

JAN 24 2019

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. The Legislature finds that Act 221, Session
2 Laws of Hawaii 2013, was enacted with the intent of helping
3 individuals with serious mental illness obtain the treatment and
4 medication they needed, through the concept of "assisted
5 community treatment". Five years later, however, the potential
6 of assisted community treatment is no closer to reality. Less
7 than ten orders for court-mandated treatment plans have been
8 issued during the past five years.

9 In Act 221's statement of findings and purpose, the
10 legislature found that the State had "identified serious
11 problems of high incarceration and hospitalization rates of
12 those with severe mental illness" and that the circumstances
13 reflected "a failure to provide needed treatment to persons who
14 may need it most and that failure is extremely costly". These
15 findings remain true today.



1 The purpose of this Act is to improve the assisted
2 community treatment law so that it may better meet the needs of
3 those who need mental health treatment.

4 SECTION 2. Chapter 334, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§334- Petition for mental health order. (a) Any
8 interested party may file a petition for a mental health order
9 alleging that a person located in the county has a mental
10 illness and qualifies for assistance under this chapter. The
11 petition shall be executed subject to the penalties of perjury
12 but need not be sworn before a notary public.

13 (b) The petition shall include the name, address, and
14 telephone number of at least one of the following persons, in
15 the following order of priority: the subject of the petition's
16 spouse or reciprocal beneficiary, legal parents, adult children,
17 and legal guardian if one has been appointed. If the subject of
18 the petition has no living spouse or reciprocal beneficiary,
19 legal parent, adult children, or legal guardian, or if none can
20 be found, notice shall be served on at least one of the
21 subject's closest adult relatives, if any can be found.



1 (c) The petition may be accompanied by a certificate of a
2 licensed physician, advanced practice registered nurse, or
3 psychologist who has examined the person within two days before
4 submission of the petition, unless the person whose commitment
5 is sought has refused to submit to medical or psychological
6 examination, in which case the fact of refusal shall be alleged
7 in the petition. The certificate shall set forth the signs and
8 symptoms relied upon by the physician, advanced practice
9 registered nurse, or psychologist to determine that the person
10 is in need of care or treatment, or both, and whether the person
11 is capable of realizing and making a rational decision with
12 respect to the person's need for treatment. If the petitioner
13 believes that further evaluation is necessary before commitment,
14 the petitioner may request further evaluation.

15 (d) If so requested by a petitioner acting under this
16 section, the attorney general shall assist the petitioner in
17 stating the substance of the petition in plain and simple
18 language, and shall be responsible for preparing, filing, and
19 defending the petition, unless the attorney general determines
20 that the petitioner's action lacks merit.



1 (e) The procedures specified in sections 334-60.4 and 334-
2 60.5 shall apply to petitions for mental health orders.

3 (f) For the purposes of this section, "interested party"
4 means a parent, grandparent, spouse, sibling, adult child,
5 reciprocal beneficiary, service provider, case manager, outreach
6 worker, or mental health professional."

7 SECTION 3. Section 334-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "dangerous to self" to
9 read as follows:

10 "'Dangerous to self" means the person recently has:

11 (1) Threatened or attempted suicide or serious bodily
12 harm; or

13 (2) Behaved in such a manner as to indicate that the
14 person is unable, without supervision and the
15 assistance of others, to satisfy the need for
16 nourishment, essential medical care, shelter or self-
17 protection, so that it is probable that death,
18 substantial bodily injury, or serious physical
19 debilitation, including mental health decompensation,
20 or disease will result unless adequate treatment is
21 afforded."



