
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 334-1, Hawaii Revised Statutes, is
12 amended by amending the definition of "obviously ill" to read as
13 follows:

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



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

10 SECTION 3. Section 334-121, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§334-121 Criteria for [involuntary outpatient] assisted**
13 **community treatment.** A person may be ordered to obtain
14 [involuntary outpatient] assisted community treatment if the
15 family court finds that:

- 16 (1) The person is suffering from a severe mental disorder
17 or from substance abuse; and
- 18 (2) The person is [capable of surviving] unlikely to live
19 safely in the community [with] without available
20 supervision [from family, friends, or others,] based
21 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 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; necessitating hospitalization in a



1 facility providing inpatient treatment; or
 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, 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 4. 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, correctional facilities, state
15 contracted or private behavioral health programs, independent
16 living, community health centers, and crisis or homeless
17 shelters and programs.

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



1 treatment, crisis services, or adult mental health division
2 community mental health centers.

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

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

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

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

17 "Treating psychiatrist" means the psychiatrist who is
18 responsible for the management and supervision of a person's
19 treatment under order of the court."

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



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

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

8 (2) Petitioner's good faith belief that the subject of the
9 petition meets each of criteria numbered (1) through
10 [~~4~~] (7) set forth in section 334-121;

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

16 (4) That the subject of the petition is present within the
17 county where the petition is filed.

18 The hearing on the petition need not be limited to the facts
19 stated in the petition.

20 The petition shall be executed subject to the penalties of
21 perjury. The petition need not express any belief, or state any
22 supporting facts, with reference to the criteria set forth in



1 section 334-121(5) [~~and~~], (6), and (7), but all [~~six~~] seven
2 criteria will be addressed at the hearing."

3 SECTION 6. Section 334-125, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

6 (1) The date, time, place of hearing, a clear statement of
7 the purpose of the hearing and possible consequences
8 to the subject, and a statement of the legal standard
9 upon which [~~involuntary outpatient~~] assisted community
10 treatment is [~~authorized,~~] being considered;

11 (2) A copy of the petition; and

12 (3) Notice that the subject of the petition is [~~entitled~~]
13 required to be represented by an attorney, and that
14 the court will appoint a public defender [~~or other~~
15 ~~attorney for the subject if the subject desires one~~
16 ~~and is indigent.~~] unless the subject of the petition
17 chooses to be represented by an attorney of the
18 subject's choice."

19 SECTION 7. Section 334-126, Hawaii Revised Statutes, is
20 amended by amending subsections (g) and (h) to read as follows:

21 "(g) No subject of the petition shall be ordered to
22 receive [~~involuntary outpatient~~] assisted community treatment

1 unless at least one psychiatrist testifies in person at the
 2 hearing who has personally ~~examined~~ assessed the subject
 3 within the time period commencing ~~[five]~~ ten calendar days
 4 before the filing of the petition and ending at the time of the
 5 psychiatrist's testimony. The psychiatrist's testimony shall
 6 state the facts which support the allegation that the subject
 7 meets all the criteria for ~~[involuntary outpatient]~~ assisted
 8 community treatment, ~~[the recommended outpatient]~~ provide a
 9 written treatment[-] plan, which shall include non-mental health
 10 treatment, and provide the rationale for the recommended
 11 ~~[outpatient]~~ treatment[-], and identify the provider or
 12 organization responsible for the coordination of care.

13 If the recommended ~~[outpatient]~~ assisted community
 14 treatment includes medication, the psychiatrist's testimony
 15 shall describe the types or classes of ~~[medication(s)]~~
 16 medication which should be authorized, and describe the physical
 17 and mental beneficial and detrimental effects of such
 18 ~~[medication(s)-]~~ medication.

19 If the subject of the petition has refused to be examined
 20 by a licensed psychiatrist, the family court may request the
 21 subject to consent to examination by a psychiatrist appointed by
 22 the court or employed at a community mental health center. If

1 the subject of the petition does not consent and the family
2 court finds sufficient evidence to believe that the allegations
3 in the petition are true, the family court may order the
4 commitment of the subject to a psychiatric facility for
5 examination. The commitment shall not be for more than [~~twenty-~~
6 ~~four~~] forty-eight hours. The examining psychiatrist shall
7 submit the findings and recommendations to the family court.

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

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

15 (h) The subject of the petition may secure [~~one or more~~] a
16 psychiatric [~~examinations~~] examination and present the findings
17 as evidence at the hearing. The subject shall be entitled to a
18 psychiatric examination at a community mental health center if
19 the subject so desires, and if an examination has not already
20 been conducted at a community mental health center which will
21 lead to psychiatric testimony at the hearing."



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

3 "[~~§~~§334-127~~§~~] **Disposition.** (a) If after hearing all
4 relevant evidence, including the results of an examination
5 ordered by the family court, the family court finds that the
6 subject of the petition does not meet the criteria for
7 [~~involuntary outpatient~~] assisted community treatment, the
8 family court shall dismiss the petition.

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

18 If the court finds by clear and convincing evidence that
19 the beneficial mental and physical effects of recommended
20 [~~medication(s)~~] medication outweigh the detrimental mental and
21 physical effects, if any, the order may authorize types or
22 classes of [~~medication(s)~~] medication to be included in



1 ~~[outpatient]~~ treatment ~~[in]~~ at the discretion of the ~~[outpatient~~
2 ~~treatment]~~ treating psychiatrist.

