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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 severe mental illness to be treated in  
7 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 failure 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, research shows that hospitalization rates have



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

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

10 SECTION 2. Chapter 334, Hawaii Revised Statutes, is  
11 amended by adding a new section to part VIII to be appropriately  
12 designated and to read as follows:

13 "§334- Confidentiality. The records, files, and  
14 orders for assisted community treatment shall be subject to the  
15 confidentiality provisions of chapter 323B; sections 325-101,  
16 333E-6, and 334-5; and 42 Code of Federal Regulations part 2,  
17 and 45 Code of Federal Regulations part 164, subpart E, and any  
18 future amendments thereto, as applicable.

19 SECTION 3. Chapter 334, part VIII, Hawaii Revised  
20 Statutes, is amended by amending its title to read as follows:

21 "PART VIII. ~~[INVOLUNTARY OUTPATIENT]~~ ASSISTED COMMUNITY  
22 TREATMENT"

1 SECTION 4. Section 334-1, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding a new definition to read:

4 "Law enforcement officer" shall have the meaning provided  
5 in section 710-1000."

6 2. By amending the definition of "dangerous to self" to  
7 read:

8 "Dangerous to self" means the person recently has  
9 [~~threatened~~]:

10 (1) Threatened or attempted suicide or serious bodily  
11 harm; or [~~the person recently has behaved~~]

12 (2) Behaved in such a manner as to indicate that the  
13 person is unable, without supervision and the  
14 assistance of others, to satisfy the need for  
15 nourishment, essential medical care, shelter or self-  
16 protection, so that it is probable that death,  
17 substantial bodily injury, or serious physical  
18 debilitation or disease will result unless adequate  
19 treatment is afforded."

20 3. By deleting the definitions of "gravely disabled" and  
21 "obviously ill".



1       ~~["Gravely disabled" means a condition in which a person,~~  
2 ~~as a result of a mental disorder, (1) is unable to provide for~~  
3 ~~that individual's basic personal needs for food, clothing, or~~  
4 ~~shelter; (2) is unable to make or communicate rational or~~  
5 ~~responsible decisions concerning the individual's personal~~  
6 ~~welfare; and (3) lacks the capacity to understand that this is~~  
7 ~~so.~~

8       ~~"Obviously ill" means a condition in which a person's~~  
9 ~~current behavior and previous history of mental illness, if~~  
10 ~~known, indicate a disabling mental illness, and the person is~~  
11 ~~incapable of understanding that there are serious and highly~~  
12 ~~probable risks to health and safety involved in refusing~~  
13 ~~treatment, the advantages of accepting treatment, or of~~  
14 ~~understanding the advantages of accepting treatment and the~~  
15 ~~alternatives to the particular treatment offered, after the~~  
16 ~~advantages, risks, and alternatives have been explained to the~~  
17 ~~person." ]~~

18       SECTION 5. Section 334-59, Hawaii Revised Statutes, is  
19 amended as follows:

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

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



1 (1) If a [~~police~~] law enforcement officer has reason to  
2 believe that a person is imminently dangerous to self  
3 or others, [~~or is gravely disabled, or is obviously~~  
4 ~~ill,~~] the officer shall call for assistance from the  
5 mental health emergency workers designated by the  
6 director. Upon determination by the mental health  
7 emergency workers that the person is imminently  
8 dangerous to self or others, [~~or is gravely disabled,~~  
9 ~~or is obviously ill,~~] the person shall be transported  
10 by ambulance or other suitable means, to a licensed  
11 psychiatric facility for further evaluation and  
12 possible emergency hospitalization. A [~~police~~] law  
13 enforcement officer may also take into custody and  
14 transport to any facility designated by the director  
15 any person threatening or attempting suicide[-], or  
16 may take into custody and transport to any designated  
17 mental health program, any person subject to an  
18 assisted community treatment order, issued pursuant to  
19 part VIII of this chapter, for further evaluation and  
20 possible emergency hospitalization. The officer shall  
21 make application for the examination, observation, and  
22 diagnosis of the person in custody. The application



1 shall state or shall be accompanied by a statement of  
 2 the circumstances under which the person was taken  
 3 into custody and the reasons therefor which shall be  
 4 transmitted with the person to a physician or  
 5 psychologist at the facility[-], or to a licensed  
 6 psychiatrist at a designated mental health program.

