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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. Section 334-1, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending the definitions of "dangerous to others",  
4 "dangerous to self", and "gravely disabled" to read:

5           "~~Dangerous to others~~" means [~~likely to do substantial~~  
6 ~~physical or emotional injury on another, as evidenced by a~~  
7 ~~recent act, attempt or threat.~~] there is a substantial  
8 likelihood that a person in the reasonably foreseeable future  
9 will inflict or attempt to inflict serious physical harm to  
10 another.

11           "~~Dangerous to self~~" means [~~the person recently has~~  
12 ~~threatened or attempted suicide or serious bodily harm; or the~~  
13 ~~person recently has behaved in such a manner as to indicate that~~  
14 ~~the person is unable, without supervision and the assistance of~~  
15 ~~others, to satisfy the need for nourishment, essential medical~~  
16 ~~care, shelter or self protection, so that it is probable that~~  
17 ~~death, substantial bodily injury, or serious physical~~  
18 ~~debilitation or disease will result unless adequate treatment is~~



1 ~~afforded.]~~ there is a substantial likelihood that a person in  
2 the reasonably foreseeable future will threaten or attempt  
3 suicide or serious bodily harm. Evidence of substantial  
4 likelihood may include information about patterns of behavior  
5 that historically have resulted in serious harm to the person.

6 "Gravely disabled" means [~~a condition in which~~] a person  
7 [~~as a result of a mental disorder, (1) is unable to provide for~~  
8 ~~that individual's basic personal needs for food, clothing, or~~  
9 ~~shelter; (2) is unable to make or communicate rational or~~  
10 ~~responsible decisions concerning the individual's personal~~  
11 ~~welfare; and (3) lacks the capacity to understand that this is~~  
12 ~~so.] is incapable of making an informed treatment decision and  
13 has behaved in such a manner as to indicate that the person is  
14 unlikely, without supervision and the assistance of others, to  
15 satisfy the need for nourishment, personal or medical care,  
16 shelter, or self-protection, so that it is probable that  
17 substantial bodily harm, serious psychiatric or physical  
18 deterioration, or serious illness will result unless adequate  
19 treatment is afforded."~~

20 2. By deleting the definition of "obviously ill".

21 ["~~"Obviously ill" means a condition in which a person's~~  
22 ~~current behavior and previous history of mental illness, if~~



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

9 SECTION 2. Section 334-59, Hawaii Revised Statutes, is  
10 amended as follows:

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

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

14 (1) If a [~~police~~] law enforcement officer has reason to  
15 believe that a person is [~~imminently~~] dangerous to  
16 self or others[~~7~~] or is gravely disabled[~~7~~, ~~or is~~  
17 ~~obviously ill~~], the officer shall call for assistance  
18 from the mental health emergency workers designated by  
19 the director. Upon determination by the mental health  
20 emergency workers that the person is [~~imminently~~]  
21 dangerous to self or others[~~7~~] or is gravely  
22 disabled[~~7~~, ~~or is obviously ill~~], the person shall be



1 transported by ambulance or other suitable means, to a  
2 licensed psychiatric facility for further evaluation  
3 and possible emergency hospitalization. A [~~police~~]  
4 law enforcement officer may also take into custody and  
5 transport to any facility designated by the director  
6 any person threatening or attempting suicide. The  
7 officer shall make application for the examination,  
8 observation, and diagnosis of the person in custody.  
9 The application shall state or shall be accompanied by  
10 a statement of the circumstances under which the  
11 person was taken into custody and the reasons therefor  
12 which shall be transmitted with the person to a  
13 physician or psychologist at the facility.

- 14 (2) Upon written or oral application of any licensed  
15 physician, psychologist, attorney, member of the  
16 clergy, health or social service professional, or any  
17 state or county employee in the course of employment,  
18 a judge may issue an ex parte order orally, but shall  
19 reduce the order to writing by the close of the next  
20 court day following the application, stating that  
21 there is probable cause to believe the person is  
22 mentally ill or suffering from substance abuse, is



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

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

20           (A) Mentally ill or suffering from substance abuse;



1 (B) [~~Imminently dangerous~~] Dangerous to self or  
2 others [~~7~~] or is gravely disabled [~~7~~, ~~or is~~  
3 ~~obviously ill~~]; and

4 (C) In need of care or treatment;  
5 may direct transportation, by ambulance or other  
6 suitable means, to a licensed psychiatric facility for  
7 further evaluation and possible emergency  
8 hospitalization. A licensed physician or physician  
9 assistant may administer treatment as is medically  
10 necessary, for the person's safe transportation. A  
11 licensed psychologist may administer treatment as is  
12 psychologically necessary.

13 (b) Emergency examination. A patient who is delivered for  
14 emergency examination and treatment to a facility designated by  
15 the director shall be examined by a licensed physician without  
16 unnecessary delay, and may be given such treatment as is  
17 indicated by good medical practice. A psychiatrist or  
18 psychologist may further examine the patient to diagnose the  
19 presence or absence of a mental disorder, assess the risk that  
20 the patient may be dangerous to self or others [~~7~~] or is gravely  
21 disabled [~~7~~, ~~or is obviously ill~~], and assess whether or not the  
22 patient needs to be hospitalized."



