

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO INVOLUNTARY PSYCHIATRIC HOSPITALIZATION.

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

1           SECTION 1. Chapter 334, part IV, Hawaii Revised Statutes,  
2 is amended by adding a new section to be appropriately  
3 designated and to read as follows:

4           "§334-           Extended involuntary emergency treatment. (a)  
5 Persons subject to extended involuntary emergency treatment.  
6 Application for extended involuntary emergency treatment may be  
7 made for any person who is being treated pursuant to section  
8 334-59 whenever the psychiatric facility determines that the  
9 need for emergency treatment is likely to extend beyond one  
10 hundred twenty hours. The application shall be filed in the  
11 appropriate court, and shall state the grounds on which extended  
12 emergency treatment is believed to be necessary. The  
13 application shall state the name of any examining physician and  
14 the substance of the physician's opinion regarding the mental  
15 condition of the person.

16           (b) Appointment of counsel and scheduling of informal  
17 hearing. Upon receiving the application, the court shall  
18 appoint an attorney who shall represent the person unless it



1 shall appear that the person can afford, and desires to have,  
2 private representation. Within twenty-four hours after the  
3 application is filed, an informal hearing shall be conducted by  
4 a judge or a mental health worker designated by the director  
5 and, if practicable, shall be held at the facility.

6 (c) Informal hearing on extended emergency treatment  
7 application.

8 (1) At the commencement of the informal hearing, the judge  
9 or the mental health worker designated by the director  
10 shall inform the person of the nature of the  
11 proceedings. Information relevant to whether the  
12 person is mentally ill or suffering from substance  
13 abuse, imminently dangerous to self or others, or is  
14 gravely disabled, or is obviously ill, and in need of  
15 care or treatment shall be reviewed, including the  
16 reasons that continued involuntary treatment is  
17 considered necessary. The explanation shall be made  
18 by a physician who examined the person and shall be in  
19 terms understandable to a layperson. The judge or  
20 mental health worker may review any relevant  
21 information even if it would normally be excluded  
22 under rules of evidence if the judge or mental health



1           worker believes that the information is reliable. The  
2           person or the person's representative shall have the  
3           right to ask questions of the physician and of any  
4           other witnesses and to present any relevant  
5           information. At the conclusion of the review, if the  
6           judge or mental health worker finds that the person is  
7           mentally ill or suffering from substance abuse,  
8           imminently dangerous to self or others, or is gravely  
9           disabled, or is obviously ill, and in need of  
10           continued involuntary treatment, the judge or mental  
11           health worker shall so certify. Otherwise, the judge  
12           or mental health worker shall direct that the facility  
13           administrator or designee discharge the person; and  
14           (2) A record of the proceedings, which need not be a  
15           stenographic record, shall be made. The record shall  
16           be kept by the court or mental health worker for at  
17           least one year.  
18           (d) Contents of certification. A certification for  
19           extended involuntary treatment shall be made in writing upon a  
20           form adopted by the department and shall include:



- 1        (1) Findings by the judge or mental health worker as to
- 2            the reasons that extended involuntary emergency
- 3            treatment is necessary;
- 4        (2) A description of the treatment to be provided together
- 5            with an explanation of the adequacy and
- 6            appropriateness of the treatment, based upon the
- 7            information received at the hearing;
- 8        (3) Any documents required by section 334-59;
- 9        (4) The application filed pursuant to subsection (a);
- 10       (5) A statement that the person is represented by counsel;
- 11            and
- 12       (6) An explanation of the effect of the certification, the
- 13            person's right to petition the court for release under
- 14            subsection (g), and the continuing right to be
- 15            represented by counsel.
- 16       (e) Filing and service. The certification shall be filed
- 17 with the administrator of the facility and a copy served on the
- 18 person, any other parties that the person requested to be
- 19 notified pursuant to section 334-59(d), and on counsel.
- 20       (f) Effect of certification. Upon the filing and service
- 21 of a certification for extended involuntary emergency treatment,



1 the person may be given treatment in an approved facility for a  
2 period not to exceed twenty days.

