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# 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 (Act 221), was enacted with the intent of  
3 helping individuals with serious mental illness obtain the  
4 treatment and medication they needed, through the concept of  
5 "assisted community treatment". Five years later, however, the  
6 potential of assisted community treatment is no closer to  
7 reality. Less than ten orders for court-mandated treatment  
8 plans have been 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. The family court  
13 may evaluate a petition filed pursuant to this section and  
14 determine if the person who is the subject of the petition meets  
15 the criteria established under section 334-60.2 or 334-121 and  
16 may issue an order for hospitalization or treatment based on  
17 that determination. Petitions under this section are in  
18 addition to petitions provided under sections 334-60.3 and  
19 334-123.

20           (b) The petition shall include the name, address, and  
21 telephone number of at least one of the following persons, in



1 the following order of priority: the subject of the petition's  
2 spouse or reciprocal beneficiary, legal parents, adult children,  
3 and legal guardian if one has been appointed. If the subject of  
4 the petition has no living spouse or reciprocal beneficiary,  
5 legal parent, adult children, or legal guardian, or if none can  
6 be found, notice shall be served on at least one of the  
7 subject's closest adult relatives, if any can be found.

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



1        (d) If so requested by a petitioner acting under this  
2 section, the attorney general shall assist the petitioner in  
3 stating the substance of the petition in plain and simple  
4 language, and shall be responsible for preparing, filing, and  
5 defending the petition, unless the attorney general determines  
6 that the petitioner's action lacks merit.

7        (e) The procedures specified in sections 334-60.4 and  
8 334-60.5 shall apply to petitions for mental health orders.

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

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

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

17        (1) Threatened or attempted suicide or serious bodily  
18                harm; or

19        (2) Behaved in such a manner as to indicate that the  
20                person is unable, without supervision and the  
21                assistance of others, to satisfy the need for



1           nourishment, essential medical care[7] including  
2           treatment for a mental illness, shelter or self-  
3           protection, so that it is probable that death,  
4           substantial bodily injury, or serious physical  
5           debilitation or disease will result unless adequate  
6           treatment is afforded."

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

9           "(i) If after hearing all relevant evidence, including the  
10          result of any diagnostic examination ordered by the court, the  
11          court finds that an individual is not a person requiring  
12          medical, psychiatric, psychological, or other rehabilitative  
13          treatment or supervision, the court shall order that the  
14          individual be discharged if the individual has been hospitalized  
15          prior to the hearing[-]; provided that the court shall first  
16          assess whether the person meets the criteria for assisted  
17          community treatment under section 334-121 and may order the  
18          person to obtain assisted community treatment that may include  
19          medication; provided further that a mental health facility or  
20          program is designated that is able to take responsibility for  
21          coordination of the person's care and designate a treating



1 psychiatrist or an advanced practice registered nurse who has  
2 prescriptive authority and who holds an accredited national  
3 certification in an advanced practice registered nurse  
4 psychiatric specialization who shall be responsible for the  
5 management and supervision of the treatment. Within ten days  
6 after the issuance of the order, the designated mental health  
7 facility or program shall submit to the court a treatment plan,  
8 which may include medication; provided that the plan describes  
9 the types or classes of medication that should be authorized and  
10 describes the physical, mental, beneficial, and detrimental  
11 effects of the medication. The treatment plan shall be attached  
12 to the order.

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



1 period of ninety days unless sooner discharged. The court may  
2 also authorize the involuntary administration of medication,  
3 where the subject has an existing order for assisted community  
4 treatment, issued pursuant to part VIII of this chapter,  
5 relating to assisted community treatment, and in accordance with  
6 the treatment prescribed by that prior order. As an alternative  
7 to involuntary hospitalization, in which the court finds that  
8 the criteria for involuntary hospitalization under section  
9 334-60.2(1) has been met beyond a reasonable doubt and that the  
10 criteria under sections 334-60.2(2) and 334-60.2(3) have been  
11 met by clear and convincing evidence, the court may order the  
12 person to obtain assisted community treatment that may include  
13 medication; provided that a mental health facility or program is  
14 designated that is able to take responsibility for coordination  
15 of the person's care and designate a treating psychiatrist or an  
16 advanced practice registered nurse who has prescriptive  
17 authority and who holds an accredited national certification in  
18 an advanced practice registered nurse psychiatric specialization  
19 who shall be responsible for the management and supervision of  
20 the treatment. Within ten days after the issuance of the order,  
21 the designated mental health facility or program shall submit to



1 the court a treatment plan, which may include medication;  
2 provided that the plan describes the types or classes of  
3 medication that should be authorized and describes the physical,  
4 mental, beneficial, and detrimental effects of the medication.  
5 The treatment plan shall be attached to the order. Notice of  
6 the subject's commitment and the facility name and location  
7 where the subject will be committed shall be provided to those  
8 persons entitled to notice pursuant to section 334-60.4. An  
9 order of commitment shall specify which of those persons served  
10 with notice pursuant to section 334-60.4, together with such  
11 other persons as the court may designate, shall be entitled to  
12 receive any subsequent notice of intent to discharge, transfer,  
13 or recommit. The court shall forward to the Hawaii criminal  
14 justice data center all orders of involuntary civil commitment  
15 or information from all orders of involuntary civil commitment,  
16 as requested by the Hawaii criminal justice data center, which  
17 in turn shall forward the information to the Federal Bureau of  
18 Investigation, or its successor agency, for inclusion in the  
19 National Instant Criminal Background Check System database. The  
20 orders or information shall also be maintained by the Hawaii  
21 criminal justice data center for disclosure to and use by law





1 enforcement officials for the purpose of firearms permitting or  
2 registration pursuant to chapter 134. This subsection shall  
3 apply to all involuntary civil commitments without regard to the  
4 date of the involuntary civil commitment."

