16 findings as evidence at the hearing. The subject shall be
17 entitled to a psychiatric examination at a community mental
18 health center if the subject so desires, and if an examination
19 has not already been conducted at a community mental health
20 center which will lead to psychiatric testimony at the hearing."

21 SECTION 13. Section 334-127, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[+]~~§334-127~~[+]~~ **Disposition.** (a) If after hearing all
2 relevant evidence, including the results of ~~[an]~~ any diagnostic
3 examination ordered by the family court, the family court finds
4 that the subject of the petition does not meet the criteria for
5 ~~[involuntary outpatient]~~ assisted community treatment, the
6 family court shall dismiss the petition.

7 (b) If after hearing all relevant evidence, including the
8 results of ~~[an]~~ any diagnostic examination ordered by the family
9 court, the family court finds ~~[by clear and convincing evidence~~
10 ~~that the subject of the petition meets the criteria for~~
11 ~~involuntary outpatient treatment,]~~ that the criteria for
12 assisted community treatment under section 334-121(1) has been
13 met beyond a reasonable doubt and that the criteria under
14 sections 334-121(2) to 334-121(7) have been met by clear and
15 convincing evidence, the family court shall order the subject to
16 obtain ~~[outpatient]~~ assisted community treatment for a period of
17 not more than ~~[180]~~ one hundred eighty days. ~~[The order shall~~
18 ~~also state the outpatient treatment which the subject is to~~
19 ~~obtain.]~~ The written treatment plan submitted pursuant to
20 section 334-126(h) shall be attached to the order and made a
21 part of the order.



1 If the family court finds by clear and convincing evidence
2 that the beneficial mental and physical effects of recommended
3 ~~[medication(s)]~~ medication outweigh the detrimental mental and
4 physical effects, if any, the order may authorize types or
5 classes of ~~[medication(s)]~~ medication to be included in
6 ~~[outpatient]~~ treatment ~~[in]~~ at the discretion of the ~~[outpatient~~
7 ~~treatment]~~ treating psychiatrist.

8 The court order shall also state who should receive notice
9 of intent to ~~[early]~~ discharge early in the event that the
10 ~~[outpatient treatment]~~ treating psychiatrist determines, prior
11 to the end of the court ordered period of treatment, that the
12 subject should be ~~[early]~~ discharged early from ~~[outpatient~~
13 ~~involuntary]~~ assisted community treatment.

14 (c) The family court shall also designate on the order the
15 ~~[outpatient treatment]~~ treating psychiatrist who is to be
16 responsible for the management and supervision of the subject's
17 ~~[outpatient]~~ treatment, or shall ~~[designate]~~ assign an
18 administrator of a ~~[community]~~ designated mental health ~~[center]~~
19 program to, in turn, designate ~~[such an outpatient treatment]~~
20 the treating psychiatrist during the treatment period without
21 court approval, and may designate either a publicly employed
22 psychiatrist, or a private psychiatrist, provided that the



1 private psychiatrist shall agree to the designation. The order
2 for assisted community treatment shall be subject to the Health
3 Care Privacy Harmonization Act, codified as chapter 323B.

4 (d) Nothing in this section shall preclude the subject's
5 stipulation to the continuance an existing court order."

6 SECTION 14. Section 334-128, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~+~~]**\$334-128[~~+~~]** **Treatment costs and fees.** Private
9 treatment pursuant to the court order shall be at the expense of
10 the subject of the petition, except to the extent such charges
11 are covered by other laws or programs. Treatment through a
12 [~~community~~] designated mental health [~~center~~] program shall be
13 pursuant to its fee schedules; however, the subject of the order
14 shall not be denied treatment by a [~~community~~] designated mental
15 health [~~center~~] program for failure to pay [~~such~~] the fees."

16 SECTION 15. Section 334-129, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~+~~]**\$334-129[~~+~~]** **Failure to comply with [~~outpatient~~]**
19 **assisted community treatment.** (a) [~~An outpatient treatment~~] A
20 treating psychiatrist may prescribe or administer to the subject
21 of the order reasonable and appropriate medication[~~7~~] or
22 medications, if specifically authorized by the court order, and



1 treatment which is consistent with accepted medical standards
2 and the family court order~~[-]~~, including the written treatment
3 plan submitted pursuant to section 334-126(h).

4 (b) No subject of the order shall be physically forced to
5 take medication [~~or forcibly detained for treatment~~] under a
6 family court order for [~~involuntary outpatient treatment.~~]
7 assisted community treatment, except in accordance with section
8 334-60.5, relating to admission to a psychiatric facility,
9 subsequent to the date of the current assisted community
10 treatment order.