3 (g) Petition to court for review. In all cases in which  
4 the hearing was conducted by a mental health worker, a person  
5 made subject to treatment pursuant to this section shall have  
6 the right to petition the court for review of the certification.  
7 A hearing shall be held within seventy-two hours after the  
8 petition is filed, unless a continuance is requested by the  
9 person's counsel. The hearing shall include a review of the  
10 certification and any evidence that the court may receive or  
11 require. If the court determines that further involuntary  
12 treatment is necessary and that the procedures prescribed by  
13 this part have been followed, the court shall deny the petition.  
14 Otherwise, the person shall be discharged.

15 (h) Duration of extended involuntary emergency treatment.  
16 Whenever a person is no longer imminently dangerous to self or  
17 others, or gravely disabled, or obviously ill, or in need of  
18 care or treatment, and in, any event, within twenty days after  
19 the filing of the certification, the person shall be discharged,  
20 unless within the period:

21 (1) The person is admitted to voluntary treatment pursuant  
22 to section 334-60.1; or



1        (2) The court orders involuntary treatment pursuant to  
2        section 334-60.5."

3        SECTION 2. Section 334-59, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        "~~§334-59 [Emergency examination and hospitalization.]~~  
6 Involuntary emergency examination and treatment.    ~~[-(a)]~~

7 ~~Initiation of proceedings. An emergency admission may be~~  
8 ~~initiated as follows:~~

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



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

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



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

11 ~~(3) Any licensed physician, physician assistant, or~~  
12 ~~psychologist who has examined a person and has reason~~  
13 ~~to believe the person is:~~

14 ~~(A) Mentally ill or suffering from substance abuse;~~

15 ~~(B) Imminently dangerous to self or others, or is~~  
16 ~~gravely disabled, or is obviously ill; and~~

17 ~~(C) In need of care or treatment;~~

18 ~~may direct transportation, by ambulance or other~~  
19 ~~suitable means, to a licensed psychiatric facility for~~  
20 ~~further evaluation and possible emergency~~

21 ~~hospitalization. A licensed physician or physician~~

22 ~~assistant may administer treatment as is medically~~





1           ~~necessary, for the person's safe transportation. A~~  
2           ~~licensed psychologist may administer treatment as is~~  
3           ~~psychologically necessary.]~~

4   (a) Application for examination. Emergency examination may be  
5   undertaken at a psychiatric facility upon the certification of a  
6   physician stating the need for the examination; upon a warrant  
7   issued by the director authorizing the examination; or without a  
8   warrant upon application by a physician or other authorized  
9   person who has personally observed conduct showing the need for  
10 the examination as follows:

11       (1) Warrant for emergency examination. Upon written  
12       application by a physician or other responsible party  
13       setting forth facts constituting reasonable grounds to  
14       believe a person is mentally ill or suffering from  
15       substance abuse, is imminently dangerous to self or  
16       others, or is gravely disabled, or is obviously ill,  
17       and in need of care or treatment, the director may  
18       issue a warrant requiring an individual authorized by  
19       the director, or any police officer, to take the  
20       person to the facility specified in the warrant; or

21       (2) Emergency examination without a warrant. Upon  
22       personal observation of the conduct of a person



1           constituting reasonable grounds to believe that the  
2           person is mentally ill or suffering from substance  
3           abuse, is imminently dangerous to self or others, or  
4           is gravely disabled, or is obviously ill, and in need  
5           of care or treatment, a physician or police officer,  
6           or any individual authorized by the director may take  
7           the person to an approved psychiatric facility for an  
8           emergency examination. Upon arrival, the physician,  
9           police officer, or other authorized individual shall  
10           make a written statement setting forth the grounds for  
11           believing the person to be in need of the examination.

12           (b) Emergency examination[-] and determination of need for  
13 emergency treatment. A patient who is [delivered for emergency  
14 examination and treatment] taken to a facility designated by the  
15 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, or is gravely  
21 disabled, or is obviously ill, and assess whether or not the  
22 patient needs to be hospitalized.] within two hours of arrival



1 in order to determine if the patient is mentally ill or  
2 suffering from substance abuse, is imminently dangerous to self  
3 or others, or is gravely disabled, or is obviously ill, and in  
4 need of care or treatment. If it is determined that the patient  
5 is mentally ill or suffering from substance abuse, is imminently  
6 dangerous to self or others, or is gravely disabled, or is  
7 obviously ill, and in need of care or treatment, treatment shall  
8 be begun immediately.

