



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

**S.B. NO. 310, S.D. 2, H.D. 1, RELATING TO MENTAL HEALTH TREATMENT.**

**BEFORE THE:**

**HOUSE COMMITTEE ON JUDICIARY**

**LATE**

**DATE:** Tuesday, April 02, 2013

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Julio C. Herrera, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports this bill, but strongly requests that the Committee amend this bill consistent with the proposed amendments attached hereto.

This bill amends many of the provisions in chapter 334, Hawaii Revised Statutes (HRS), relating to involuntary outpatient psychiatric treatment, including changing the name from "Involuntary Outpatient Treatment" to "Assisted Community Treatment," with the goal of reducing the hospitalization and the incarceration of persons with severe mental illness.

This proposed amendments modify this bill by deleting two definitions, inserting a new one, laying out the procedural steps in further detail to mirror those of the existing involuntary hospitalization procedures in chapter 334, and changing the effective date to July 1, 2015. This draft deletes the definitions of "gravely disabled" and "obviously ill," as well as deleting all references to those terms throughout chapter 334. These terms are rarely, if ever, used, primarily due to the vagueness of their definitions. The current definition of "dangerous to self" is the accepted standard in the practice, and incorporates the situations contemplated by the deleted terms. This draft also changes the term "police officer" to "law enforcement officer." This allows sheriffs and others as defined in section 710-1000, HRS, to take into custody and transport to a hospital those individuals believed to meet criteria for involuntary hospitalization, or to a designated mental health program those individuals subject to an existing assisted community treatment order for further evaluation.

The proposed amendments, which was a result of discussions between members of Senator Chun-Oakland's Mental Health Group, further details the procedures for initiating the

process of obtaining an assisted community treatment order and the steps to take in the event of non-compliance with the order. First, following the existing procedures for involuntary hospitalization will help speed up the implementation of this law. Second, these proposed amendments address the constitutional concerns raised in earlier hearings on this bill.

Under this proposed draft, a person who is the subject of an assisted community treatment order and refuses treatment will be transported to a designated mental health program in an attempt to solicit compliance with the order. If the person continues to refuse, the person will be further evaluated to determine whether the person meets criteria for involuntary hospitalization. If the person meets criteria for involuntary hospitalization, those existing procedures will be followed, but if the person does not meet the criteria for involuntary hospitalization, the person will be released. Therefore, this proposed draft addresses the earlier concerns about involuntary administration of medication by incorporating the constitutional requirements outlined in State v. Kotis, 91 Hawai'i 319, 984 P.2d 78 (1999), into the criteria for assisted community treatment. Kotis requires a court to find that:

- (1) a person actually poses a danger of physical harm to himself or herself or other;
- (2) that treatment with antipsychotic medication is medically appropriate and in the person's medical interests; and
- (3) that considering less intrusive alternatives, the treatment is essential to forestall the danger posed by the person,

before anyone may be forcibly medicated. Thus, consistent with Kotis, involuntary administration of medication will only be authorized where the subject of an existing assisted community treatment order is subsequently committed to a psychiatric facility, and found to be dangerous to self or others.

Finally, the effective date of the act was changed from July 1, 2050, to July 1, 2015. This will allow the affected agencies to prepare for and implement these procedures.

We strongly urge the Committee to pass this measure with the proposed amendments. Thank you for the opportunity to testify.

Recommended changes to S.B. No. 310, S.D. 2, H.D. 1

SECTIONS 1 & 2 unchanged.

SECTION 3. Section 334-1, Hawaii Revised Statutes, is amended by deleting the definition of "Gravely disabled."

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

SECTION 4. Section 334-1, Hawaii Revised Statutes, is amended by deleting the definition of "Obviously ill."

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

SECTION 5. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of "dangerous to self" to read as follows:

"Dangerous to self" means the person recently has:

(1) threatened or attempted suicide or serious bodily harm;

or

(2) behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to

satisfy the need for nourishment, essential medical care, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded.

SECTION 6. Section 334-1, Hawaii Revised Statutes, is amended by adding a definition for "law enforcement officer" to read as follows:

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

SECTION 7. Section 334-59, Hawaii Revised Statutes is amended by amending subsections (a), (b) and (d) to read as follows:

**"§334-59 Emergency examination and hospitalization.** (a) Initiation of proceedings. An emergency admission may be initiated as follows:

(1) If a [~~police~~] law enforcement officer has reason to believe that a person is imminently dangerous to self or others, [~~or is gravely disabled, or is obviously ill,~~] the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, [~~or is gravely disabled, or is obviously ill,~~] the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A [~~police~~] law enforcement officer may also take into custody and transport to any facility designated by the director, any person threatening or attempting suicide[-]; or to a designated mental health program, any person subject to an assisted community treatment order, issued pursuant to part VIII of this chapter, for further evaluation and possible emergency hospitalization. The officer shall make application for the examination,

observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to a physician or psychologist at the facility[-], or to a licensed psychiatrist at a designated mental health program.

