

JAN 21 2011

A BILL FOR AN ACT

RELATING TO INVOLUNTARY HOSPITALIZATION.

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

1 SECTION 1. Section 334-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Sexually violent predator" means any person who has been
5 convicted of or charged with a crime of sexual violence and who
6 suffers from a mental abnormality or personality disorder which
7 makes the person likely to engage in predatory acts of sexual
8 violence if not confined in a secure facility."

9 SECTION 2. Section 334-60.2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§334-60.2 Involuntary hospitalization criteria. A person
12 may be committed to a psychiatric facility for involuntary
13 hospitalization, if the court finds:

14 (1) That the person is mentally ill [~~or~~], suffering from
15 substance abuse [~~+~~], or meets the criteria of a
16 sexually violent predator as defined in section 334-1;

17 (2) That the person is imminently dangerous to self or
18 others, is gravely disabled or is obviously ill; and



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

5 SECTION 3. Section 334-60.3, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any person may file a petition alleging that a person
8 located in the county meets the criteria for commitment to a
9 psychiatric facility. The petition shall be executed subject to
10 the penalties of perjury but need not be sworn to before a
11 notary public. The attorney general, the attorney general's
12 deputy, special deputy, prosecuting attorney of the appropriate
13 county, or appointee designated to present the case shall assist
14 the petitioner to state the substance of the petition in plain
15 and simple language. The petition may be accompanied by a
16 certificate of the licensed physician or psychologist who has
17 examined the person within two days before submission of the
18 petition, unless the person whose commitment is sought has
19 refused to submit to medical or psychological examination, in
20 which case the fact of refusal shall be alleged in the petition.
21 The certificate shall set forth the signs and symptoms relied
22 upon by the physician or psychologist to determine the person is



1 in need of care or treatment, or both, and whether or not the
2 person is capable of realizing and making a rational decision
3 with respect to the person's need for treatment. If the
4 petitioner believes that further evaluation is necessary before
5 commitment, the petitioner may request [~~such~~] further
6 evaluation."

7 SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (e) to read:

10 "(e) The attorney general, the attorney general's deputy,
11 special deputy, prosecuting attorney of the appropriate county,
12 or appointee shall present the case for hearings convened under
13 this chapter, except that the attorney general, the attorney
14 general's deputy, special deputy, prosecuting attorney of the
15 appropriate county, or appointee need not participate in or be
16 present at a hearing whenever a petitioner or some other
17 appropriate person has retained private counsel who will be
18 present in court and will present to the court the case for
19 involuntary hospitalization."

20 2. By amending subsection (g) to read:

21 "(g) No individual may be found to require treatment in a
22 psychiatric facility unless at least one physician or



1 psychologist who has personally examined the individual
2 testifies in person at the hearing. No individual may be found
3 to require treatment in a psychiatric facility as a sexually
4 violent predator unless at least one licensed physician or
5 psychologist who is an expert on sexually violent predators has
6 personally examined the individual and testifies in person at
7 the hearing. This testimony may be waived by the subject of the
8 petition. If the subject of the petition has refused to be
9 examined by a licensed physician or psychologist, the subject
10 may be examined by a court-appointed licensed physician or
11 psychologist[-]; for purposes of determining whether the subject
12 is a sexually violent predator, the court-appointed licensed
13 physician or psychologist shall be an expert on sexually violent
14 predators. If the subject refuses and there is sufficient
15 evidence to believe that the allegations of the petition are
16 true, the court may make a temporary order committing the
17 subject to a psychiatric facility for a period of not more than
18 five days for the purpose of a diagnostic examination and
19 evaluation. The subject's refusal shall be treated as a denial
20 that the subject is mentally ill or suffering from substance
21 abuse. Nothing in this section, however, shall limit the
22 individual's privilege against self-incrimination."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2011.

4

INTRODUCED BY:



By Request



Report Title:

Involuntary Hospitalization for Sexually Violent Predators

Description:

Permits involuntary hospitalization in a psychiatric facility of a sexually violent predator. Defines sexually violent predator.

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