9 (c) Release from emergency examination. If the physician  
10 [~~who performs the emergency examination, in consultation with a~~  
11 ~~psychologist if applicable, concludes that the patient need not~~  
12 ~~be hospitalized, the patient shall be discharged immediately]~~  
13 does not make a determination that treatment is needed, pursuant  
14 to subsection (b), or if at any time it appears there is no  
15 longer a need for immediate treatment, the patient shall be  
16 discharged and returned to a place as the patient may reasonably  
17 direct, unless the patient is under criminal charges, in which  
18 case the patient shall be returned to the custody of a law  
19 enforcement officer. The physician shall make a record of the  
20 examination and the physician's findings. In no event shall a  
21 person be accepted for involuntary emergency treatment if a  
22 previous application was granted for the treatment and the new



1 application is not based on behavior occurring after the earlier  
2 application.

3 ~~[(d) Emergency hospitalization. If the physician or the~~  
4 ~~psychologist who performs the emergency examination has reason~~  
5 ~~to believe that the patient is:~~

- 6 ~~(1) Mentally ill or suffering from substance abuse;~~
- 7 ~~(2) Imminently dangerous to self or others, or is gravely~~  
8 ~~disabled, or is obviously ill; and~~
- 9 ~~(3) In need of care or treatment, or both;~~

10 ~~the physician or the psychologist may direct that the patient be~~  
11 ~~hospitalized on an emergency basis or cause the patient to be~~  
12 ~~transferred to another psychiatric facility for emergency~~  
13 ~~hospitalization, or both. The patient shall have the right~~  
14 ~~immediately upon admission to telephone the patient's guardian~~  
15 ~~or a family member including a reciprocal beneficiary, or an~~  
16 ~~adult friend and an attorney. If the patient declines to~~  
17 ~~exercise that right, the staff of the facility shall inform the~~  
18 ~~adult patient of the right to waive notification to the family~~  
19 ~~including a reciprocal beneficiary, and shall make reasonable~~  
20 ~~efforts to ensure that the patient's guardian or family~~  
21 ~~including a reciprocal beneficiary, is notified of the emergency~~  
22 ~~admission but the patient's family including a reciprocal~~



1 ~~beneficiary, need not be notified if the patient is an adult and~~  
2 ~~requests that there be no notification. The patient shall be~~  
3 ~~allowed to confer with an attorney in private.]~~

4 (d) Notification of rights at emergency examination. Upon  
5 arrival at the psychiatric facility, the patient shall be  
6 informed of the reasons for the emergency examination and of the  
7 right to communicate immediately with others. The patient shall  
8 be allowed reasonable use of the telephone. The patient shall  
9 be requested to provide the names of parties that the patient  
10 may want notified of the patient's custody and kept informed of  
11 the patient's status. The director or the administrator of the  
12 facility shall:

13 (1) Give notice to the parties of the whereabouts and  
14 status of the patient, how and when the patient may be  
15 contacted and visited, and how they may obtain  
16 information concerning the patient while the patient  
17 is in inpatient treatment; and

18 (2) Take reasonable steps to ensure that while the patient  
19 is detained, the health and safety needs of any of the  
20 patient's dependents are met, and that the patient's  
21 personal property and the premises the patient  
22 occupies are secure.



1 (e) [~~Release from emergency hospitalization. If at any~~  
2 ~~time during the period of emergency hospitalization the~~  
3 ~~responsible physician concludes that the patient no longer meets~~  
4 ~~the criteria for emergency hospitalization the physician shall~~  
5 ~~discharge the patient.] Duration of emergency examination and  
6 treatment. A patient who is in treatment pursuant to this  
7 section shall be discharged whenever it is determined that the  
8 patient no longer is in need of treatment. If the patient is  
9 under criminal charges, the patient shall be returned to the  
10 custody of a law enforcement officer. In any event, the patient  
11 must be released within [~~forty-eight~~] one hundred twenty hours  
12 of the patient's admission, unless within that period the  
13 patient voluntarily agrees to further hospitalization, or a  
14 proceeding for court-ordered evaluation or hospitalization, or  
15 both, is initiated as provided in section 334-60.3[-] or a  
16 certification for extended involuntary emergency treatment is  
17 filed pursuant to section 334- . If that time expires on a  
18 Saturday, Sunday, or holiday, the time for initiation is  
19 extended to the close of the next court day. Upon initiation of  
20 the proceedings, the facility shall be authorized to detain the  
21 patient until further order of the court."~~