(2) Upon written or oral application of any licensed physician, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, [~~or is gravely disabled, or is obviously ill,~~] and in need of care or treatment, or both, giving the findings [~~on~~] upon which the conclusion is based, and directing that a [~~police~~] law enforcement officer or other suitable individual take the person into custody and deliver the person to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

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

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

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

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

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

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

the physician or the psychologist may direct that the patient be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian

or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform the adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private."

SECTION 8. Section 334-60.2, Hawaii Revised Statutes is amended to read as follows:

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

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

SECTION 9. Section 334-60.5, Hawaii Revised Statutes is amended by amending subsections (i) and (j) to read as follows:

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

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

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

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

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

"§334-121 Criteria for [involuntary-outpatient] assisted community treatment. A person may be ordered to obtain



~~[involuntary outpatient]~~ assisted community treatment if the family court finds that:

(1) The person is ~~[suffering from a severe mental disorder]~~ mentally ill or suffering from substance abuse; and

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

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

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

(5) The person has a history of lack of adherence to treatment for mental illness or substance abuse, and the ~~[The]~~ person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and

(6) ~~[There is a reasonable prospect that the]~~ The ~~[outpatient]~~ assisted community treatment ~~[ordered will be beneficial to the person]~~ is medically appropriate, and in the person's medical interests; and

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

SECTION 11. Section 334-122, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

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

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

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

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

SECTION 12. Section 334-123, Hawaii Revised Statutes, is amended to read as follows:

"§334-123 [Petition.] Initiation of proceeding for assisted community treatment. (a) Any ~~[person]~~ interested party may file a petition with the family court alleging that another person meets the criteria for ~~[involuntary outpatient]~~ assisted community treatment. The petition shall state:

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

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

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

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

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

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

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

SECTION 13. Section 334-124, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

- (1) Served personally on the subject of the petition pursuant to family court rules; and
- (2) ~~[Delivered]~~ Served personally or ~~[mailed]~~ by certified or registered mail, return receipt requested, deliverable to the addressee only, to as many as are known to the petitioner of the subject's spouse or reciprocal beneficiary, legal parents, adult children, ~~[and]~~ legal guardian, if one has been appointed~~[. Petitioners shall certify that such notices have been mailed, and to whom, but proof of receipt of such notices is not required. Notice shall also be served on any other person that the court designates.]~~; and
- (3) Served on the public defender, attorney for the subject of the petition, or other court appointed attorney as the case may be; and

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

(b) The notice shall include the following:

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

(2) A copy of the petition; and

(3) Notice that the subject of the petition is entitled to ~~[be represented by]~~ the assistance of an attorney, and that the ~~[court will appoint a public defender or other attorney for the subject if the subject desires one and is indigent.]~~ public defender has been notified of these proceedings;

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

~~[(e) The family court may continue a hearing for failure to timely notify a person entitled to be notified.]"~~

SECTION 15. Section 334-126, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~ §334-126 ~~[+]~~ Hearing on petition. (a) The court may adjourn or continue a hearing for failure to timely notify a person entitled to be notified.

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

~~[(b)]~~ (c) ~~[The hearing]~~ Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested ~~[person]~~ party, or the family court upon its own motion may request a hearing in another court

because of because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition.

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

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

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

[~~(f)~~] (g) If the subject of the petition is represented by an attorney, the attorney shall be allowed adequate time for investigation of the matters at issue and for preparation[~~—The attorney~~], and shall be permitted to present the evidence [~~believed~~] that the counsel believes necessary for a proper disposition of the proceedings.

[~~(g)~~] (h) No subject of the petition shall be ordered to receive [~~involuntary outpatient~~] assisted community treatment unless at least one psychiatrist testifies in person at the hearing who has personally [~~examined~~] assessed the subject within the time period commencing [~~five~~] ten calendar days before the filing of the petition and ending at the time of the psychiatrist's testimony. The psychiatrist's testimony shall

state the facts which support the allegation that the subject meets all the criteria for [~~involuntary outpatient~~] assisted community treatment, [~~the recommended outpatient~~] provide a written treatment[-] plan, which shall include non-mental health treatment, if appropriate, [and] provide the rationale for the recommended [outpatient] treatment[-], and identify the designated mental health program responsible for the coordination of care.

