A BILL FOR AN ACT

RELATING TO INVOLUNTARY HOSPITALIZATION.

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

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of "psychiatric facility" to read as follows:

"Psychiatric facility" means a public or private hospital or part thereof [which] that provides inpatient [or outpatient] care, custody, diagnosis, treatment, or rehabilitation services for mentally ill persons or for persons habituated to the excessive use of drugs or alcohol or for intoxicated persons."

SECTION 2. Section 334-59, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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

(1) If a law enforcement officer has reason to believe that a person is imminently dangerous to self or others, the officer shall call for assistance from the mental health emergency workers designated by the
director. Upon determination by the mental health emergency workers that the person is imminently
dangerous to self or others, the person shall be
transported by ambulance or other suitable means to
[a licensed psychiatric facility] the nearest
emergency department designated by the director for
further evaluation and possible emergency
hospitalization. [A law enforcement officer may also
take into custody and transport to any facility
designated by the director any person threatening or attempting suicide.] The officer shall make
application for the examination, observation, and
diagnosis of the person in custody. The application
shall state or shall be accompanied by a statement of
the circumstances under which the person was taken
into custody and the reasons therefor which shall be
transmitted with the person to a physician, advanced
practice registered nurse, or psychologist at the
[facility] emergency department.

(2) Upon written or oral application of any licensed
physician, advanced practice registered nurse,
psychologist, attorney, member of the clergy, health
or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others and in need of care or treatment, or both, giving the findings upon which the conclusion is based. The order shall direct that a law enforcement officer or other suitable individual take the person into custody and deliver the person to a designated mental health program, if subject to an assisted community treatment order issued pursuant to part VIII of this chapter, or to the nearest emergency department designated by the director for emergency examination and treatment, or both. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued
the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

(3) Any licensed physician, advanced practice registered nurse, physician assistant, or psychologist who has examined a person and has reason to believe the person is:

(A) Mentally ill or suffering from substance abuse;

(B) Imminently dangerous to self or others; and

(C) In need of care or treatment;

may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician, an advanced practice registered nurse, or physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to [a facility] an emergency department designated by the director shall be examined by a
licensed physician or advanced practice registered nurse without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist, advanced practice registered nurse, or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, and assess whether or not the patient needs to be hospitalized."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: __________________________________________

BY REQUEST

JAN 22 2019
Report Title:
Emergency Mental Health Examination; Designation of Emergency Departments by the Director of Health

Description:
Permits the Director of Health to designate emergency departments to which persons requiring emergency mental health treatment may be taken by law enforcement.

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

TITLE: A BILL FOR AN ACT RELATING TO INVOLUNTARY HOSPITALIZATION.

PURPOSE: This bill clarifies that persons who need an emergency examination for possible involuntary hospitalization may be transported to the nearest emergency department designated by the Director of Health. If the person is determined to need involuntary hospitalization and is not in the emergency department of a psychiatric facility that has inpatient psychiatric beds, the person shall be transported to a psychiatric facility.

MEANS: Amend sections 334-1 and 334-59 (a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: To clarify ambiguities and inconsistencies in chapter 334, Hawaii Revised Statutes, with respect to where persons subject to emergency examination and involuntary hospitalization shall be transported. If a person meets the criteria for involuntary hospitalization and is transported to a psychiatric facility for hospitalization, that facility must have inpatient capabilities; defining a psychiatric facility as having outpatient services is confusing, and if it does not also have inpatient beds, it is inappropriate. Thus, the definition of psychiatric facility in section 334-1 is amended by deleting "or outpatient."

The current section 334-59, Hawaii Revised Statutes, uses the terms "facility designated by the director" and "psychiatric facility" inconsistently. Persons found eligible for emergency examination must be transported to the closest emergency department designated by the Director of Health. Not all emergency
departments have mental health assessment capabilities at this time for all persons, so the concept of "designated by the director" is being maintained. It is not required that the emergency department be part of a hospital that also includes psychiatric beds. Once a person is determined to qualify for involuntary hospitalization, if that person is not in an emergency department that is part of a psychiatric facility, then the person shall be transported to a psychiatric facility. Also, there is no need for a separate procedure for persons who are suicidal; if they are found to be imminently dangerous to themselves because they are suicidal. The involuntary hospitalization procedures is identical to those for persons who are unable to care for themselves or are a danger to others.

Impact on the public: Individual patients are more likely to receive assessment and treatment more quickly and at the appropriate level of care. The burden of conducting emergency examinations of persons transported to emergency departments to determine if they meet the requirements of involuntary hospitalization will not be limited to only hospitals that have inpatient psychiatric beds. Once those persons are determined to meet the criteria for involuntary hospitalization, then they will be transported to a psychiatric facility, if they are not already being examined there, for that level of care.

Impact on the department and other agencies: Law enforcement officers and emergency medical services will have clear guidance on where patients needing an emergency examination for possible involuntary hospitalization may be transported.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM
DESIGNATION: HTH 495.

OTHER AFFECTED AGENCIES: Department of Public Safety; Hawaii Health Systems Corporation.

EFFECTIVE DATE: Upon approval.