1 SECTION 3. Section 334-60.3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§334-60.3 Initiation of proceeding for court-ordered  
4 involuntary hospitalization. (a) Procedures for initiating  
5 court-ordered involuntary treatment for persons already subject  
6 to involuntary treatment. Petition for court-ordered  
7 involuntary treatment for persons already subject to treatment  
8 under sections 334-59 and 334- , may be made by the director  
9 or the administrator of the psychiatric facility to the court.  
10 The petition shall be in writing upon a form adopted by the  
11 department and shall include a statement of the facts  
12 constituting reasonable grounds to believe that the subject of  
13 the petition is mentally ill or suffering from substance abuse,  
14 is imminently dangerous to self or others, or is gravely  
15 disabled, or is obviously ill, and in need of care or treatment.  
16 The petition shall state the name of any examining physician and  
17 the substance of the physician's opinion regarding the mental  
18 condition of the subject, and that the subject has been given  
19 the required information regarding the subject's rights. Upon  
20 the filing of the petition, the director shall serve a copy on  
21 the subject, the subject's attorney, and those designated to be  
22 kept informed, as provided in section 334-59, including an



1 explanation of the nature of the proceedings and the subject's  
2 right to an attorney and the services of an expert in the field  
3 of mental health. A hearing on the petition shall be held in  
4 all cases, not more than five days after the filing of the  
5 petition. Treatment shall be permitted to be maintained pending  
6 the determination of the petition.

7 Where a petition is filed for a person already subject to  
8 involuntary treatment, it shall be sufficient to represent, and  
9 upon hearing to reestablish, that the conduct originally  
10 required for emergency treatment in fact occurred, and that the  
11 person's condition continues to evidence the criteria for  
12 commitment.

13 (b) Procedures for initiating court-ordered involuntary  
14 treatment for persons not in involuntary treatment. Any person  
15 may file a petition alleging that a person located in the county  
16 not already in involuntary treatment for whom application could  
17 be made meets the criteria for commitment to a psychiatric  
18 facility. The petition shall be in writing upon a form adopted  
19 by the department and shall set forth facts constituting  
20 reasonable grounds to believe that the subject of the petition  
21 is mentally ill or suffering from substance abuse, is imminently  
22 dangerous to self or others, or is gravely disabled, or is





1 obviously ill, and in need of care or treatment. The petition  
2 shall state the name of any examining physician and the  
3 substance of the physician's opinion regarding the mental  
4 condition of the subject of the petition. The petition shall be  
5 executed subject to the penalties of perjury but need not be  
6 sworn to before a notary public. The attorney general, the  
7 attorney general's deputy, special deputy, or appointee  
8 designated to present the case shall assist the petitioner to  
9 state the substance of the petition in plain and simple  
10 language. The petition may be accompanied by a certificate of  
11 the licensed physician or psychologist who has examined the  
12 [~~person~~] subject within two days before submission of the  
13 petition, unless the [~~person~~] subject whose commitment is sought  
14 has refused to submit to medical or psychological examination,  
15 in which case the fact of refusal shall be alleged in the  
16 petition. The certificate shall set forth the signs and  
17 symptoms relied upon by the physician or psychologist to  
18 determine the [~~person~~] subject is in need of care or treatment,  
19 [~~or both,~~] and whether or not the [~~person~~] subject is capable of  
20 realizing and making a rational decision with respect to the  
21 [~~person's~~] subject's need for treatment. If the petitioner



1 believes that further evaluation is necessary before commitment,  
2 the petitioner may request [~~such~~] further evaluation.