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



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

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

- 13 (A) Mentally ill or suffering from substance abuse;
- 14 (B) Imminently dangerous to self or others [~~or is~~  
15 ~~gravely disabled, or is obviously ill~~]; and
- 16 (C) In need of care or treatment;

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



1 licensed psychologist may administer treatment as is  
2 psychologically necessary.

3 (b) Emergency examination. A patient who is delivered for  
4 emergency examination and treatment to a facility designated by  
5 the director shall be examined by a licensed physician without  
6 unnecessary delay, and may be given such treatment as is  
7 indicated by good medical practice. A psychiatrist or  
8 psychologist may further examine the patient to diagnose the  
9 presence or absence of a mental disorder, assess the risk that  
10 the patient may be dangerous to self or others, [~~or is gravely~~  
11 ~~disabled, or is obviously ill,~~] and assess whether or not the  
12 patient needs to be hospitalized."

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

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

- 17 (1) Mentally ill or suffering from substance abuse;  
18 (2) Imminently dangerous to self or others[~~, or is gravely~~  
19 ~~disabled, or is obviously ill~~]; and  
20 (3) In need of care or treatment, or both;

21 the physician or the psychologist may direct that the patient be  
22 hospitalized on an emergency basis or cause the patient to be





1 transferred to another psychiatric facility for emergency  
2 hospitalization, or both. The patient shall have the right  
3 immediately upon admission to telephone the patient's guardian  
4 or a family member including a reciprocal beneficiary, or an  
5 adult friend and an attorney. If the patient declines to  
6 exercise that right, the staff of the facility shall inform the  
7 adult patient of the right to waive notification to the family  
8 including a reciprocal beneficiary, and shall make reasonable  
9 efforts to ensure that the patient's guardian or family  
10 including a reciprocal beneficiary, is notified of the emergency  
11 admission but the patient's family including a reciprocal  
12 beneficiary, need not be notified if the patient is an adult and  
13 requests that there be no notification. The patient shall be  
14 allowed to confer with an attorney in private."

15 SECTION 6. Section 334-60.2, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§334-60.2 Involuntary hospitalization criteria.** A person  
18 may be committed to a psychiatric facility for involuntary  
19 hospitalization, if the court finds:

20 (1) That the person is mentally ill or suffering from  
21 substance abuse;



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

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

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

10           "(d) Hearings may be held at any convenient place within  
11 the circuit. The subject of the petition, any interested  
12 [~~person~~] party, or the court on its own motion may request a  
13 hearing in another circuit because of convenience to the  
14 parties, witnesses, or the court or because of the individual's  
15 mental or physical condition."

16           2. By amending subsections (i) and (j) to read:

17           "(i) If after hearing all relevant evidence, including the  
18 result of any diagnostic examination ordered by the court, the  
19 court finds that an individual is not a person requiring  
20 medical, psychiatric, psychological, or other rehabilitative  
21 treatment or supervision, the court shall order that the



1 individual be discharged if the individual has been hospitalized  
2 prior to the hearing.

3       (j) If the court finds that the criteria for involuntary  
4 hospitalization under section 334-60.2(1) has been met beyond a  
5 reasonable doubt and that the criteria under sections 334-  
6 60.2(2) and 334-60.2(3) have been met by clear and convincing  
7 evidence, the court may issue an order to any [~~police~~] law  
8 enforcement officer to deliver the subject to a facility that  
9 has agreed to admit the subject as an involuntary patient, or if  
10 the subject is already a patient in a psychiatric facility,  
11 authorize the facility to retain the patient for treatment for a  
12 period of ninety days unless sooner discharged. The court may  
13 also authorize the involuntary administration of medication,  
14 where the subject has an existing order for assisted community  
15 treatment, issued pursuant to part VIII of this chapter,  
16 relating to assisted community treatment, and in accordance with  
17 the treatment prescribed by that prior order. An order of  
18 commitment shall specify which of those persons served with  
19 notice pursuant to section 334-60.4, together with such other  
20 persons as the court may designate, shall be entitled to receive  
21 any subsequent notice of intent to discharge, transfer, or  
22 recommit.



