
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. Section 334-59, Hawaii Revised Statutes, is
2 amended as follows:

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

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

6 (1) If a [~~police~~] law enforcement officer has reason to
7 believe that a person is [~~imminently~~] dangerous to
8 self or others, or is gravely disabled, or is
9 obviously ill, the officer shall call for assistance
10 from the mental health emergency workers designated by
11 the director. Upon determination by the mental health
12 emergency workers that the person is [~~imminently~~]
13 dangerous to self or others, or is gravely disabled,
14 or is obviously ill, the person shall be transported
15 by ambulance or other suitable means, to a licensed
16 psychiatric facility for further evaluation and
17 possible emergency hospitalization. A [~~police~~] law
18 enforcement officer may also take into custody and



1 transport to any facility designated by the director
2 any person threatening or attempting suicide. The
3 officer shall make application for the examination,
4 observation, and diagnosis of the person in custody.
5 The application shall state or shall be accompanied by
6 a statement of the circumstances under which the
7 person was taken into custody and the reasons therefor
8 which shall be transmitted with the person to a
9 physician or psychologist at the facility.

10 (2) Upon written or oral application of any licensed
11 physician, psychologist, attorney, member of the
12 clergy, health or social service professional, or any
13 state or county employee in the course of employment,
14 a judge may issue an ex parte order orally, but shall
15 reduce the order to writing by the close of the next
16 court day following the application, stating that
17 there is probable cause to believe the person is
18 mentally ill or suffering from substance abuse, is
19 [imminently] dangerous to self or others, or is
20 gravely disabled, or is obviously ill, and in need of
21 care or treatment, or both, giving the findings on
22 which the conclusion is based, and directing that a



1 [~~police~~] law enforcement officer or other suitable
2 individual take the person into custody and deliver
3 the person to the nearest facility designated by the
4 director for emergency examination and treatment. The
5 ex parte order shall be made a part of the patient's
6 clinical record. If the application is oral, the
7 person making the application shall reduce the
8 application to writing and shall submit the same by
9 noon of the next court day to the judge who issued the
10 oral ex parte order. The written application shall be
11 executed subject to the penalties of perjury but need
12 not be sworn to before a notary public.

13 (3) Any interested person with a clear and abiding
14 interest in the well-being of the individual may file
15 a written petition for emergency admission alleging
16 that a person located in the county meets the criteria
17 for commitment to a psychiatric facility. The
18 petition for emergency admission shall be executed
19 subject to the penalties of perjury but need not be
20 sworn to before a notary public. The petition shall
21 state with particularity any facts personally known to
22 the petitioner that establish probable cause to



1 believe that the person sought to be admitted on an
2 emergency basis is dangerous to self or others, or is
3 gravely disabled, or is obviously ill. The petition
4 may be accompanied by any relevant information,
5 including medical records, arrest records, or a
6 certificate from a licensed physician or psychologist
7 stating why the person meets the criteria for
8 emergency admission. When a petition for emergency
9 admission is filed, the petitioner shall appear before
10 a judge in the county where the subject of the
11 petition is located. The judge shall conduct an ex
12 parte hearing to determine if there is probable cause
13 to believe that the subject of the petition meets the
14 criteria for involuntary admission. Upon a finding of
15 probable cause that the subject of the petition is
16 mentally ill or suffering from substance abuse, is
17 dangerous to self or others, or is gravely disabled,
18 or is obviously ill, and in need of care or treatment,
19 or both, the judge shall issue a written order, giving
20 the findings on which the probable cause is based and
21 directing a law enforcement officer or other suitable
22 individual to take the person into custody and deliver



1 the person to the nearest facility designated by the
2 director for emergency examination and treatment. The
3 ex parte order shall be made a part of the patient's
4 clinical record.

5 ~~[(3)]~~ (4) Any licensed physician, physician assistant, or
6 psychologist who has examined a person and has reason
7 to believe the person is:

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

9 (B) ~~[Imminently dangerous]~~ Dangerous to self or
10 others, or is gravely disabled, or is obviously
11 ill; and

12 (C) In need of care or treatment;

13 may direct transportation, by ambulance or other
14 suitable means, to a licensed psychiatric facility for
15 further evaluation and possible emergency
16 hospitalization. A licensed physician or physician
17 assistant may administer treatment as is medically
18 necessary, for the person's safe transportation. A
19 licensed psychologist may administer treatment as is
20 psychologically necessary.

21 At any stage of the proceedings, the court may appoint a
22 guardian ad litem for the patient pursuant to section 334-82.



1 (b) Emergency examination. A patient who is delivered for
2 emergency examination and treatment to a facility designated by
3 the director shall be examined by a licensed physician without
4 unnecessary delay, and may be given such treatment as is
5 indicated by good medical practice. [~~A psychiatrist or~~
6 ~~psychologist may further~~] If the licensed physician, physician
7 assistant, or psychologist who has directed transportation of a
8 person to a licensed psychiatric facility for further evaluation
9 and possible emergency hospitalization is not an employee or
10 agent of the licensed psychiatric facility, a psychiatrist or
11 psychologist at the licensed psychiatric facility shall
12 independently examine the patient to diagnose the presence or
13 absence of a mental disorder, assess the risk that the patient
14 may be dangerous to self or others, or is gravely disabled, or
15 is obviously ill, and assess whether or not the patient needs to
16 be hospitalized."