3 [~~(b) In the event~~] If the subject of the petition has been  
4 given an examination, evaluation, or treatment in a psychiatric  
5 facility within five days before submission of the petition, and  
6 hospitalization is recommended by the staff of the facility, the  
7 petition may be accompanied by the administrator's certificate  
8 in lieu of a physician's or psychologist's certificate.

9 Upon a determination that the petition sets forth  
10 reasonable cause, the court shall appoint an attorney to  
11 represent the subject of the petition and set a date for the  
12 hearing as soon as practicable. The attorney shall represent  
13 the subject unless it shall appear that the subject can afford,  
14 and desires to have, private representation.

15 The court, by summons, shall direct the subject to appear  
16 for a hearing. The court may issue a warrant directing a person  
17 authorized by the director or a police officer to bring the  
18 subject before the court at the time of the hearing if there are  
19 reasonable grounds to believe that the subject will not appear  
20 voluntarily. A copy of the petition shall be served on the  
21 subject at least three days before the hearing together with a  
22 notice advising the subject that an attorney has been appointed



1 who shall represent the subject unless the subject obtains an  
2 attorney oneself, that the subject has a right to be assisted in  
3 the proceedings by an expert in the field of mental health, and  
4 that the subject may request or be made subject to psychiatric  
5 examination.

6 Upon motion of either the petitioner or the subject of the  
7 petition, or upon its own motion, the court may order the  
8 subject of the petition to be examined by a psychiatrist  
9 appointed by the court. The examination shall be conducted on  
10 an outpatient basis, and the subject shall have the right to  
11 have counsel present. A report of the examination shall be  
12 given to the court and counsel at least forty-eight hours prior  
13 to the hearing.

14 Involuntary treatment shall not be authorized during the  
15 pendency of a petition except as otherwise provided by law.

16 (c) The subject of the petition shall have and be informed  
17 of a right to employ a physician, clinical psychologist, or  
18 other mental health expert of the subject's choice to assist the  
19 subject in connection with the hearing and to testify on the  
20 subject's behalf. If the subject cannot afford to engage a  
21 mental health expert, the court, upon application, shall allow a



1 reasonable fee for that purpose. The fee shall be a charge  
2 against the department."

3 SECTION 4. Section 334-60.4, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§334-60.4 Notice; waiver of notice; hearing on petition;**  
6 **waiver of hearing on petition for involuntary hospitalization.**

7 (a) The court shall set a hearing on the petition and notice of  
8 the time and place of [~~such~~] the hearing shall be served in  
9 accordance with, and to those persons specified in, a current  
10 order of commitment. If there is no current order of  
11 commitment, notice of the hearing shall be served personally on  
12 the subject of the petition and served personally or by  
13 certified or registered mail, return receipt requested,  
14 deliverable to the addressee only, on the subject's spouse [~~or~~],  
15 reciprocal beneficiary, or civil union partner, legal parents,  
16 adult children, and legal guardian, if one has been appointed.  
17 If the subject of the petition has no living spouse [~~or~~],  
18 reciprocal beneficiary, or civil union partner, legal parent  
19 [~~and~~], or adult children, or if none can be found, notice of the  
20 hearing shall be served on at least one of the subject's closest  
21 adult relatives if any can be found. Notice of the hearing  
22 shall also be served on the public defender, attorney for the



1 subject of the petition, or other court-appointed attorney as  
2 the case may be. If the subject of the petition is a minor,  
3 notice of the hearing shall also be served upon the person who  
4 has had the principal care and custody of the minor during the  
5 sixty days preceding the date of the petition if [~~such~~] that  
6 person can be found within the State. Notice shall also be  
7 given to [~~such~~] any other persons as the court may designate.

