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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

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

1 SECTION 1. The legislature finds that:

2 (1) Hawaii has identified serious problems of high  
3 incarceration and hospitalization rates of those with  
4 severe mental illness;

5 (2) Assisted community treatment provides an opportunity  
6 for people with serious mental illness to be treated  
7 in the least restrictive setting; and

8 (3) Assisted community treatment reduces the trend towards  
9 criminalizing mental illness.

10 Individuals with severe mental illness often cycle between  
11 homelessness, emergency room treatment, incarceration, and  
12 hospitalization. This situation reflects a failure to provide  
13 needed treatment to persons who may need it most and that  
14 treatment is extremely costly. However, the legislature finds  
15 that the situation can be mitigated if individuals are assisted  
16 in being treated in the community.

17 In several states that have implemented assisted community  
18 treatment similar to this Act, research shows that



1 hospitalization rates have dropped by half, the length of  
2 hospital stays has been reduced by up to thirty days per  
3 patient, arrest rates have declined by up to two-thirds, and  
4 days spent in correctional confinement facilities have been  
5 reduced by seventy-two per cent. Moreover, patients in one  
6 state program, despite having violent histories, were found to  
7 be four times less likely to perpetrate serious violence after  
8 being in an assisted community treatment program.

9 The purpose of this Act is to establish an assisted  
10 community treatment program.

11 SECTION 2. Chapter 334, part VIII, Hawaii Revised  
12 Statutes, is amended by amending its title to read as follows:

13 "PART VIII. [~~INVOLUNTARY-OUTPATIENT~~] ASSISTED COMMUNITY  
14 TREATMENT"

15 SECTION 3. Section 334-1, Hawaii Revised Statutes, is  
16 amended by amending the definition of "obviously ill" to read as  
17 follows:

18 "Obviously ill" means [~~a condition in which a person's~~  
19 ~~current behavior and previous history of mental illness, if~~  
20 ~~known, indicate a disabling mental illness, and the person is~~  
21 ~~incapable of understanding that there are serious and highly~~  
22 ~~probable risks to health and safety involved in refusing~~



1 ~~treatment, the advantages of accepting treatment, or of~~  
2 ~~understanding the advantages of accepting treatment and the~~  
3 ~~alternatives to the particular treatment offered, after the~~  
4 ~~advantages, risks, and alternatives have been explained to the~~  
5 ~~person.] that a person is incapable of making an informed~~  
6 ~~medical decision and has behaved in such a manner as to indicate~~  
7 ~~that the person is unlikely, without supervision and assistance~~  
8 ~~of others, to satisfy the person's need for either nourishment,~~  
9 ~~personal or medical care, shelter, or self-protection and~~  
10 ~~safety, so that it is probable that substantial bodily harm,~~  
11 ~~significant psychiatric deterioration or debilitation, or~~  
12 ~~serious illness will result unless adequate treatment is~~  
13 ~~afforded."~~

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

16 "**§334-121 Criteria for ~~[involuntary outpatient]~~ assisted**  
17 **community treatment.** A person may be ordered to obtain  
18 ~~[involuntary outpatient]~~ assisted community treatment if the  
19 family court finds that:

20 (1) The person is suffering from a severe mental disorder  
21 or from substance abuse; and



1 (2) The person is [~~capable of surviving~~] unlikely to live  
2 safely in the community [~~with~~] without available  
3 supervision [~~from family, friends, or others,~~] based  
4 on the professional opinion of a psychiatrist; and

5 (3) The person, at some time in the past: (A) has  
6 received inpatient hospital treatment for a severe  
7 mental disorder or substance abuse[~~7~~] or (B) has been  
8 imminently dangerous to self or others, or is gravely  
9 disabled, as a result of a severe mental disorder or  
10 substance abuse; and

11 (4) The person, based on the person's treatment history  
12 and current [~~behavior,~~] condition, is now in need of  
13 treatment in order to prevent a relapse or  
14 deterioration which would predictably result in the  
15 person becoming imminently dangerous to self or  
16 others[~~7~~] or obviously ill; and

17 (5) The person has a history of lack of adherence to  
18 treatment for mental illness or substance abuse that  
19 includes the following examples:

20 (A) At least twice within the last thirty-six months,  
21 the lack of adherence to treatment has been a  
22 significant factor in: law enforcement being