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

7 "§334-121 Criteria for assisted community treatment. A  
8 person may be ordered to obtain assisted community treatment if  
9 the family court finds that:

- 10 (1) The person is mentally ill or suffering from substance  
11 abuse;
- 12 (2) The person is unlikely to live safely in the community  
13 without available supervision, is now in need of  
14 treatment in order to prevent a relapse or  
15 deterioration that would predictably result in the  
16 person becoming imminently dangerous to self or  
17 others, and the person's current mental status or the  
18 nature of the person's disorder limits or negates the  
19 person's ability to make an informed decision to  
20 voluntarily seek or comply with recommended treatment,  
21 based on the professional opinion of a psychiatrist or



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

5 ~~[-3) The person, at some time in the past: (A) has~~  
6 ~~received inpatient hospital treatment for mental~~  
7 ~~illness or substance abuse or (B) has been found to be~~  
8 ~~imminently dangerous to self or others, as a result of~~  
9 ~~mental illness or substance abuse;~~

10 ~~-(4) The person, based on the person's treatment history~~  
11 ~~and current condition, is now in need of treatment in~~  
12 ~~order to prevent a relapse or deterioration which~~  
13 ~~would predictably result in the person becoming~~  
14 ~~imminently dangerous to self or others;~~

15 ~~-(5) The person has a history of a lack of adherence to~~  
16 ~~treatment for mental illness or substance abuse, and~~  
17 ~~the person's current mental status or the nature of~~  
18 ~~the person's disorder limits or negates the person's~~  
19 ~~ability to make an informed decision to voluntarily~~  
20 ~~seek or comply with recommended treatment;~~



1       ~~(6) The assisted community treatment is medically~~  
2       ~~appropriate, and in the person's medical interests,~~  
3       ~~and~~

4       ~~(7)]~~ (3) The person's mental illness has, on more than one  
5       occasion in the past, caused that person to refuse  
6       needed and appropriate mental health services in the  
7       community, which resulted in the person becoming  
8       imminently dangerous to self or others, and which now  
9       would predictably result in the person becoming  
10       imminently dangerous to self or others based on the  
11       professional opinion of a psychiatrist or advanced  
12       practice registered nurse with prescriptive authority  
13       and who holds an accredited national certification in  
14       an advanced practice registered nurse psychiatric  
15       specialization; and

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

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



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

4           (1) Each of the criteria under section [~~334-121(1) through~~  
5           ~~(7)~~] 334-121 for assisted community treatment;

6           (2) Petitioner's good faith belief that the subject of the  
7 petition meets each of the criteria under section  
8 [~~334-121(1) through (7)~~]; 334-121;

9           (3) Facts that support the petitioner's good faith belief  
10 that the subject of the petition meets each of the  
11 criteria under section [~~334-121(1) through (7)~~];  
12 334-121; and

13           (4) That the subject of the petition is present within the  
14 county where the petition is filed.

15           The hearing on the petition need not be limited to the  
16 facts stated in the petition. The petition shall be executed  
17 subject to the penalties of perjury."

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

20           "(b) If after hearing all relevant evidence, including the  
21 results of any diagnostic examination ordered by the family



1 court, the family court finds that the criteria for assisted  
2 community treatment under section 334-121(1) have been met  
3 beyond a reasonable doubt and that the criteria under section  
4 334-121(2) to [~~334-121(7)~~] 334-121(4) have been met by clear and  
5 convincing evidence, the family court shall order the subject to  
6 obtain assisted community treatment for a period of no more than  
7 one year. The written treatment plan submitted pursuant to  
8 section 334-126(h) shall be attached to the order and made a  
9 part of the order.

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

19 The court order shall also state who should receive notice  
20 of intent to discharge early in the event that the treating  
21 psychiatrist or advanced practice registered nurse with



1 prescriptive authority and who holds an accredited national  
2 certification in an advanced practice registered nurse  
3 psychiatric specialization determines, prior to the end of the  
4 court ordered period of treatment, that the subject should be  
5 discharged early from assisted community treatment.

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

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

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



**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 for involuntary hospitalization or assisted community treatment alleging that another person has a mental illness and qualifies for assistance. Requires the court to assess whether a person meets the criteria for assisted community treatment before discharging a person who has been involuntarily hospitalized. Authorizes the court to order a person to obtain assisted community treatment as an alternative to involuntary hospitalization. Clarifies the criteria for assisted community treatment. (SD1)

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