1        [~~(j)~~] (k) The court may find that the subject of the  
2 petition is an incapacitated or protected person, or both, under  
3 article V of chapter 560, and may appoint a guardian or  
4 conservator, or both, for the subject under the terms and  
5 conditions as the court shall determine."

6        SECTION 8. Section 334-121, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "**§334-121 Criteria for [~~involuntary outpatient~~] assisted**  
9 **community treatment**. A person may be ordered to obtain  
10 [~~involuntary outpatient~~] assisted community treatment if the  
11 family court finds that:

- 12        (1) The person is [~~suffering from a severe mental disorder~~  
13        ~~or~~] mentally ill or suffering from substance abuse;  
14        and  
15        (2) The person is [~~capable of surviving~~] unlikely to live  
16        safely in the community [~~with~~] without available  
17        supervision [~~from family, friends, or others,~~] based  
18        on the professional opinion of a psychiatrist; and  
19        (3) The person, at some time in the past: (A) has  
20        received inpatient hospital treatment for [~~a severe~~]  
21        mental [~~disorder~~] illness or substance abuse[~~,~~] or (B)  
22        has been found to be imminently dangerous to self or



1 others, [~~or is gravely disabled,~~] as a result of [a  
2 ~~severe~~] mental [~~disorder~~] illness or substance abuse;  
3 and

4 (4) The person, based on the person's treatment history  
5 and current [~~behavior,~~] condition, is now in need of  
6 treatment in order to prevent a relapse or  
7 deterioration which would predictably result in the  
8 person becoming imminently dangerous to self or  
9 others; and

10 (5) The person has a history of a lack of adherence to  
11 treatment for mental illness or substance abuse, and  
12 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 The assisted community treatment [~~ordered will be~~  
18 ~~beneficial to the person.~~] is medically appropriate,  
19 and in the person's medical interests; and

20 (7) Considering less intrusive alternatives, assisted  
21 community treatment is essential to prevent the danger  
22 posed by the person."



1 SECTION 9. 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 "Designated mental health program" includes a state-  
17 operated or private provider who is authorized to provide mental  
18 health services, including but not limited to inpatient  
19 treatment, outpatient treatment, case management, day treatment,  
20 or crisis services.



1        "Interested party" means a parent, grandparent, spouse,  
2 sibling, adult child, reciprocal beneficiary, service provider,  
3 case manager, outreach worker, or mental health professional.

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

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

10        "Subject of the petition" means the person who, under a  
11 petition filed under section 334-123, is alleged to meet the  
12 criteria for [~~involuntary outpatient~~] assisted community  
13 treatment.

14        "Treating psychiatrist" means the psychiatrist who is  
15 responsible for the management and supervision of a person's  
16 treatment under order of the court."

17        SECTION 10. Section 334-123, Hawaii Revised Statutes, is  
18 amended to read as follows:

19        "**§334-123 [Petition.] Initiation of proceeding for**  
20 **assisted community treatment.** (a) Any [~~person~~] interested  
21 party may file a petition with the family court alleging that



1 another person meets the criteria for [~~involuntary outpatient~~]  
2 assisted community treatment. The petition shall state:

3 (1) Each of the criteria numbered (1) through [~~+6~~] (7)  
4 for [~~involuntary outpatient~~] assisted community  
5 treatment, as set out in section 334-121;

6 (2) Petitioner's good faith belief that the subject of the  
7 petition meets each of the criteria numbered (1)  
8 through [~~+4~~] (7) set forth in section 334-121;

9 (3) Facts which support petitioner's good faith belief  
10 that the subject of the petition meets each of the  
11 criteria numbered (1) through [~~+4~~] (7) set forth in  
12 section 334-121[~~, provided that the hearing on the~~  
13 ~~petition need not be limited to the stated facts~~]; and

14 (4) The subject of the petition is present within the county  
15 where the petition is filed.