1           called in response to the person's behavior and  
 2           in meeting the criteria for involuntary  
 3           transportation to a hospital for psychiatric  
 4           evaluation; necessitating hospitalization in a  
 5           facility providing inpatient treatment; or  
 6           treatment by a forensic or other mental health or  
 7           substance abuse unit of a correctional facility  
 8           or a local correctional facility; or

9           (B) The lack of adherence to treatment has resulted  
 10           in one or more acts of serious violent behavior  
 11           toward self or others or threats, or acts of  
 12           serious physical harm to self or others within  
 13           the last forty-eight months;

14        [(-5-)] (6) The person's current mental status or the nature  
 15           of the person's disorder limits or negates the  
 16           person's ability to make an informed decision to  
 17           voluntarily seek or comply with recommended treatment;  
 18           and

19        [(-6-)] (7) There is a reasonable prospect that the  
 20           [~~outpatient~~] assisted community treatment ordered will  
 21           be beneficial to the person[(-)] as the least  
 22           restrictive alternative."



1 SECTION 5. Section 334-122, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§334-122[+] **Definitions.** For the purposes of this  
4 part:

5 [~~Outpatient~~] "Assisted community treatment" includes  
6 medication specifically authorized by court order; individual or  
7 group therapy; day or partial day programming activities;  
8 services and training, including educational and vocational  
9 activities; supervision of living arrangements; and any other  
10 services prescribed to either alleviate the person's disorder or  
11 disability, [~~to~~] maintain or maximize semi-independent  
12 functioning, or [~~to~~] prevent further deterioration that may  
13 reasonably be predicted to result in the need for  
14 hospitalization[-] or more intensive or restrictive levels of  
15 care in the community or incarceration for criminal behavior.

16 "Community" includes any location where an individual may  
17 receive behavioral health services including, but not limited  
18 to, hospitals and emergency rooms, correctional facilities,  
19 state contracted or private behavioral health programs,  
20 independent living, community health centers, and crisis or  
21 homeless shelters and programs.



1       "Designated mental health program" includes a state-  
2 operated or privately-contracted provider who is authorized to  
3 provide mental health services including, but not limited to,  
4 inpatient treatment, outpatient treatment, case management, day  
5 treatment, crisis services, or adult mental health division  
6 community mental health centers.

7       "Interested party" means a parent, grandparent, spouse,  
8 sibling, adult child, reciprocal beneficiary, civil union  
9 partner, service provider, case manager, outreach worker, or  
10 mental health professional.

11       ~~["Outpatient treatment psychiatrist" means the psychiatrist~~  
12 ~~who is responsible for the management and supervision of a~~  
13 ~~person's outpatient treatment under order of the court.]~~

14       "Subject of the order" means a person who has been ordered  
15 by the court to obtain ~~[outpatient]~~ assisted community  
16 treatment.

17       "Subject of the petition" means the person who, under a  
18 petition filed under section 334-123, is alleged to meet the  
19 criteria for ~~[involuntary outpatient]~~ assisted community  
20 treatment.



1        "Treating psychiatrist" means the psychiatrist who is  
2 responsible for the management and supervision of a person's  
3 treatment under order of the court."

4        SECTION 6. Section 334-123, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) Any [~~person~~] interested party may file a petition  
7 with the family court alleging that another person meets the  
8 criteria for [~~involuntary outpatient~~] assisted community  
9 treatment. The petition shall state:

- 10        (1) Each of the criteria numbered (1) through [~~+6~~] (7)  
11        for [~~involuntary outpatient~~] assisted community  
12        treatment, as set out in section 334-121;
- 13        (2) Petitioner's good faith belief that the subject of the  
14        petition meets each of criteria numbered (1) through  
15        [~~+4~~] (7) set forth in section 334-121;
- 16        (3) Facts which support petitioner's good faith belief  
17        that the subject of the petition meets each of the  
18        criteria numbered (1) through [~~+4~~] (7) set forth in  
19        section 334-121 [~~, provided that the hearing on the~~  
20        ~~petition need not be limited to the stated facts~~]; and
- 21        (4) That the subject of the petition is present within the  
22        county where the petition is filed.





1 The hearing on the petition need not be limited to the facts  
2 stated in the petition.

3 The petition shall be executed subject to the penalties of  
4 perjury. The petition need not express any belief, or state any  
5 supporting facts, with reference to the criteria set forth in  
6 section 334-121(5) [~~and~~], (6), and (7), but all [~~six~~] seven  
7 criteria will be addressed at the hearing."

