
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. Section 334-121, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§334-121~~ **Criteria for ~~[involuntary outpatient]~~ assisted**
14 **community treatment**. A person may be ordered to obtain
15 ~~[involuntary outpatient]~~ assisted community treatment if the
16 family court finds that:

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

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



- 1 (3) The person, at some time in the past: (A) has
2 received inpatient hospital treatment for a severe
3 mental disorder or substance abuse, or (B) has been
4 imminently dangerous to self or others, or is gravely
5 disabled, as a result of a severe mental disorder or
6 substance abuse; and
- 7 (4) The person, based on the person's treatment history
8 and current [~~behavior~~,] condition, is now in need of
9 treatment in order to prevent a relapse or
10 deterioration which would predictably result in the
11 person becoming imminently dangerous to self or
12 others[?] or obviously ill; and
- 13 (5) The person has a history of lack of adherence to
14 treatment for mental illness or substance abuse that
15 includes but is not limited to the following examples:
- 16 (A) At least twice within the last thirty-six months,
17 the lack of adherence to treatment has been a
18 significant factor in: law enforcement being
19 called in response to the person's behavior and
20 in meeting the criteria for involuntary
21 transportation to a hospital for psychiatric
22 evaluation; in necessitating hospitalization in a



1 facility providing inpatient treatment; or in
2 treatment by a forensic or other mental health or
3 substance abuse unit of a correctional facility
4 or a local correctional facility; or

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

10 [+(5)] (6) The person's current mental status or the nature
11 of the person's disorder limits or negates the
12 person's ability to make an informed decision to
13 voluntarily seek or comply with recommended treatment;
14 and

15 [+(6)] (7) There is a reasonable prospect that the
16 ~~[outpatient]~~ assisted community treatment ordered will
17 be beneficial to the person[-] as the least
18 restrictive alternative."

19 SECTION 3. Section 334-122, Hawaii Revised Statutes, is
20 amended to read as follows:

21 " [+] § 334-122 [+] **Definitions.** For the purposes of this
22 part:



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

12 "Community" includes any location where an individual may
13 receive behavioral health services, including but not limited to
14 hospitals and emergency rooms, state contracted or private
15 behavioral health programs, independent living, community health
16 centers, and crisis or homeless shelters and programs.

17 "Designated mental health program" includes a state-
18 operated or privately-contracted provider who is authorized to
19 provide mental health services including but not limited to:
20 inpatient treatment, outpatient treatment, case management, day
21 treatment, crisis services, or adult mental health division
22 community mental health centers.



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

5 "Obviously ill" means that a person is incapable of making
6 an informed medical decision and has behaved in such a manner as
7 to indicate that the person is unlikely, without supervision and
8 assistance of others, to satisfy the person's need for either
9 nourishment, personal or medical care, shelter, or self-
10 protection and safety, so that it is probable that substantial
11 bodily harm, significant psychiatric deterioration or
12 debilitation, or serious illness will result unless adequate
13 treatment is afforded.

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

17 "Subject of the order" means a person who has been ordered
18 by the court to obtain [outpatient] assisted community
19 treatment.

20 "Subject of the petition" means the person who, under a
21 petition filed under section 334-123, is alleged to meet the



1 criteria for [~~involuntary outpatient~~] assisted community
2 treatment.

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

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

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

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

15 (2) Petitioner's good faith belief that the subject of the
16 petition meets each of criteria numbered (1) through
17 [~~(4)~~] (7) set forth in section 334-121;

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



1 (4) That the subject of the petition is present within the
2 county where the petition is filed.

3 The hearing on the petition need not be limited to the facts
4 stated in the petition.

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

10 SECTION 5. Section 334-125, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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 and possible consequences
15 to the subject, and a statement of the legal standard
16 upon which [~~involuntary outpatient~~] assisted community
17 treatment is [~~authorized,~~] being considered;

18 (2) A copy of the petition; and

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



1 ~~and is indigent.]~~ unless the subject of the petition
 2 chooses to be represented by an attorney of the
 3 subject's choice."

4 SECTION 6. Section 334-126, Hawaii Revised Statutes, is
 5 amended by amending subsections (g) and (h) to read as follows:

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

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



1 medication which should be authorized, and describe the physical
2 and mental beneficial and detrimental effects of such
3 [~~medication(s)-~~] medication.

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

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

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



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

8 SECTION 7. 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 examination
 12 ordered by the family court, the family court finds that the
 13 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 examination ordered by the family court, the
 18 family court finds by clear and convincing evidence that the
 19 +subject of the petition meets the criteria for ~~[involuntary~~
 20 ~~outpatient]~~ assisted community treatment, the family court shall
 21 order the subject to obtain ~~[outpatient]~~ assisted community
 22 treatment for a period of not more than 180 days. ~~[The order~~



1 ~~shall also state the outpatient treatment which the subject is~~
2 ~~to obtain.]~~

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

10 The court order shall also state who should receive notice
11 of intent to ~~[early] discharge~~ early in the event that the
12 ~~[outpatient treatment]~~ treating psychiatrist determines, prior
13 to the end of the court ordered period of treatment, that the
14 subject should be ~~[early] discharged~~ early from ~~[outpatient~~
15 ~~involuntary]~~ assisted community 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 8. 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 9. 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[~~7~~] 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.