8 (b) The notice shall include the following:

9 (1) The date, time, place of hearing, a clear statement of  
10 the purpose of the proceedings and of possible  
11 consequences to the subject; and a statement of the  
12 legal standard upon which commitment is authorized;

13 (2) A copy of the petition;

14 (3) A written notice, in plain and simple language, that  
15 the subject may waive [~~such a~~] the hearing by  
16 voluntarily agreeing to hospitalization, or with the  
17 approval of the court, to some other form of  
18 treatment;

19 (4) A filled-out form indicating [~~such~~] the waiver;

20 (5) A written notice, in plain and simple language, that  
21 the subject or the subject's guardian or  
22 representative may apply at any time for a hearing on



1 the issue of the subject's need for hospitalization,  
2 if the subject has previously waived [~~such~~] a hearing;

3 (6) Notice that the subject is entitled to the assistance  
4 of an attorney and that the public defender has been  
5 notified of these proceedings;

6 (7) Notice that if the subject does not want to be  
7 represented by the public defender, the subject may  
8 contact the subject's own attorney; and

9 (8) Notice, [~~if such be the case,~~] if applicable, that the  
10 petitioner intends to adduce evidence to show that the  
11 subject of the petition is an incapacitated or  
12 protected person, or both, under article V of chapter  
13 560, and whether or not appointment of a guardian is  
14 sought at the hearing. If appointment of a guardian  
15 is to be recommended, and a nominee is known at the  
16 time the petition is filed, the identity of the  
17 nominee shall be disclosed.

18 (c) If the subject executes and files a waiver of the  
19 hearing, upon acceptance by the court following a court  
20 determination that the [~~person~~] subject understands the  
21 [~~person's~~] subject's rights and is competent to waive them, the  
22 court shall order the subject to be committed to a facility that



1 has agreed to admit the subject as an involuntary patient or, if  
2 the subject is at [~~such~~] a facility, that the subject be  
3 retained there."

4 SECTION 5. Section 334-60.5, Hawaii Revised Statutes, is  
5 amended as follows:

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

7 "(a) The court may adjourn or continue a hearing for  
8 failure to timely notify a spouse [~~or~~], reciprocal beneficiary,  
9 or civil union partner, guardian, relative, or other person  
10 determined by the court to be entitled to notice, or for failure  
11 by the subject to contact an attorney as provided in section  
12 334-60.4(b)(7) if the court determines the interests of justice  
13 so require.

14 (b) [~~The time and form of the procedure incident to~~  
15 ~~hearing the issues in the petition shall be provided by court~~  
16 ~~rule.~~] Unless the hearing is waived, the judge shall hear the  
17 petition as soon as possible and no later than ten days after  
18 the date the petition is filed unless a reasonable delay is  
19 sought for good cause shown by the subject of the petition, the  
20 subject's attorney, or those persons entitled to receive notice  
21 of the hearing under section 334-60.4.



1        The time and form of the procedure incident to hearing the  
2 issues in the petition shall be determined by court rule,  
3 provided that:

4        (1) The subject shall have the right to counsel and to the  
5 assistance of a mental health expert;

6        (2) The subject shall not be called as a witness without  
7 the subject's consent;

8        (3) The subject shall have the right to confront and  
9 cross-examine all witnesses and to present evidence in  
10 the subject's own behalf;

11       (4) The hearing shall be public unless it is requested to  
12 be private by the subject or the subject's counsel;

13       (5) A stenographic or other sufficient record shall be  
14 made, which shall be kept by the court and may be  
15 obtained or examined only upon the request of the  
16 subject or the subject's counsel or by order of the  
17 court on good cause shown;

18       (6) The hearing shall be conducted by a judge and may be  
19 held at a location other than a courthouse when doing  
20 so appears to be in the best interest of the subject;  
21 and





1        (7) A decision shall be rendered within forty-eight hours  
2                    after the close of evidence."

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

4            "(d) Hearings may be held at any convenient place within  
5 the circuit. The subject of the petition, any interested  
6 person, or the court on its own motion may request a hearing in  
7 another circuit because of convenience to the parties,  
8 witnesses, or the court or because of the [~~individual's~~]  
9 subject's mental or physical condition."

10          3. By amending subsection (i) to read:

11          "(i) If after hearing all relevant evidence, including the  
12 result of any diagnostic examination ordered by the court, the  
13 court finds that [~~an individual is not a person requiring~~] the  
14 subject does not require medical, psychiatric, psychological, or  
15 other rehabilitative treatment or supervision, the court shall  
16 order that the [~~individual~~] subject be discharged if the  
17 [~~individual~~] subject has been hospitalized prior to the hearing.