8 SECTION 7. Section 334-125, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) The notice shall include the following:

11 (1) The date, time, place of hearing, a clear statement of  
12 the purpose of the hearing and possible consequences  
13 to the subject, and a statement of the legal standard  
14 upon which [~~involuntary outpatient~~] assisted community  
15 treatment is [authorized,] being considered;

16 (2) A copy of the petition; and

17 (3) Notice that the subject of the petition is [~~entitled~~]  
18 required to be represented by an attorney, and that  
19 the court will appoint a public defender [~~or other~~  
20 ~~attorney for the subject if the subject desires one~~  
21 ~~and is indigent.~~] unless the subject of the petition



1           chooses to be represented by an attorney of the  
2           subject's choice."

3           SECTION 8. Section 334-126, Hawaii Revised Statutes, is  
4 amended by amending subsections (g) and (h) to read as follows:

5           "(g) No subject of the petition shall be ordered to  
6 receive [~~involuntary outpatient~~] assisted community treatment  
7 unless at least one psychiatrist testifies in person at the  
8 hearing who has personally [~~examined~~] assessed the subject  
9 within the time period commencing [~~five~~] ten calendar days  
10 before the filing of the petition and ending at the time of the  
11 psychiatrist's testimony. The psychiatrist's testimony shall  
12 state the facts which support the allegation that the subject  
13 meets all the criteria for [~~involuntary outpatient~~] assisted  
14 community treatment, [~~the recommended outpatient~~] provide a  
15 written treatment[~~-~~] plan, which shall include non-mental health  
16 treatment, and provide the rationale for the recommended  
17 [~~outpatient~~] treatment[~~-~~], and identify the provider or  
18 organization responsible for the coordination of care.

19           If the recommended [~~outpatient~~] assisted community  
20 treatment includes medication, the psychiatrist's testimony  
21 shall describe the types or classes of [~~medication(s)~~]  
22 medication which should be authorized, and describe the physical



1 and mental beneficial and detrimental effects of such  
2 [~~medication(s)-~~] medication.

3 If the subject of the petition has refused to be examined  
4 by a licensed psychiatrist, the family court may request the  
5 subject to consent to examination by a psychiatrist appointed by  
6 the court or employed at a community mental health center. If  
7 the subject of the petition does not consent and the family  
8 court finds sufficient evidence to believe that the allegations  
9 in the petition are true, the family court may order the  
10 commitment of the subject to a psychiatric facility for  
11 examination. The commitment shall not be for more than [~~twenty-~~  
12 ~~four~~] forty-eight hours. The examining psychiatrist shall  
13 submit the findings and recommendations to the family court.

14 [~~The subject of the petition's refusal to submit~~  
15 ~~voluntarily to examination shall be treated as a denial that the~~  
16 ~~subject is suffering from a severe mental disorder or substance~~  
17 ~~abuse, and a denial that the subject otherwise fits within the~~  
18 ~~criteria for a court order of involuntary outpatient treatment.~~]

19 Nothing herein shall be construed in a way that limits the  
20 subject of the petition's privilege against self-incrimination.

21 (h) The subject of the petition may secure [~~one or more~~] a  
22 psychiatric [~~examinations~~] examination and present the findings



1 as evidence at the hearing. The subject shall be entitled to a  
2 psychiatric examination at a community mental health center if  
3 the subject so desires, and if an examination has not already  
4 been conducted at a community mental health center which will  
5 lead to psychiatric testimony at the hearing."

6 SECTION 9. Section 334-127, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~§~~334-127[~~§~~] **Disposition.** (a) If after hearing all  
9 relevant evidence, including the results of an examination  
10 ordered by the family court, the family court finds that the  
11 subject of the petition does not meet the criteria for  
12 [~~involuntary outpatient~~] assisted community treatment, the  
13 family court shall dismiss the petition.

14 (b) If after hearing all relevant evidence, including the  
15 results of an examination ordered by the family court, the  
16 family court finds by clear and convincing evidence that the  
17 subject of the petition meets the criteria for [~~involuntary~~  
18 ~~outpatient~~] assisted community treatment, the family court shall  
19 order the subject to obtain [~~outpatient~~] assisted community  
20 treatment for a period of not more than [~~180~~] one hundred eighty  
21 days. [~~The order shall also state the outpatient treatment~~  
22 ~~which the subject is to obtain.~~]



1           If the court finds by clear and convincing evidence that  
2 the beneficial mental and physical effects of recommended  
3 ~~[medication(s)]~~ medication outweigh the detrimental mental and  
4 physical effects, if any, the order may authorize types or  
5 classes of ~~[medication(s)]~~ medication to be included in  
6 ~~[outpatient]~~ treatment ~~[in]~~ at the discretion of the ~~[outpatient~~  
7 ~~treatment]~~ treating psychiatrist.

