

JAN 17 2013

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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1           SECTION 1. Section 334-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4           "Law enforcement officer" has the same meaning as in  
5 section 710-1000."

6           SECTION 2. Section 334-2.5, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8           "(b) The department may operate or contract for a secure  
9 psychiatric rehabilitation program for individuals who require  
10 intensive therapeutic treatment and rehabilitation in a secure  
11 setting. The services authorized by this section shall be for  
12 persons:

13           (1) Involuntarily hospitalized under this chapter for whom  
14 the services cannot be reimbursed, covered, or  
15 provided by an insurer, plan, or other person;

16           (2) Committed to the custody of the director under chapter  
17 704; and

18           (3) Appropriately hospitalized under chapter 704 or 706.



1           The director shall be responsible for the appropriate  
2 placement of all persons placed in facilities or services  
3 contracted for or operated by the director under paragraphs (1)  
4 through (3).

5           Any such person placed in a facility or services contracted  
6 for or operated by the director who leaves or remains away from  
7 the facility or services, without permission, may be apprehended  
8 and returned to the facility or services by any employee of the  
9 department or by any [~~police~~] law enforcement officer without  
10 any warrant or further proceeding."

11           SECTION 3. Section 334-59, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

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

15           (1) If a [~~police~~] law enforcement officer has reason to  
16 believe that a person is imminently dangerous to self  
17 or others, or is gravely disabled, or is obviously  
18 ill, the officer shall call for assistance from the  
19 mental health emergency workers designated by the  
20 director. Upon determination by the mental health  
21 emergency workers that the person is imminently  
22 dangerous to self or others, or is gravely disabled,



1 or is obviously ill, the person shall be transported  
2 by ambulance or other suitable means, to a licensed  
3 psychiatric facility for further evaluation and  
4 possible emergency hospitalization. A [~~police~~] law  
5 enforcement officer may also take into custody and  
6 transport to any facility designated by the director  
7 any person threatening or attempting suicide. The  
8 officer shall make application for the examination,  
9 observation, and diagnosis of the person in custody.  
10 The application shall state or shall be accompanied by  
11 a statement of the circumstances under which the  
12 person was taken into custody and the reasons therefor  
13 which shall be transmitted with the person to a  
14 physician or psychologist at the facility.

15 (2) Upon written or oral application of any licensed  
16 physician, psychologist, attorney, member of the  
17 clergy, health or social service professional, or any  
18 state or county employee in the course of employment,  
19 a judge may issue an ex parte order orally, but shall  
20 reduce the order to writing by the close of the next  
21 court day following the application, stating that  
22 there is probable cause to believe the person is



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1           mentally ill or suffering from substance abuse, is  
2           imminently dangerous to self or others, or is gravely  
3           disabled, or is obviously ill, and in need of care or  
4           treatment, or both, giving the findings on which the  
5           conclusion is based, and directing that a police  
6           officer or other suitable individual take the person  
7           into custody and deliver the person to the nearest  
8           facility designated by the director for emergency  
9           examination and treatment. The ex parte order shall  
10          be made a part of the patient's clinical record. If  
11          the application is oral, the person making the  
12          application shall reduce the application to writing  
13          and shall submit the same by noon of the next court  
14          day to the judge who issued the oral ex parte order.  
15          The written application shall be executed subject to  
16          the penalties of perjury but need not be sworn to  
17          before a notary public.

18          (3) Any licensed physician, physician assistant, or  
19          psychologist who has examined a person and has reason  
20          to believe the person is:

21                (A) Mentally ill or suffering from substance abuse;



1 (B) Imminently dangerous to self or others, or is  
2 gravely disabled, or is obviously ill; and  
3 (C) In need of care or treatment;  
4 may direct transportation, by ambulance or other  
5 suitable means, to a licensed psychiatric facility for  
6 further evaluation and possible emergency  
7 hospitalization. A licensed physician or physician  
8 assistant may administer treatment as is medically  
9 necessary, for the person's safe transportation. A  
10 licensed psychologist may administer treatment as is  
11 psychologically necessary."

12 SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (i) to read as follows:

14 "(i) If after hearing all relevant evidence, including the  
15 result of any diagnostic examination ordered by the court, the  
16 court finds that an individual is not a person requiring  
17 medical, psychiatric, psychological, or other rehabilitative  
18 treatment or supervision, the court shall order that the  
19 individual be discharged if the individual has been hospitalized  
20 prior to the hearing. If the court finds that the criteria for  
21 involuntary hospitalization under section 334-60.2(1) has been  
22 met beyond a reasonable doubt and that the criteria under



1 sections 334-60.2(2) and 334-60.2(3) have been met by clear and  
 2 convincing evidence, the court may issue an order to any  
 3 [~~police~~] law enforcement officer to deliver the subject to a  
 4 facility that has agreed to admit the subject as an involuntary  
 5 patient, or if the subject is already a patient in a psychiatric  
 6 facility, authorize the facility to retain the patient for  
 7 treatment for a period of ninety days unless sooner discharged.  
 8 An order of commitment shall specify which of those persons  
 9 served with notice pursuant to section 334-60.4, together with  
 10 such other persons as the court may designate, shall be entitled  
 11 to receive any subsequent notice of intent to discharge,  
 12 transfer, or recommit."

13 SECTION 5. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.  
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# S.B. NO. 44

**Report Title:**

Mental Health; Emergency Admission; Involuntary Hospitalization;  
Law Enforcement

**Description:**

Adds definition of "law enforcement officer". Amends references from "police officers" to "law enforcement officers" in the Hawaii Revised Statutes sections relating to emergency admission and involuntary hospitalization.

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