1 SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is
2 amended by amending subsection (i) and (j) to read as follows:

3 "(i) If after hearing all relevant evidence, including the
4 result of any diagnostic examination ordered by the court, the
5 court finds that an individual is not a person requiring
6 medical, psychiatric, psychological, or other rehabilitative
7 treatment or supervision, the court shall order that the
8 individual be discharged if the individual has been hospitalized
9 prior to the hearing[-]; provided that the court shall first
10 assess whether the person meets the criteria for assisted
11 community treatment under section 334-121 and may order the
12 person to obtain assisted community treatment that may include
13 medication; provided further that a mental health facility or
14 program is designated that is able to take responsibility for
15 coordination of the person's care and designate a treating
16 psychiatrist or an advanced practice registered nurse who has
17 prescriptive authority and who holds an accredited national
18 certification in an advanced practice registered nurse
19 psychiatric specialization who shall be responsible for the
20 management and supervision of the treatment. Within ten days
21 after the issuance of the order, the designated mental health



1 facility or program shall submit to the court a treatment plan,
2 which may include medication; provided that the plan describes
3 the types or classes of medication that should be authorized and
4 describes the physical, mental, beneficial, and detrimental
5 effects of the medication. The treatment plan shall be attached
6 to the order.

7 (j) If the court finds that the criteria for involuntary
8 hospitalization under section 334-60.2(1) has been met beyond a
9 reasonable doubt and that the criteria under sections
10 334-60.2(2) and 334-60.2(3) have been met by clear and
11 convincing evidence, the court may issue an order to any law
12 enforcement officer to deliver the subject to a facility that
13 has agreed to admit the subject as an involuntary patient, or if
14 the subject is already a patient in a psychiatric facility,
15 authorize the facility to retain the patient for treatment for a
16 period of ninety days unless sooner discharged. The court may
17 also authorize the involuntary administration of medication,
18 where the subject has an existing order for assisted community
19 treatment, issued pursuant to part VIII of this chapter,
20 relating to assisted community treatment, and in accordance with
21 the treatment prescribed by that prior order. As an alternative



1 to involuntary hospitalization, in which the court finds that
2 the criteria for involuntary hospitalization under section
3 334-60.2(1) has been met beyond a reasonable doubt and that the
4 criteria under sections 334-60.2(2) and 334-60.2(3) have been
5 met by clear and convincing evidence, the court may order the
6 person to obtain assisted community treatment that may include
7 medication; provided that a mental health facility or program is
8 designated that is able to take responsibility for coordination
9 of the person's care and designate a treating psychiatrist or an
10 advanced practice registered nurse who has prescriptive
11 authority and who holds an accredited national certification in
12 an advanced practice registered nurse psychiatric specialization
13 who shall be responsible for the management and supervision of
14 the treatment. Within ten days after the issuance of the order,
15 the designated mental health facility or program shall submit to
16 the court a treatment plan, which may include medication;
17 provided that the plan describes the types or classes of
18 medication that should be authorized and describes the physical,
19 mental, beneficial, and detrimental effects of the medication.
20 The treatment plan shall be attached to the order. Notice of
21 the subject's commitment and the facility name and location



1 where the subject will be committed shall be provided to those
2 persons entitled to notice pursuant to section 334-60.4. An
3 order of commitment shall specify which of those persons served
4 with notice pursuant to section 334-60.4, together with such
5 other persons as the court may designate, shall be entitled to
6 receive any subsequent notice of intent to discharge, transfer,
7 or recommit. The court shall forward to the Hawaii criminal
8 justice data center all orders of involuntary civil commitment
9 or information from all orders of involuntary civil commitment,
10 as requested by the Hawaii criminal justice data center, which
11 in turn shall forward the information to the Federal Bureau of
12 Investigation, or its successor agency, for inclusion in the
13 National Instant Criminal Background Check System database. The
14 orders or information shall also be maintained by the Hawaii
15 criminal justice data center for disclosure to and use by law
16 enforcement officials for the purpose of firearms permitting or
17 registration pursuant to chapter 134. This subsection shall
18 apply to all involuntary civil commitments without regard to the
19 date of the involuntary civil commitment."