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

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

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

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

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

SECTION 16. Section 334-127, Hawaii Revised Statutes, is amended to read as follows:

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

(b) If after hearing all relevant evidence, including the results of ~~[an]~~ any diagnostic examination ordered by the family court, the family court finds ~~[by clear and convincing evidence that the subject of the petition meets criteria involuntary outpatient treatment,]~~ that the criteria for assisted community treatment under section 334-121(1) has been met beyond a reasonable doubt and that the criteria under sections 334-121(2) to 334-121(7) have been met by clear and convincing evidence, the family court shall order the subject to obtain ~~[outpatient]~~ assisted community treatment for a period of not more than ~~[180]~~ one hundred eighty days. ~~[The order shall also state the outpatient treatment which the subject is to obtain.]~~ The written treatment plan shall be attached to the order and made a part of the order.



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

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

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

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

SECTION 17. Section 334-128, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]334-128~~ **Treatment costs and fees.** Private treatment pursuant to the court order shall be at the expense of the subject of the petition, except to the extent such charges are covered by other laws or programs. Treatment through a [~~community~~] designated mental health [~~center~~] program shall be

pursuant to its fee schedules; however, the subject of the order shall not be denied treatment by a ~~[community]~~ designated mental health ~~[center]~~ program for failure to pay ~~[such]~~ the fees."

SECTION 18. Section 334-129, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~§334-129~~[f]~~ Failure to comply with [outpatient] assisted community treatment. (a) ~~[An outpatient treatment]~~ A treating psychiatrist may prescribe or administer to the subject of the order reasonable and appropriate medication~~[s]~~ or medications, if specifically authorized by the court order, and treatment which is consistent with accepted medical standards and the family court order~~[s]~~, including the written treatment plan.

(b) No subject of the order shall be physically forced to take medication ~~[or forcibly detained for treatment]~~ under a family court order for ~~[involuntary outpatient treatment.]~~ assisted community treatment, except in accordance with section 334-60.5, relating to admission to a psychiatric facility, subsequent to the date of the current assisted community treatment order.

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

(1) by an interested party with the consent of the subject of the order; or

(2) in accordance with section 334-59.

~~[e]~~ (d) The ~~[outpatient treatment]~~ treating psychiatrist or psychiatrist's designee shall make all reasonable efforts to solicit the subject's compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the ~~[outpatient treatment]~~ treating psychiatrist shall ~~[so notify the court and~~

~~may submit a petition under]~~ assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV [for the involuntary hospitalization of the subject,] of this chapter, and proceed with the admission, provided that the refusal of treatment shall not, by itself, constitute ~~[evidenece]~~ a basis [toward any of the criteria] for involuntary hospitalization."

SECTION 19. Section 334-130, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

SECTION 20. Section 334-131, Hawaii Revised Statutes, is amended to read as follows:

"~~[+] §334-131 [.]~~ [Early] Notice of intent to discharge.  
~~[+] (a) [.] An outpatient treatment]~~ When the treating psychiatrist [shall commence the early] contemplates discharge [procedure] for a subject of the order [if the outpatient treatment psychiatrist finds that the subject no longer meets the criteria for involuntary outpatient treatment.] because of expiration of the court order or because the subject of the order is no longer a proper subject for assisted community treatment, as determined by the criteria in section 334-121, the

treating psychiatrist shall provide notice of intent to discharge.

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

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

~~[(b)]~~ (d) If no objection is filed under section 334-132 within five days of the mailing of notice, the ~~[family court shall enter an order of discharge, and]~~ subject of the order is thereupon fully discharged from ~~[involuntary outpatient]~~ assisted community treatment [and the clerk of the family court shall promptly so notify the subject of the order]."

SECTION 21. Section 334-132, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~ §334-132 ~~[+]~~ Objection to discharge. (a) ~~[Any]~~ If any person [who has received] specified as entitled to receive notice [of intent to early discharge a subject of the order may file an] files a written objection with the family court[.] on the grounds that the subject of the order is a proper subject for assisted community treatment, [Upon receipt of an objection,] the ~~[family]~~ court shall ~~[hold]~~ conduct a hearing ~~[on the discharge]~~ to determine if the subject of the order

still meets the criteria for assisted community treatment in section 334-121. The hearing shall be conducted as provided under section 334-134.

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

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

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

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

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

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

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

SECTION 23. Section 334-134, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 24. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 25. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 26. This act shall take effect no later than July 1, 2015.



**Office of the Public Defender  
State of Hawaii  
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Judiciary**

April 2, 2013 2:00 p.m.

S.B. No. 310, S.D. 2: RELATING TO MENTAL HEALTH TREATMENT

Chair Rhoads and Members of the Committee:

The Office of the Public Defender has reviewed S.B. 310, S.D. 2 and respectfully notes its opposition to this measure.