8           The court order shall also state who should receive notice  
9 of intent to ~~[early]~~ discharge early in the event that the  
10 ~~[outpatient treatment]~~ treating psychiatrist determines, prior  
11 to the end of the court ordered period of treatment, that the  
12 subject should be ~~[early]~~ discharged early from ~~[outpatient~~  
13 ~~involuntary]~~ assisted community treatment.

14           The court order shall also apply to the subject in the  
15 event that the subject changes the setting of treatment.

16           (c) The family court shall also designate on the order the  
17 ~~[outpatient treatment]~~ treating psychiatrist who is to be  
18 responsible for the management and supervision of the subject's  
19 ~~[outpatient]~~ treatment, or shall ~~[designate]~~ assign an  
20 administrator of a ~~[community]~~ designated mental health ~~[center]~~  
21 program to, in turn, designate ~~[such an outpatient treatment]~~  
22 the treating psychiatrist during the treatment period without



1 court approval, and may designate either a publicly employed  
2 psychiatrist, or a private psychiatrist, provided that the  
3 private psychiatrist shall agree to the designation.

4 (d) Nothing in this section shall preclude the subject's  
5 stipulation of continuing an existing court order."

6 SECTION 10. Section 334-128, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "~~§~~**334-128**~~§~~ **Treatment costs and fees.** Private  
9 treatment pursuant to the court order shall be at the expense of  
10 the subject of the petition, except to the extent such charges  
11 are covered by other laws or programs. Treatment through a  
12 ~~community~~ designated mental health ~~center~~ program shall be  
13 pursuant to its fee schedules; however, the subject of the order  
14 shall not be denied treatment by a ~~community~~ designated mental  
15 health ~~center~~ program for failure to pay ~~such~~ the fees."

16 SECTION 11. Section 334-129, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "~~§~~**334-129**~~§~~ **Failure to comply with ~~outpatient~~**  
19 **assisted community treatment.** (a) ~~[An outpatient treatment]~~ A  
20 treating psychiatrist may prescribe or administer to the subject  
21 of the order reasonable and appropriate medication~~s~~ or  
22 medications, if specifically authorized by the court order, and



1 treatment which is consistent with accepted medical standards  
2 and the family court order.

3 (b) No subject of the order shall be physically forced to  
4 take medication [~~or forcibly detained for treatment~~] under a  
5 family court order for [~~involuntary outpatient treatment.~~]  
6 assisted community treatment, unless the subject is hospitalized  
7 or placed in a correctional facility subsequent to the date of  
8 the assisted community treatment order for failure to comply  
9 with the order of the court.

10 The subject of the order may be forcibly detained for  
11 transport by a police officer or other law enforcement officer  
12 to a designated mental health program for the purposes of  
13 implementation of the assisted community treatment order. A  
14 service provider or other interested party may also transport  
15 the subject of the order so long as the subject does not object.

16 (c) The [~~outpatient treatment~~] treating psychiatrist or  
17 psychiatrist's designee shall make all reasonable efforts to  
18 solicit the subject's compliance with the prescribed treatment.  
19 If the subject fails or refuses to comply after the efforts to  
20 solicit compliance, the [~~outpatient treatment~~] treating  
21 psychiatrist shall so notify the court and may submit a petition  
22 under part IV for the involuntary hospitalization of the



1 subject~~[7]~~; provided that the refusal of treatment shall not  
2 constitute evidence toward any of the criteria for involuntary  
3 hospitalization."

4 SECTION 12. Section 334-130, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§334-130[+] **Discharge.** [~~An outpatient~~] A subject of  
7 assisted community treatment is automatically and fully  
8 discharged at the end of the family court ordered period of  
9 [~~outpatient~~] treatment, a period of not more than 180 days,  
10 unless a new family court order has been obtained [~~as provided~~  
11 ~~hereinbelow~~]."

12 SECTION 13. Section 334-131, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "[+] (a) [~~An outpatient treatment~~] A treating psychiatrist  
15 shall commence the early discharge procedure for a subject of  
16 the order if the [~~outpatient treatment~~] treating psychiatrist  
17 finds that the subject no longer meets the criteria for  
18 [~~involuntary outpatient~~] assisted community treatment.