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

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

11 (c) The family court shall also designate on the order the
12 ~~[outpatient treatment]~~ treating psychiatrist who is to be
13 responsible for the management and supervision of the subject's
14 ~~[outpatient]~~ treatment, or shall ~~[designate]~~ assign an
15 administrator of a ~~[community]~~ designated mental health ~~[center]~~
16 program to, in turn, designate ~~[such an outpatient treatment]~~
17 the treating psychiatrist during the treatment period without
18 court approval, and may designate either a publicly employed
19 psychiatrist, or a private psychiatrist, provided that the
20 private psychiatrist shall agree to the designation.

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



1 SECTION 9. Section 334-128, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~]**\$334-128**[~~+~~] **Treatment costs and fees.** Private
4 treatment pursuant to the court order shall be at the expense of
5 the subject of the petition, except to the extent such charges
6 are covered by other laws or programs. Treatment through a
7 [~~community~~] designated mental health [~~center~~] program shall be
8 pursuant to its fee schedules; however, the subject of the order
9 shall not be denied treatment by a [~~community~~] designated mental
10 health [~~center~~] program for failure to pay [~~such~~] the fees."

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

13 "[~~+~~]**\$334-129**[~~+~~] **Failure to comply with [~~outpatient~~]**
14 **assisted community treatment.** (a) [~~An outpatient treatment~~] A
15 treating psychiatrist may prescribe or administer to the subject
16 of the order reasonable and appropriate medication[~~7~~] or
17 medications, if specifically authorized by the court order, and
18 treatment which is consistent with accepted medical standards
19 and the family court order.

20 (b) No subject of the order shall be physically forced to
21 take medication [~~or forcibly detained for treatment~~] under a
22 family court order for [~~involuntary outpatient treatment.~~]



1 assisted community treatment, unless the subject is hospitalized
2 or placed in a correctional facility subsequent to the date of
3 the assisted community treatment order for failure to comply
4 with the order of the court.

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

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

21 SECTION 11. Section 334-130, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~{}~~§334-130~~{}~~ Discharge. ~~[An outpatient]~~ A subject of
2 assisted community treatment is automatically and fully
3 discharged at the end of the family court ordered period of
4 ~~[outpatient]~~ treatment, a period of not more than 180 days,
5 unless a new family court order has been obtained ~~[as provided~~
6 ~~hereinbelow]~~."

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

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

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

20 The clerk of the court shall then prepare and mail to the
21 persons whom the family court order specified are entitled
22 thereto, a notice of intent of early discharge. The notice of



1 intent of early discharge shall be mailed at least five days
2 prior to the intended date of discharge."

3 SECTION 13. Section 334-132, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~§~~334-132~~]~~ **Objection to discharge.** Any person who
6 has received a notice of intent to early discharge a subject of
7 the order may file an objection with the family court. Upon
8 receipt of an objection, the family court shall hold a hearing
9 on the discharge. The hearing shall be conducted as provided
10 under section 334-134.

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

17 If the family court finds that the subject of the order
18 does not meet the criteria for [~~involuntary-outpatient~~] assisted
19 community treatment, the family court shall dismiss the
20 objection and order the early discharge of the subject."

21 SECTION 14. Section 334-133, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~{}~~§334-133~~{}~~ Petition for additional period of
2 treatment; hearing. Prior to the expiration of the period of
3 ~~[involuntary outpatient]~~ assisted community treatment ordered by
4 the family court, any person, including ~~[an outpatient~~
5 ~~treatment]~~ a treating psychiatrist, may file a petition with the
6 family court for an order of continued ~~[involuntary outpatient]~~
7 assisted community treatment. The petition shall be filed and
8 notice provided in the same manner as under sections 334-123 and
9 334-125.

10 The family court shall hold a hearing on the petition and
11 make its decision in the same manner as provided under sections
12 334-123 to 334-127. The family court may order the continued
13 ~~[involuntary outpatient]~~ assisted community treatment for not
14 more than ~~[180 days]~~ one year after the date of the hearing
15 pursuant to this section.

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

18 This section shall be in addition to the provisions on the
19 objection to discharge."

20 SECTION 15. Section 334-134, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~{}~~§334-134~~{}~~ **Hearing for discharge.** Any person may
2 petition the family court for the discharge of an order of
3 ~~[involuntary outpatient]~~ assisted community treatment during the
4 period of ~~[outpatient]~~ community treatment ~~[if more than]~~ after
5 sixty days ~~[after]~~ from the most recent hearing involving the
6 subject of the order. The petition shall be filed, notice
7 given, hearing held, and order made in the same manner as
8 provided for the original petition alleging that the subject of
9 the order met the criteria for ~~[involuntary outpatient]~~ assisted
10 community treatment."

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

14 "~~["Outpatient treatment" includes]~~ "Community services"
15 includes any substance abuse or mental health treatment provided
16 through individual or group therapy, a hospital, day or partial
17 day programs, ~~[and]~~ intensive day treatment ~~[and which does not~~
18 ~~require the individual to reside on a twenty-four hour basis in~~
19 ~~the facility for more than three days to]~~, residential programs
20 or inpatient units, or a mental health unit in a correctional
21 facility where the individual may benefit from the treatment
22 program."



1 SECTION 17. Chapter 334, part VIII, Hawaii Revised
2 Statutes, is amended by amending its title to read as follows:

3 "PART VIII. [~~INVOLUNTARY OUTPATIENT~~] ASSISTED COMMUNITY
4 TREATMENT"

5 SECTION 18. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 19. This Act shall take effect upon its approval.

8



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. (SD2)

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