20 SECTION 5. Section 334-121, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§334-121 Criteria for assisted community treatment. A
2 person may be ordered to obtain assisted community treatment if
3 the family court finds that:

4 (1) The person is mentally ill or suffering from substance
5 abuse;

6 (2) The person is unlikely to live safely in the community
7 without available supervision, is now in need of
8 treatment in order to prevent a relapse or
9 deterioration that would predictably result in the
10 person becoming imminently dangerous to self or
11 others, and the person's current mental status or the
12 nature of the person's disorder limits or negates the
13 person's ability to make an informed decision to
14 voluntarily seek or comply with recommended treatment,
15 based on the professional opinion of a psychiatrist or
16 advanced practice registered nurse with prescriptive
17 authority and who holds an accredited national
18 certification in an advanced practice registered nurse
19 psychiatric specialization;

20 (3) [~~The person, at some time in the past: (A) has~~
21 ~~received inpatient hospital treatment for mental~~



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1 ~~illness or substance abuse or (B) has been found to be~~
2 ~~imminently dangerous to self or others, as a result of~~
3 ~~mental illness or substance abuse;~~

4 ~~(4) The person, based on the person's treatment history~~
5 ~~and current condition, is now in need of treatment in~~
6 ~~order to prevent a relapse or deterioration which~~
7 ~~would predictably result in the person becoming~~
8 ~~imminently dangerous to self or others;~~

9 ~~(5) The person has a history of a lack of adherence to~~
10 ~~treatment for mental illness or substance abuse, and~~
11 ~~the person's current mental status or the nature of~~
12 ~~the person's disorder limits or negates the person's~~
13 ~~ability to make an informed decision to voluntarily~~
14 ~~seek or comply with recommended treatment;~~

15 ~~(6) The assisted community treatment is medically~~
16 ~~appropriate, and in the person's medical interests;~~
17 ~~and~~

18 ~~(7)] The person's mental illness has, on more than one~~
19 ~~occasion in the past, caused that person to refuse~~
20 ~~needed and appropriate mental health services in the~~
21 ~~community; and~~



1 (4) Considering less intrusive alternatives, assisted
2 community treatment is essential to prevent the danger
3 posed by the person[-], is medically appropriate, and
4 is in the person's medical interests."

5 SECTION 6. Section 334-123, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any interested party may file a petition with the
8 family court alleging that another person meets the criteria for
9 assisted community treatment. The petition shall state:

10 (1) Each of the criteria under section [~~334-121(1) through~~
11 ~~(7)] 334-121 for assisted community treatment;~~

12 (2) Petitioner's good faith belief that the subject of the
13 petition meets each of the criteria under section
14 [~~334-121(1) through (7)] 334-121;~~

15 (3) Facts that support the petitioner's good faith belief
16 that the subject of the petition meets each of the
17 criteria under section [~~334-121(1) through (7)]
18 334-121; and~~

19 (4) That the subject of the petition is present within the
20 county where the petition is filed.



1 The hearing on the petition need not be limited to the
2 facts stated in the petition. The petition shall be executed
3 subject to the penalties of perjury."

4 SECTION 7. Section 334-127, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

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

17 If the family court finds by clear and convincing evidence
18 that the beneficial mental and physical effects of recommended
19 medication outweigh the detrimental mental and physical effects,
20 if any, the order may authorize types or classes of medication
21 to be included in treatment at the discretion of the treating



1 psychiatrist or advanced practice registered nurse with
2 prescriptive authority and who holds an accredited national
3 certification in an advanced practice registered nurse
4 psychiatric specialization.

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


13 Notice of the order shall be provided to those persons
14 entitled to notice pursuant to section 334-125."

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: Kal Abdul

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S.B. NO. 1124

Report Title:

Mental Health; Assisted Community Treatment; Petitions

Description:

Facilitates the treatment of individuals with mental health issues. Provides that any interested party may file a petition for a mental health order alleging that another person has a mental illness and qualifies for assistance.

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