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

18 "(d) Emergency hospitalization. If the physician or the
19 psychologist who performs the emergency examination has reason
20 to believe that the patient is:

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



1 (2) [~~Imminently dangerous~~] Dangerous to self or others, or
2 is gravely disabled, or is obviously ill; and
3 (3) In need of care or treatment, or both;
4 the physician or the psychologist may direct that the patient be
5 hospitalized on an emergency basis or cause the patient to be
6 transferred to another psychiatric facility for emergency
7 hospitalization, or both. The patient shall have the right
8 immediately upon admission to telephone the patient's guardian
9 or a family member including a reciprocal beneficiary, or an
10 adult friend and an attorney. If the patient declines to
11 exercise that right, the staff of the facility shall inform the
12 adult patient of the right to waive notification to the family
13 including a reciprocal beneficiary, and shall make reasonable
14 efforts to ensure that the patient's guardian or family
15 including a reciprocal beneficiary, is notified of the emergency
16 admission but the patient's family including a reciprocal
17 beneficiary, need not be notified if the patient is an adult and
18 requests that there be no notification. The patient shall be
19 allowed to confer with an attorney in private."

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



1 "**§334-60.2 Involuntary hospitalization criteria.** A person
2 may be committed to a psychiatric facility for involuntary
3 hospitalization, if the court finds:

- 4 (1) That the person is mentally ill or suffering from
5 substance abuse;
- 6 (2) That the person is [~~imminently~~] dangerous to self or
7 others, is gravely disabled or is obviously ill; and
- 8 (3) That the person is in need of care or treatment, or
9 both, and there is no suitable alternative available
10 through existing facilities and programs which would
11 be less restrictive than hospitalization."

12 SECTION 3. Section 334-60.5, Hawaii Revised Statutes, is
13 amended by amending subsection (i) to read as follows:

14 "(i) If after hearing all relevant evidence, including the
15 result of any diagnostic examination ordered by the court, the
16 court finds that an individual is not a person requiring
17 medical, psychiatric, psychological, or other rehabilitative
18 treatment or supervision, the court shall order that the
19 individual be discharged if the individual has been hospitalized
20 prior to the hearing. If the court finds that the criteria for
21 involuntary hospitalization under section 334-60.2(1) has been
22 met beyond a reasonable doubt and that the criteria under



1 sections 334-60.2(2) and 334-60.2(3) have been met by clear and
2 convincing evidence, the court may issue an order to any
3 [~~police~~] law enforcement officer to deliver the subject to a
4 facility that has agreed to admit the subject as an involuntary
5 patient, or if the subject is already a patient in a psychiatric
6 facility, authorize the facility to retain the patient for
7 treatment for a period of ninety days unless sooner discharged.
8 An order of commitment shall specify which of those persons
9 served with notice pursuant to section 334-60.4, together with
10 such other persons as the court may designate, shall be entitled
11 to receive any subsequent notice of intent to discharge,
12 transfer, or recommit."

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

15 "**§334-121 Criteria for involuntary outpatient treatment.**

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

- 18 (1) The person is suffering from a severe mental disorder
19 or from substance abuse; and
20 (2) The person is capable of surviving safely in the
21 community with available supervision from family,
22 friends, or others; and



- 1 (3) The person, at some time in the past: (A) has
2 received inpatient hospital treatment for a severe
3 mental disorder or substance abuse, or (B) has been
4 [~~imminently~~] dangerous to self or others, or is
5 gravely disabled, as a result of a severe mental
6 disorder or substance abuse; and
- 7 (4) The person, based on the person's treatment history
8 and current behavior, is now in need of treatment in
9 order to prevent a relapse or deterioration which
10 would predictably result in the person becoming
11 [~~imminently~~] dangerous to self or others; and
- 12 (5) The person's current mental status or the nature of
13 the person's disorder limits or negates the person's
14 ability to make an informed decision to voluntarily
15 seek or comply with recommended treatment; and
- 16 (6) There is a reasonable prospect that the outpatient
17 treatment ordered will be beneficial to the person."

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

20 "[~~§~~334-142~~§~~] **Petition.** Any family member may petition
21 the family court for an order requiring a respondent to enter
22 into an outpatient treatment program for substance abuse. The



1 petition shall be in writing under penalty of perjury and
2 include facts relating to:

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

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

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

- 18 (1) The respondent has a history of substance abuse and
19 refuses to enter treatment voluntarily;
- 20 (2) The respondent has a family support system that will
21 encourage and participate in the respondent's
22 treatment program;



1 (3) The respondent can benefit from outpatient treatment
2 and is capable of surviving safely in the community
3 with the family support system and if outpatient
4 treatment is received;

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

7 (5) The respondent poses [~~an imminent~~] a danger to self or
8 to others if treatment is not received; and

9 (6) The respondent understands the nature of the
10 proceeding and the effect of the court order to enter
11 into outpatient treatment."

12 SECTION 7. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect on January 1, 2050.



Report Title:

Department of Health; Involuntary Hospitalization; Mental Health

Description:

Permits any interested person with a clear and abiding interest in the well-being of the individual to file a written petition for emergency admission. Requires an independent evaluation of a patient admitted to a licensed psychiatric facility for involuntary hospitalization in certain circumstances. Removes the word "imminently" from "imminently dangerous". Effective 1/1/50. (SD1)

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