18          If the court finds that the criteria for involuntary  
19 hospitalization under section 334-60.2(1) [~~has~~] have been met  
20 beyond a reasonable doubt and that the criteria under [~~sections~~]  
21 section 334-60.2(2) and 334-60.2(3) have been met by clear and  
22 convincing evidence, the court may issue an order to any police



1 officer to deliver the subject to a facility that has agreed to  
2 admit the subject as an involuntary patient, or if the subject  
3 is already a patient in a psychiatric facility, authorize the  
4 facility to retain the patient for treatment for a period of  
5 ninety days unless sooner discharged. Inpatient treatment shall  
6 be deemed appropriate only after full consideration has been  
7 given to less restrictive alternatives. Investigation of  
8 treatment alternatives shall include consideration of the  
9 subject's relationship to the subject's community and family,  
10 the subject's employment possibilities, all available community  
11 resources, and guardianship services. An order of commitment  
12 shall include findings on this issue. An order of commitment  
13 shall specify which of those persons served with notice pursuant  
14 to section 334-60.4, together with [~~such~~] any other persons as  
15 the court may designate, shall be entitled to receive any  
16 subsequent notice of intent to discharge, transfer, or  
17 recommit."

18 SECTION 6. Section 334-60.6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§334-60.6 Period of detention.** (a) The psychiatric  
21 facility may detain a subject for a period of time ordered by  
22 the court not to exceed ninety days from the date of admission



1 unless sooner discharged by the facility pursuant to section  
2 [~~334-76 or section 334-74.~~] 334-74 or 334-76. At the end of the  
3 ninety-day period, the subject shall be discharged automatically  
4 except as provided in sections 704-406, 704-411, and 706-607,  
5 unless before expiration of the period and by a proceeding  
6 initiated pursuant to section 334-60.3, the facility obtains a  
7 court order for the subject's recommitment. Recommitment for a  
8 period not to exceed ninety days may not be ordered unless the  
9 court determines that the criteria for involuntary  
10 hospitalization set forth in section 334-60.2 continue to exist.  
11 If at the end of a recommitment period the court finds that the  
12 criteria for involuntary hospitalization set forth in section  
13 334-60.2 continue to exist and are likely to continue beyond  
14 ninety days, the court may order recommitment for a period not  
15 to exceed one hundred eighty days.

16 (b) Nothing in this section shall preclude a facility from  
17 accepting for voluntary inpatient treatment, in accordance with  
18 the procedures in section 334-60.1, a patient, for whom the  
19 facility contemplates discharge pursuant to section 334-60.7 and  
20 who voluntarily agrees to further hospitalization after the  
21 period of commitment has expired, or where the patient is no  
22 longer a proper subject for commitment."



1 SECTION 7. Section 334-71, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§334-71 Transfer of patients between facilities.** [A]

4 (a) Except as otherwise provided in subsection (b), a patient  
5 at a psychiatric facility, including those held on court order,  
6 may be transferred to another psychiatric facility when the  
7 administrator of the sending facility determines that it would  
8 be in the best interest of the patient that the patient be  
9 transferred and the administrator of the receiving facility  
10 agrees to accept the patient; provided that prior notice of  
11 [such] the transfer be given to the subject of [such] the  
12 transfer and to those persons specified in a current order of  
13 commitment. If there is no current order of commitment, notice  
14 shall be given to those persons [enumerated] designated in  
15 section 334-60.4.

16 (b) Whenever a transfer shall constitute a greater  
17 restraint, the transfer shall not take place unless, upon  
18 hearing, a judge finds it to be necessary and appropriate."

19 SECTION 8. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



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

3 SECTION 10. This Act shall take effect upon its approval.  
4

INTRODUCED BY: Renee H Baker

John A

Will Eyo

Erin Ann Chun Oakland

Ariel Yage

Yee Hing

Diane W. Delo

Michelle Julani

Mike Gifford

Miller/Chen



# S.B. NO. 2430

**Report Title:**

Mental Health; Involuntary Psychiatric Hospitalization

**Description:**

Establishes new procedures for the examination and involuntary hospitalization of persons that meet criteria for commitment to psychiatric facilities.

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