11 (c) A subject may be transported to a designated mental
12 health program for failure to comply with an order for assisted
13 community treatment via the following methods:

14 (1) By an interested party with the consent of the subject
15 of the order; or

16 (2) In accordance with section 334-59.

17 [~~e~~] (d) The [~~outpatient treatment~~] treating psychiatrist
18 or psychiatrist's designee shall make all reasonable efforts to
19 solicit the subject's compliance with the prescribed treatment.
20 If the subject fails or refuses to comply after the efforts to
21 solicit compliance, the [~~outpatient treatment~~] treating
22 psychiatrist shall [~~so notify the court and may submit a~~



1 ~~petition under]~~ assess whether the subject of the order meets
2 criteria for admission to a psychiatric facility under part IV
3 ~~[for the involuntary hospitalization of the subject,]~~ of this
4 chapter, and proceed with the admission; provided that the
5 refusal of treatment shall not, by itself, constitute [evidencee
6 ~~toward any of the criteria]~~ a basis for involuntary
7 hospitalization."

8 SECTION 16. Section 334-130, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§334-130[+] ~~[Discharge-]~~ Period of assisted community
11 treatment. (a) The assisted community treatment order shall
12 continue to apply to the subject, for the duration specified in
13 the order, regardless of whether the treatment setting changes.

14 ~~[An outpatient]~~ (b) A subject of assisted community
15 treatment is automatically and fully discharged at the end of
16 the family court ordered period of ~~[outpatient]~~ treatment, a
17 period of not more than ~~[180]~~ one hundred eighty days, unless a
18 new family court order has been obtained as provided
19 hereinbelow.

20 (c) Nothing in this section shall preclude the subject's
21 stipulation to the continuance an existing court order."



1 SECTION 17. Section 334-131, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~]~~§334-131~~[~~-~~] Early Notice of intent to discharge.

4 [~~+~~] (a) [~~+~~] [~~An outpatient treatment~~] When the treating
5 psychiatrist [~~shall commence the early~~] contemplates discharge
6 [~~procedure~~] for a subject of the order [~~if the outpatient~~
7 ~~treatment psychiatrist finds that the subject no longer meets~~
8 ~~the criteria for involuntary outpatient treatment.~~] because of
9 expiration of the court order or because the subject of the
10 order is no longer a proper subject for assisted community
11 treatment, as determined by the criteria in section 334-121, the
12 treating psychiatrist shall provide notice of intent to
13 discharge.

14 (b) [~~The outpatient treatment psychiatrist shall send to~~
15 ~~the clerk of the~~] The notice shall be filed with the family
16 court which issued the order for [~~involuntary outpatient~~]
17 assisted community treatment, [notification that in the
18 psychiatrist's opinion the subject of the order should be
19 discharged prior to the end of the period specified in the court
20 order.] and served by personal service or by certified mail on
21 those persons whom the order for assisted community treatment
22 specifies as entitled to receive notice.



1 (c) ~~[The clerk of the court shall then prepare and mail to~~
2 ~~the persons whom the family court order specified are entitled~~
3 ~~thereto, a notice of intent of early discharge.]~~ The notice of
4 intent ~~[of]~~ to discharge shall be mailed at least ~~[five]~~ ten
5 days prior to the intended date of discharge.

6 ~~[(b)]~~ (d) If no objection is filed under section 334-132
7 ~~[within five days of the mailing of notice,]~~ prior to the
8 intended date of discharge, the ~~[family court shall enter an~~
9 ~~order of discharge, and]~~ subject of the order is thereupon fully
10 discharged from ~~[involuntary outpatient]~~ assisted community
11 treatment ~~[and the clerk of the family court shall promptly so~~
12 ~~notify the subject of the order]."~~

13 SECTION 18. Section 334-132, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~{}~~**\$334-132**~~{}~~ **Objection to discharge.** ~~[Any]~~ (a) If any
16 person ~~[who has received a]~~ specified as entitled to receive
17 notice ~~[of intent to early discharge a subject of the order may~~
18 ~~file an]~~ files a written objection with the family court~~[- Upon~~
19 ~~receipt of an objection,]~~ on the grounds that the subject of the
20 order is a proper subject for assisted community treatment, the
21 family court shall ~~[hold]~~ conduct a hearing ~~[on the discharge.]~~
22 to determine if the subject of the order still meets the



1 criteria for assisted community treatment in section 334-121.