16 The hearing on the petition need not be limited to the  
17 facts stated in the petition. The petition shall be executed  
18 subject to the penalties of perjury. [~~The petition need not~~  
19 ~~express any belief, or state any supporting facts, with~~  
20 ~~reference to the criteria set forth in section 334-121(5) and~~  
21 ~~(6), but all six criteria will be addressed at the hearing.]~~





1 (b) The petition may~~[, but need not,]~~ be accompanied by  
2 ~~[any statement]~~ a certificate of a licensed psychiatrist ~~[or~~  
3 ~~other mental health professional]~~ who has examined the subject  
4 of the petition at any time prior to the submission of the  
5 petition.

6 (c) If the subject of the petition has refused to submit  
7 to examination by a licensed psychiatrist, the fact of the  
8 refusal shall be alleged in the petition."

9 SECTION 11. Section 334-124, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~[+]~~**§334-124**~~[+]~~ **Hearing date.** The family court shall set  
12 a hearing date on a petition as soon as possible, but within ten  
13 days after filing of the petition."

14 SECTION 12. Section 334-125, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§334-125 Notice.** (a) Notice of the hearing shall be:

17 (1) Served personally on the subject of the petition  
18 pursuant to family court rules; and

19 (2) ~~[Delivered]~~ Served personally or ~~[mailed]~~ by certified  
20 or registered mail, return receipt requested,  
21 deliverable to the addressee only, to as many as are  
22 known to the petitioner of the subject's spouse or



1 reciprocal beneficiary, legal parents, adult children,  
2 and legal guardian, if one has been appointed[-  
3 ~~Petitioner shall certify that such notices have been~~  
4 ~~mailed, and to whom, but proof of receipt of such~~  
5 ~~notices is not required. Notice shall also be served~~  
6 ~~on any other person that the court designates-];~~

7 (3) Served on the public defender, attorney for the  
8 subject of the petition, or other court appointed  
9 attorney as applicable; and

10 (4) Given to such other persons as the court may  
11 designate.

12 (b) The notice shall include the following:

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

19 (2) A copy of the petition; ~~[and]~~

20 (3) Notice that the subject of the petition is entitled to  
21 ~~[be represented by]~~ the assistance of an attorney, and  
22 that the ~~[court will appoint a public defender or~~



1 ~~other attorney for the subject if the subject desires~~  
2 ~~one and is indigent.]~~ public defender has been  
3 notified of these proceedings; and

4 (4) Notice that if the subject does not want to be  
5 represented by the public defender, the subject may  
6 contact the subject's own attorney.

7 ~~[(c) The family court may continue a hearing for failure~~  
8 ~~to timely notify or a person entitled to be noticed.]"~~

9 SECTION 13. Section 334-126, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~[f]~~**§334-126**~~[t]~~ **Hearing**~~[r]~~ on petition. (a) The court  
12 may adjourn or continue a hearing for failure to timely notify a  
13 person entitled to be notified.

14 ~~[(a)]~~ (b) The time and form of the procedure incident to  
15 hearing the issues in the petition shall be provided by family  
16 court rule and consistent with this part.

17 ~~[(b) The hearing]~~ (c) Hearings may be held at any  
18 convenient place within the circuit. The subject of the  
19 petition, any interested ~~[person,]~~ party, or the family court  
20 upon its own motion may request a hearing in another court  
21 because of inconvenience to the parties, witnesses, or the



1 family court or because of the subject's physical or mental  
2 condition.

3 ~~[(+e)]~~ (d) The hearing shall be closed to the public,  
4 unless the subject of the petition requests otherwise.

5 ~~[(+d)]~~ (e) The subject of the petition shall be present at  
6 the hearing. However, if the subject has been served with the  
7 petition and does not appear at the hearing, the court, in its  
8 discretion, may go forward with the hearing.

9 ~~[(+e)]~~ (f) The subject of the petition need not, but may,  
10 be represented by an attorney. If the subject desires an  
11 attorney and is indigent, or if the family court determines that  
12 the legal or factual issues raised are of such complexity that  
13 the assistance of an attorney is necessary for an adequate  
14 presentation of the merits or that the subject of the petition  
15 is unable to speak for the subject's self, the family court  
16 shall order the appointment of a public defender or other  
17 attorney to represent the subject and continue the hearing for  
18 not more than ~~[five]~~ seven days.

