
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 which has voluntarily



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

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



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



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



1 Background Check System database. The orders or information
2 shall also be maintained by the Hawaii criminal justice data
3 center for disclosure to and use by law enforcement officials
4 for the purpose of firearms permitting or registration pursuant
5 to chapter 134. This subsection shall apply to all involuntary
6 civil commitments without regard to the date of the involuntary
7 civil commitment."

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

10 **"§334-121 Criteria for assisted community treatment. A**
11 **person may be ordered to obtain assisted community treatment if**
12 **the family court finds, based on the professional opinion of a**
13 **psychiatrist or advanced practice registered nurse with**
14 **prescriptive authority and who holds an accredited national**
15 **certification in an advanced practice registered nurse**
16 **psychiatric specialization, that:**

- 17 (1) The person is mentally ill or suffering from substance
18 abuse;
- 19 (2) The person is unlikely to live safely in the community
20 without available supervision [~~based on the~~
21 ~~professional opinion of a psychiatrist or advanced~~



1 ~~practice registered nurse with prescriptive authority~~
2 ~~and who holds an accredited national certification in~~
3 ~~an advanced practice registered nurse psychiatric~~
4 ~~specialization,], is now in need of treatment in order~~
5 ~~to prevent a relapse or deterioration that would~~
6 ~~predictably result in the person becoming imminently~~
7 ~~dangerous to self or others, and the person's current~~
8 ~~mental status or the nature of the person's disorder~~
9 ~~limits or negates the person's ability to make an~~
10 ~~informed decision to voluntarily seek or comply with~~
11 ~~recommended treatment;~~

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

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



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;~~

7 ~~(6) The assisted community treatment is medically~~
8 ~~appropriate, and in the person's medical interests;~~
9 ~~and~~

10 ~~(7)]~~ (3) The person's mental illness has caused that
11 person to refuse needed and appropriate mental health
12 services in the community, or the person has a history
13 of lack of adherence to treatment for mental illness
14 or substance abuse, which resulted in the person
15 becoming dangerous to self or others; 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 on March 15, 2050.



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. Effective 3/15/2050. (SD2)

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