2 The hearing shall be conducted as provided under section
3 334-134.

4 (b) If the family court finds [~~by clear and convincing~~
5 ~~evidence~~] that the subject of the order continues to meet the
6 criteria for [~~involuntary outpatient~~] assisted community
7 treatment [~~7~~] in section 334-121, the family court shall order
8 the subject to continue the [~~outpatient~~] treatment for the
9 unexpired period of its earlier order.

10 (c) If the family court finds that the subject of the
11 order does not meet the criteria for [~~involuntary outpatient~~]
12 assisted community treatment [~~7~~] in section 334-121, the [~~family~~]
13 court shall dismiss the objection and order the early discharge
14 of the subject."

15 SECTION 19. Section 334-133, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~§~~334-133[~~]~~] **Petition for additional period treatment;**
18 **hearing.** (a) Prior to the expiration of the period of
19 [~~involuntary outpatient~~] assisted community treatment ordered by
20 the family court, any [~~person, including an outpatient treatment~~
21 ~~psychiatrist,~~] interested party may file a petition with the
22 family court for an order of continued [~~involuntary outpatient~~]



1 assisted community treatment. The petition shall be filed and
2 notice provided in the same manner as under sections 334-123 and
3 334-125.

4 (b) The family court shall hold a hearing on the petition
5 and make its decision in the same manner as provided under
6 sections 334-123 to 334-127. The family court may order the
7 continued [~~involuntary outpatient~~] assisted community treatment
8 for not more than [~~180 days~~] one year after the date of the
9 hearing pursuant to this section[~~-~~] if the court finds that the
10 criteria for assisted community treatment continue to exist and
11 are likely to continue beyond one hundred eighty days.

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

16 SECTION 20. Section 334-134, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~+~~]**\$334-134**[~~+~~] **Hearing for discharge.** Any person may
19 petition the family court for the discharge of an order of
20 [~~involuntary outpatient~~] assisted community treatment during the
21 period of [~~outpatient~~] assisted community treatment [~~if more~~
22 ~~than~~] after sixty days [~~after~~] from the most recent hearing



1 involving the subject of the order. The petition shall be
2 filed, notice given, hearing held, and order made in the same
3 manner as provided for the original petition alleging that the
4 subject of the order met the criteria for [~~involuntary~~
5 ~~outpatient~~] assisted community treatment."

6 SECTION 21. (a) Any treating provider wishing to file a
7 petition pursuant to section 334-123, Hawaii Revised Statutes,
8 for assisted community treatment shall:

9 (1) Obtain historical information related to MH-1s and
10 hospitalization of persons who are under an order to
11 treat; and

12 (2) Track further episodes of MH-1s and hospitalization
13 while the persons are under the order.

14 (b) An entity designated by the department of health shall
15 gather information from treating providers related to MH-1s and
16 hospitalization of persons who are under an order to treat and
17 submit an annual report of its findings and recommendations to
18 the legislature no later than twenty days prior to the convening
19 of every regular session beginning with the regular session of
20 2015.



1 SECTION 22. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 23. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 24. This Act shall take effect on January 1, 2014,
7 and shall be repealed on July 1, 2020; provided that:

- 8 (1) Petitions filed pursuant to section 334-123, Hawaii
9 Revised Statutes, for assisted community treatment
10 involving a designated mental health program that is a
11 state-operated provider shall not be filed until after
12 July 1, 2015;
- 13 (2) Any private provider wishing to file a petition
14 pursuant to section 334-123, Hawaii Revised Statutes,
15 for assisted community treatment may do so after
16 January 1, 2014, using its own resources, if the
17 petitioner is to be the designated mental health
18 program;
- 19 (3) Any interested party wishing to file a petition
20 pursuant to section 334-123, Hawaii Revised Statutes,
21 for assisted community treatment may do so after
22 January 1, 2014, using the party's own resources, if



1 the designated mental health program is a private
2 provider; and
3 (4) The title of chapter 334, part VIII, and sections
4 334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through
5 334-134, Hawaii Revised Statutes, shall be reenacted
6 in the form in which they read on the day prior to the
7 effective date of this Act.



Report Title:

Mental Health; Involuntary Outpatient Treatment; Assisted
Community Treatment

Description:

Establishes an assisted community treatment program in lieu of the involuntary outpatient treatment program for severely mentally ill individuals who meet specified criteria. Amends procedures for determination of order to and discharge from a treatment program. Requires an entity designated by the department of health to submit an annual report to the legislature about hospitalization of persons who are under an order for assisted community treatment. Prohibits state-operated providers from filing a petition for assisted community treatment until July 1, 2015. Allows private providers to file a petition for assisted community treatment after January 1, 2014. Allows any interested party to file a petition for assisted community treatment after January 1, 2014. Repeals on 7/1/2020. (CD1)

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