19 ~~[(+f)]~~ (g) If the subject of the petition is represented by  
20 an attorney, the attorney shall be allowed adequate time for  
21 investigation of the matters at issue and for preparation~~[-The~~  
22 attorney], and shall be permitted to present the evidence



1 ~~[believed]~~ that the attorney believes necessary for a proper  
2 disposition of the proceeding.

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

18 If the recommended ~~[outpatient]~~ assisted community  
19 treatment includes medication, the psychiatrist's testimony  
20 shall describe the types or classes of ~~[medication(s)]~~  
21 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 in the form of a written treatment plan.

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

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



1       ~~[(h)]~~ (i) The subject of the petition may secure ~~[one or~~  
2 ~~more]~~ a psychiatric ~~[examinations]~~ examination and present the  
3 findings as evidence at the hearing. The subject shall be  
4 entitled to a psychiatric examination at a community mental  
5 health center if the subject so desires, and if an examination  
6 has not already been conducted at a community mental health  
7 center which will lead to psychiatric testimony at the hearing."

8       SECTION 14. Section 334-127, Hawaii Revised Statutes, is  
9 amended to read as follows:

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

16       (b) If after hearing all relevant evidence, including the  
17 results of ~~[an]~~ any diagnostic examination ordered by the family  
18 court, the family court finds ~~[by clear and convincing evidence~~  
19 ~~that the subject of the petition meets the criteria for~~  
20 ~~involuntary outpatient treatment,]~~ that the criteria for  
21 assisted community treatment under section 334-121(1) has been  
22 met beyond a reasonable doubt and that the criteria under



1 sections 334-121(2) to 334-121(7) have been met by clear and  
2 convincing evidence, the family court shall order the subject to  
3 obtain ~~[outpatient]~~ assisted community treatment for a period of  
4 not more than ~~[180]~~ one hundred eighty days. ~~[The order shall~~  
5 ~~also state the outpatient treatment which the subject is to~~  
6 ~~obtain.]~~ The written treatment plan submitted pursuant to  
7 section 334-126(h) shall be attached to the order and made a  
8 part of the order.

9 If the family court finds by clear and convincing evidence  
10 that the beneficial mental and physical effects of recommended  
11 ~~[medication(s)]~~ medication outweigh the detrimental mental and  
12 physical effects, if any, the order may authorize types or  
13 classes of ~~[medication(s)]~~ medication to be included in  
14 ~~[outpatient]~~ treatment ~~[in]~~ at the discretion of the ~~[outpatient~~  
15 ~~treatment]~~ treating psychiatrist.

16 The court order shall also state who should receive notice  
17 of intent to ~~[early]~~ discharge early in the event that the  
18 ~~[outpatient-treatment]~~ treating psychiatrist determines, prior  
19 to the end of the court ordered period of treatment, that the  
20 subject should be ~~[early]~~ discharged early from ~~[outpatient~~  
21 ~~involuntary]~~ assisted community treatment.





1 (c) The family court shall also designate on the order  
2 the ~~[outpatient treatment]~~ treating psychiatrist who is to be  
3 responsible for the management and supervision of the subject's  
4 ~~[outpatient]~~ treatment, or shall ~~[designate]~~ assign an  
5 administrator of a ~~[community]~~ designated mental health ~~[center]~~  
6 program to, in turn, designate ~~[such an outpatient treatment]~~  
7 the treating psychiatrist during the treatment period without  
8 court approval, and may designate either a publicly employed  
9 psychiatrist, or a private psychiatrist, provided that the  
10 private psychiatrist shall agree to the designation. The order  
11 for assisted community treatment shall be subject to the  
12 confidentiality provisions of chapter 323B, sections 325-101,  
13 333E-6, and 334-5, 42 Code of Federal Regulations part 2, and 45  
14 Code of Federal Regulations part 164, subpart E, and any future  
15 amendments thereto as applicable.