19 The [~~outpatient treatment~~] treating psychiatrist shall send  
20 to the clerk of the family court which issued the order for  
21 [~~involuntary outpatient~~] assisted community treatment,  
22 notification that in the psychiatrist's opinion the subject of





1 the order should be discharged prior to the end of the period  
2 specified in the court order.

3 The clerk of the court shall then prepare and mail to the  
4 persons whom the family court order specified are entitled  
5 thereto, a notice of intent of early discharge. The notice of  
6 intent of early discharge shall be mailed at least five days  
7 prior to the intended date of discharge."

8 SECTION 14. Section 334-132, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~§334-132~~ **Objection to discharge.** Any person who  
11 has received a notice of intent to early discharge a subject of  
12 the order may file an objection with the family court. Upon  
13 receipt of an objection, the family court shall hold a hearing  
14 on the discharge. The hearing shall be conducted as provided  
15 under section 334-134.

16 If the family court finds by clear and convincing evidence  
17 that the subject of the order continues to meet the criteria for  
18 [~~involuntary-outpatient~~] assisted community treatment, the  
19 family court shall order the subject to continue the  
20 [~~outpatient~~] treatment for the unexpired period of its earlier  
21 order.



1           If the family court finds that the subject of the order  
2 does not meet the criteria for [~~involuntary outpatient~~] assisted  
3 community treatment, the family court shall dismiss the  
4 objection and order the early discharge of the subject."

5           SECTION 15. Section 334-133, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "~~§~~**§334-133**~~§~~ **Petition for additional period of**  
8 **treatment; hearing.** Prior to the expiration of the period of  
9 [~~involuntary outpatient~~] assisted community treatment ordered by  
10 the family court, any person, including [~~an outpatient~~  
11 ~~treatment~~] a treating psychiatrist, may file a petition with the  
12 family court for an order of continued [~~involuntary outpatient~~]  
13 assisted community treatment. The petition shall be filed and  
14 notice provided in the same manner as under sections 334-123 and  
15 334-125.

16           The family court shall hold a hearing on the petition and  
17 make its decision in the same manner as provided under sections  
18 334-123 to 334-127. The family court may order the continued  
19 [~~involuntary outpatient~~] assisted community treatment for not  
20 more than [~~180 days~~] one year after the date of the hearing  
21 pursuant to this section.



1        Nothing in this section shall preclude the subject's  
2        stipulation of continuing an existing court order.

3                This section shall be in addition to the provisions on the  
4        objection to discharge."

5                SECTION 16. Section 334-134, Hawaii Revised Statutes, is  
6        amended to read as follows:

7                "[+]§334-134[+] **Hearing for discharge.** Any person may  
8        petition the family court for the discharge of an order of  
9        [~~involuntary-outpatient~~] assisted community treatment during the  
10       period of [~~outpatient~~] community treatment [~~if more than~~] after  
11       sixty days [~~after~~] from the most recent hearing involving the  
12       subject of the order. The petition shall be filed, notice  
13       given, hearing held, and order made in the same manner as  
14       provided for the original petition alleging that the subject of  
15       the order met the criteria for [~~involuntary-outpatient~~] assisted  
16       community treatment."

17                SECTION 17. Section 334-141, Hawaii Revised Statutes, is  
18        amended by amending the definition of "outpatient treatment" to  
19        read as follows:

20                "[~~"Outpatient treatment" includes~~] "Community services"  
21        includes any substance abuse or mental health treatment provided  
22        through individual or group therapy, a hospital, day or partial



1 day programs, [~~and~~] intensive day treatment [~~and which does not~~  
2 ~~require the individual to reside on a twenty four hour basis in~~  
3 ~~the facility for more than three days to~~], residential programs  
4 or inpatient units, or a mental health unit in a correctional  
5 facility where the individual may benefit from the treatment  
6 program."

7 SECTION 18. This Act does not affect rights and duties  
8 that matured, penalties that were incurred, and proceedings that  
9 were begun before its effective date.

10 SECTION 19. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 20. This Act shall take effect on July 1, 2050.



**Report Title:**

Mental Health; Involuntary Outpatient Treatment; Assisted  
Community Treatment

**Description:**

Establishes an assisted community treatment program in lieu of the involuntary outpatient treatment program. Replaces the term "involuntary outpatient treatment" with "assisted community treatment". Defines "obviously ill". Makes several amendments regarding involuntary outpatient treatment procedures. Effective July 1, 2050. (SB310 HD1)

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