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

2           "(d) Emergency hospitalization. If the physician or the

3           psychologist who performs the emergency examination has reason

4           to believe that the patient is:

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

6           (2) [~~Imminently dangerous~~] Dangerous to self or others[~~7~~]

7           or is gravely disabled[~~, or is obviously ill~~]; and

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

9           the physician or the psychologist may direct that the patient be

10          hospitalized on an emergency basis or cause the patient to be

11          transferred to another psychiatric facility for emergency

12          hospitalization, or both. The patient shall have the right

13          immediately upon admission to telephone the patient's guardian

14          or a family member including a reciprocal beneficiary, or an

15          adult friend and an attorney. If the patient declines to

16          exercise that right, the staff of the facility shall inform the

17          adult patient of the right to waive notification to the family

18          including a reciprocal beneficiary, and shall make reasonable

19          efforts to ensure that the patient's guardian or family

20          including a reciprocal beneficiary, is notified of the emergency

21          admission but the patient's family including a reciprocal

22          beneficiary, need not be notified if the patient is an adult and



1 requests that there be no notification. The patient shall be  
2 allowed to confer with an attorney in private."

3 SECTION 3. Section 334-60.2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§334-60.2 Involuntary hospitalization criteria. A person  
6 may be committed to a psychiatric facility for involuntary  
7 hospitalization, if the court finds:

8 (1) That the person is mentally ill or suffering from  
9 substance abuse;

10 (2) That the person is [imminently] dangerous to self or  
11 others [7] or is gravely disabled [~~or is obviously~~  
12 ~~ill~~]; and

13 (3) That the person is in need of care or treatment, or  
14 both, and there is no suitable alternative available  
15 through existing facilities and programs which would  
16 be less restrictive than hospitalization."

17 SECTION 4. Section 334-121, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§334-121 Criteria for involuntary outpatient treatment.

20 A person may be ordered to obtain involuntary outpatient  
21 treatment if the family court finds that:





- 1           (1) The person is suffering from a severe mental disorder  
2                    or from substance abuse; and
- 3           (2) The person is capable of surviving safely in the  
4                    community with available supervision from family,  
5                    friends, or others; and
- 6           (3) The person, at some time in the past: (A) has  
7                    received inpatient hospital treatment for a severe  
8                    mental disorder or substance abuse, or (B) has been  
9                    ~~[imminently]~~ dangerous to self or others, or is  
10                  gravely disabled, as a result of a severe mental  
11                  disorder or substance abuse; and
- 12          (4) The person, based on the person's treatment history  
13                  and current behavior, is now in need of treatment in  
14                  order to prevent a relapse or deterioration which  
15                  would predictably result in the person becoming  
16                  ~~[imminently]~~ dangerous to self or others; and
- 17          (5) 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; and
- 21          (6) There is a reasonable prospect that the outpatient  
22                  treatment ordered will be beneficial to the person."



1 SECTION 5. Section 334-142, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§334-142[+] Petition. Any family member may petition  
4 the family court for an order requiring a respondent to enter  
5 into an outpatient treatment program for substance abuse. The  
6 petition shall be in writing under penalty of perjury and  
7 include facts relating to:

- 8 (1) The conduct of the respondent that indicates substance  
9 abuse or addiction;
- 10 (2) The respondent's history of substance abuse,  
11 treatment, and relapse;
- 12 (3) The effects of the respondent's conduct on the family;
- 13 (4) The petitioner's good faith belief that the respondent  
14 ~~[poses an imminent danger]~~ will become dangerous to  
15 self or to others if the respondent does not receive  
16 treatment;
- 17 (5) The availability of treatment and financial resources  
18 to pay for treatment; and
- 19 (6) Any other reason for seeking court intervention."

20 SECTION 6. Section 334-144, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) The court may grant the petition if it finds clear  
2 and convincing evidence that:

3           (1) The respondent has a history of substance abuse and  
4           refuses to enter treatment voluntarily;

5           (2) The respondent has a family support system that will  
6           encourage and participate in the respondent's  
7           treatment program;

8           (3) The respondent can benefit from outpatient treatment  
9           and is capable of surviving safely in the community  
10          with the family support system and if outpatient  
11          treatment is received;

12          (4) The respondent or the petitioner has financial  
13          resources to pay for the outpatient treatment program;

14          (5) The respondent [~~poses an imminent danger~~] will become  
15          dangerous to self or to others if treatment is not  
16          received; and

17          (6) The respondent understands the nature of the  
18          proceeding and the effect of the court order to enter  
19          into outpatient treatment."

20          SECTION 7. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22



1 SECTION 8. This Act shall take effect upon its approval.

2

INTRODUCED BY:



A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be the name of the legislator who introduced the bill.

JAN 12 2012



# H.B. NO. 1738

**Report Title:**

Mental Health; Involuntary Hospitalization; Treatment

**Description:**

Amends various provisions relating to emergency examination and hospitalization and involuntary treatment. Broadens the definitions of "dangerous to others" and "dangerous to self" to include a substantial likelihood of harm in the reasonably foreseeable future, and amends the definition of "gravely disabled".

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