16 (d) Nothing in this section shall preclude the subject's  
17 stipulation to the continuance an existing court order."

18 SECTION 15. Section 334-128, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 " ~~[+]§334-128[+]~~ **Treatment costs and fees.** Private  
21 treatment pursuant to the court order shall be at the expense of  
22 the subject of the petition, except to the extent such charges



1 are covered by other laws or programs~~[-]~~; provided that where  
 2 treatment is rendered at a private hospital and the subject of  
 3 the petition is uninsured, the State shall reimburse the private  
 4 hospital for services rendered. Treatment through a [~~community~~]  
 5 designated mental health [~~center~~] program shall be pursuant to  
 6 its fee schedules; however, the subject of the order shall not  
 7 be denied treatment by a [~~community~~] designated mental health  
 8 [~~center~~] program for failure to pay [~~such~~] the fees."

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

11 " ~~[+]§334-129[+]~~ **Failure to comply with [~~outpatient~~]**  
 12 **assisted community treatment.** (a) [~~An outpatient treatment~~] A  
 13 treating psychiatrist may prescribe or administer to the subject  
 14 of the order reasonable and appropriate medication~~[-]~~ or  
 15 medications, if specifically authorized by the court order, and  
 16 treatment which is consistent with accepted medical standards  
 17 and the family court order~~[-]~~, including the written treatment  
 18 plan submitted pursuant to section 334-126(h).

19 (b) No subject of the order shall be physically forced to  
 20 take medication [~~or forcibly detained for treatment~~] under a  
 21 family court order for [~~involuntary outpatient treatment.~~]  
 22 assisted community treatment, except in accordance with section



1 334-60.5, relating to admission to a psychiatric facility,  
2 subsequent to the date of the current assisted community  
3 treatment order.

4 (c) A subject may be transported to a designated mental  
5 health program for failure to comply with an order for assisted  
6 community treatment via the following methods:

7 (1) By an interested party with the consent of the subject  
8 of the order; or

9 (2) In accordance with section 334-59.

10 ~~[(e)]~~ (d) The [outpatient treatment] treating psychiatrist  
11 or psychiatrist's designee shall make all reasonable efforts to  
12 solicit the subject's compliance with the prescribed treatment.  
13 If the subject fails or refuses to comply after the efforts to  
14 solicit compliance, the [outpatient treatment] treating  
15 psychiatrist shall [se notify the court and may submit a  
16 petition under] assess whether the subject of the order meets  
17 criteria for admission to a psychiatric facility under part IV  
18 [for the involuntary hospitalization of the subject,] of this  
19 chapter, and proceed with the admission; provided that the  
20 refusal of treatment shall not, by itself, constitute [evidenece]  
21 a basis [toward any of the criteria] for involuntary  
22 hospitalization."



1 SECTION 17. Section 334-130, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+]§334-130[+]~~ ~~[Discharge]~~ Period of assisted community  
4 treatment. (a) The assisted community treatment order shall  
5 continue to apply to the subject, for the duration specified in  
6 the order, regardless of whether the treatment setting changes.

7 ~~[An outpatient]~~ (b) A subject of assisted community  
8 treatment is automatically and fully discharged at the end of  
9 the family court ordered period of ~~[outpatient]~~ treatment, a  
10 period of not more than ~~[180]~~ one hundred eighty days, unless a  
11 new family court order has been obtained as provided  
12 hereinbelow.

13 (c) Nothing in this section shall preclude the subject's  
14 stipulation to the continuance an existing court order."

15 SECTION 18. Section 334-131, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 " ~~[+]§334-131[+]~~ ~~Early]~~ Notice of intent to discharge.  
18 ~~[+]~~ (a) ~~[+]~~ ~~[An outpatient treatment]~~ When the treating  
19 psychiatrist ~~[shall commence the early]~~ contemplates discharge  
20 [procedure] for a subject of the order ~~[if the outpatient~~  
21 ~~treatment psychiatrist finds that the subject no longer meets~~  
22 ~~the criteria for involuntary outpatient treatment.]~~ because of



1 expiration of the court order or because the subject of the  
2 order is no longer a proper subject for assisted community  
3 treatment, as determined by the criteria in section 334-121, the  
4 treating psychiatrist shall provide notice of intent to  
5 discharge.