7 The subject of the order may be forcibly detained for
8 transport. A service provider, police officer or other law
9 enforcement officer, or other interested party may transport the
10 subject of the order to a designated mental health program for
11 the purposes of implementation of the assisted community
12 treatment order.

13 (c) The [~~outpatient treatment~~] treating psychiatrist or
14 psychiatrist's designee shall make all reasonable efforts to
15 solicit the subject's compliance with the prescribed treatment.
16 If the subject fails or refuses to comply after the efforts to
17 solicit compliance, the [~~outpatient treatment~~] treating
18 psychiatrist shall so notify the court and may submit a petition
19 under part IV for the involuntary hospitalization of the
20 subject, provided that the refusal of treatment shall not
21 constitute evidence toward any of the criteria for involuntary
22 hospitalization."



1 SECTION 10. Section 334-130, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§334-130[+] **Discharge.** [~~An outpatient~~] A subject of
4 assisted community treatment is automatically and fully
5 discharged at the end of the family court ordered period of
6 [~~outpatient~~] treatment, a period of not more than 180 days,
7 unless a new family court order has been obtained [~~as provided~~
8 ~~hereinbelow~~]."

9 SECTION 11. Section 334-131, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

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

16 The [~~outpatient treatment~~] treating psychiatrist shall send
17 to the clerk of the family court which issued the order for
18 [~~involuntary outpatient~~] assisted community treatment,
19 notification that in the psychiatrist's opinion the subject of
20 the order should be discharged prior to the end of the period
21 specified in the court order.



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

6 SECTION 12. Section 334-132, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§334-132~~ **Objection to discharge.** Any person who
9 has received a notice of intent to early discharge a subject of
10 the order may file an objection with the family court. Upon
11 receipt of an objection, the family court shall hold a hearing
12 on the discharge. The hearing shall be conducted as provided
13 under section 334-134.

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

20 If the family court finds that the subject of the order
21 does not meet the criteria for ~~[involuntary outpatient]~~ assisted



1 community treatment, the family court shall dismiss the
2 objection and order the early discharge of the subject."

3 SECTION 13. Section 334-133, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**§334-133**[~~+~~] **Petition for additional period of**
6 **treatment; hearing.** Prior to the expiration of the period of
7 [~~involuntary-outpatient~~] assisted community treatment ordered by
8 the family court, any person, including [~~an-outpatient~~
9 ~~treatment~~] a treating psychiatrist, may file a petition with the
10 family court for an order of continued [~~involuntary-outpatient~~]
11 assisted community treatment. The petition shall be filed and
12 notice provided in the same manner as under sections 334-123 and
13 334-125.

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

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



1 This section shall be in addition to the provisions on the
2 objection to discharge."

3 SECTION 14. Section 334-134, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§334-134[+] **Hearing for discharge.** Any person may
6 petition the family court for the discharge of an order of
7 [~~involuntary outpatient~~] assisted community treatment during the
8 period of [~~outpatient~~] community treatment [~~if more than~~] after
9 sixty days [~~after~~] from the most recent hearing involving the
10 subject of the order. The petition shall be filed, notice
11 given, hearing held, and order made in the same manner as
12 provided for the original petition alleging that the subject of
13 the order met the criteria for [~~involuntary outpatient~~] assisted
14 community treatment."

15 SECTION 15. Section 334-141, Hawaii Revised Statutes, is
16 amended by amending the definition of "outpatient treatment" to
17 read as follows:

18 "[~~"Outpatient treatment" includes~~] "Community services"
19 include any substance abuse or mental health treatment provided
20 through individual or group therapy, a hospital, day or partial
21 day programs, [~~and~~] intensive day treatment [~~and which does not~~
22 ~~require the individual to reside on a twenty four hour basis in~~



1 ~~the facility for more than three days to],~~ residential programs
2 or inpatient units, or a mental health unit in a correctional
3 facility where the individual may benefit from the treatment
4 program."

5 SECTION 16. Chapter 334, part VIII, Hawaii Revised
6 Statutes, is amended by amending its title to read as follows:

7 "PART VIII. [~~INVOLUNTARY OUTPATIENT~~] ASSISTED COMMUNITY
8 TREATMENT"

9 SECTION 17. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 18. This Act shall take effect upon its approval.

12



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". Makes several amendments regarding involuntary outpatient treatment procedures. (SD1)

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