6 (b) ~~[The outpatient treatment psychiatrist shall send to~~  
7 ~~the clerk of the]~~ The notice shall be filed with the family  
8 court which issued the order for [involuntary outpatient]  
9 assisted community treatment, [notification that in the  
10 psychiatrist's opinion the subject of the order should be  
11 discharged prior to the end of the period specified in the court  
12 order.] and served by personal service or by certified mail on  
13 those persons whom the order for assisted community treatment  
14 specifies as entitled to receive notice.

15 (c) ~~[The clerk of the court shall then prepare and mail to~~  
16 ~~the persons whom the family court order specified are entitled~~  
17 ~~thereto, a notice of intent of early discharge.]~~ The notice of  
18 intent ~~[of]~~ to discharge shall be mailed at least ~~[five]~~ ten  
19 days prior to the intended date of discharge.

20 ~~[-(b)-]~~ (d) If no objection is filed under section 334-132  
21 within five days of the mailing of notice, the ~~[family court~~  
22 ~~shall enter an order of discharge, and]~~ subject of the order is



1 thereupon fully discharged from [~~involuntary outpatient~~]  
2 assisted community treatment [~~and the clerk of the family court~~  
3 ~~shall promptly so notify the subject of the order]."~~

4 SECTION 19. Section 334-132, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "~~[-]~~**\$334-132**~~[+]~~ **Objection to discharge.** [~~Any~~] (a) If any  
7 person [~~who has received a~~] specified as entitled to receive  
8 notice [~~of intent to early discharge a subject of the order may~~  
9 ~~file an~~] files a written objection with the family court [~~. Upon~~  
10 ~~receipt of an objection,~~] on the grounds that the subject of the  
11 order is a proper subject for assisted community treatment, the  
12 family court shall [~~hold~~] conduct a hearing [~~on the discharge.~~]  
13 to determine if the subject of the order still meets the  
14 criteria for assisted community treatment in section 334-121.

15 The hearing shall be conducted as provided under section 334-  
16 134.

17 (b) If the family court finds [~~by clear and convincing~~  
18 ~~evidence~~] that the subject of the order continues to meet the  
19 criteria for [~~involuntary outpatient~~] assisted community  
20 treatment [~~7~~] in section 334-121, the family court shall order  
21 the subject to continue the [~~outpatient~~] treatment for the  
22 unexpired period of its earlier order.



1        (c) If the family court finds that the subject of the  
2 order does not meet the criteria for [~~involuntary outpatient~~]  
3 assisted community treatment[~~7~~] in section 334-121, the [~~family~~]  
4 court shall dismiss the objection and order the early discharge  
5 of the subject."

6        SECTION 20. Section 334-133, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "[~~+~~]**§334-133**[~~+~~] **Petition for additional period treatment;**  
9 **hearing.** (a) Prior to the expiration of the period of  
10 [~~involuntary outpatient~~] assisted community treatment ordered by  
11 the family court, any [~~person, including an outpatient treatment~~  
12 ~~psychiatrist,~~] interested party may file a petition with the  
13 family court for an order of continued [~~involuntary outpatient~~]  
14 assisted community treatment. The petition shall be filed and  
15 notice provided in the same manner as under sections 334-123 and  
16 334-125.

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



1 criteria for assisted community treatment continue to exist and  
2 are likely to continue beyond one hundred eighty days.

3 (c) Nothing in this section shall preclude the subject's  
4 stipulation to the continuance an existing court order. This  
5 section shall be in addition to the provisions on the objection  
6 to discharge."

7 SECTION 21. Section 334-134, Hawaii Revised Statutes, is  
8 amended to read as follows:

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

19 SECTION 22. This Act does not affect rights and duties  
20 that matured, penalties that were incurred, and proceedings that  
21 were begun before its effective date.





1 SECTION 23. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 24. 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 for severely mentally ill individuals who meet specified criteria. Amends procedures for determination of order to and discharge from a treatment program. Effective July 1, 2050. (SB310 HD2)

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