This measure proposes changes to our mental health statutes and would replace involuntary outpatient treatment with assisted community treatment. While in principle, we agree with the intent of this measure, which is to reduce the amount of mentally ill defendants in the criminal justice system, we believe the breadth of this measure to be overbroad and will result in increasing the amount of people being actively monitored by our mental health system.

We believe that the changes being proposed will make it easier for the court to order assisted community treatment over the current standard for involuntary outpatient treatment. Some of our clients who suffer from a mental illness, disorder or defect elect not to avail themselves to mental health treatment. As long as they do not meet the current standards for involuntary hospitalization or outpatient treatment, they are under no legal obligation to do so. This measure will make it easier for the state to “sweep” the streets for mentally ill people to order into court-supervised treatment. We believe that an individual has the right to be left alone, even at their own peril.

The judiciary already has diversion programs in place for mentally ill defendants. The mental health court and jail diversion program focuses specifically on defendants who have been diagnosed with serious permanent mental illnesses (SPMI) and provides for alternatives to adjudication and incarceration. We believe that the current involuntary outpatient treatment laws strike an appropriate balance between individual rights and public safety.

Thank you for the opportunity to provide input on this measure.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**House Committee on Judiciary**

**S.B. 310, HD1, Relating to Mental Health Treatment**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.  
Director of Health**

**April 2, 2013, 2:00 p.m.**

1 **Department's Position:** The Department of Health (DOH) appreciates the intent of this bill and if  
2 passed, will make every effort to implement as intended. However, we also continue to have concerns  
3 about how the bill will be operationalized; therefore, the DOH will need time to implement this  
4 legislation.

5 **Purpose and Justification:** The bill proposes modifying existing law and includes changing the current  
6 term "involuntary outpatient commitment" to "assisted community treatment." The bill further proposes  
7 modifying some aspects of the existing statute to accomplish this goal, and takes a preliminary step  
8 towards specifying the operational procedures for implementing an order for what will be termed  
9 "assisted community treatment."

10 The DOH understands and supports the intent of this bill, which is to increase the availability of  
11 outpatient services to those who need them and avoid incarceration, prolonged hospitalizations, and  
12 institutionalization. In other states, where versions of legislation such as the bill contemplated here have  
13 been successful, there is much greater availability of professional staff and program support, and very  
14 different levels of mental health service financing.

15 The DOH supports steps to improve and strengthen the foundations for success of the bill in the  
16 State of Hawaii; therefore, we will need time to develop the policies and procedures and to develop the



1 programs and services prior to full implementation of the bill.

2           The Governor convened a Special Action Team (SAT) in the summer and fall of 2012 in  
3 response to an increase in the admissions at the Hawaii State Hospital and the need to revitalize the adult  
4 mental health system. The members of the SAT included representatives from the Governor's Office,  
5 executive branch departments (Attorney General, Health, Human Services, Public Safety, Human  
6 Resources Development, Budget and Finance), the Judiciary, the offices of the Prosecutors of each  
7 county, the office of the Public Defender, Chiefs of Police of each county, community mental health  
8 consumers, providers and advocates. Many of the strategies to successfully implement this bill are  
9 identified in the SAT report such as: identifying and diverting the highest utilizers of services,  
10 developing alternatives to jail or emergency departments, crisis stabilization centers, facilities for those  
11 with severe and persistent mental illness who require long term care, new combinations of intensive case  
12 management and housing, formalized interagency partnerships for housing and case management  
13 services, new housing types for those who require individual living rather than group living, possible  
14 contract rate adjustments, and expediting of eligibility determinations for benefits such as MedQUEST.  
15 In addition, procedures need to be developed that include linkages between the Judiciary, Police  
16 Departments, community providers noted in the bill, Adult Mental Health Division safety net programs,  
17 such as the ACCESS Line and crisis services, and inpatient programs.

18           The DOH is committed to revitalizing our public mental health system to more effectively  
19 address the needs of all individuals, including those towards whom the provisions of this bill are  
20 targeted and through improved safety net services. The DOH recommends incremental implementation  
21 to give the adult mental health system time to develop and implement the appropriate services and  
22 procedures. If this measure is passed, we will continue to work with community stakeholders and  
23 partners to successfully implement SB310.HD1.

24           Thank you for the opportunity to testify on this bill.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

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KIRK W. CALDWELL  
MAYOR



LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE RS-DK

April 2, 2013

The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: Senate Bill No. 310, SD2, HD1, Relating to Mental Health Treatment

I am Roy Sugimoto, Major of the District 1 of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 310, SD2, HD1, Relating to Mental Health Treatment. This bill establishes an assisted community treatment program in lieu of the involuntary outpatient treatment program.

While the HPD supports the intent of the bill, we do not support the amendment in section 334-129, Hawaii Revised Statutes (HRS), Failure to comply with assisted community treatment. Paragraph (b) of this section is amended to state that a police officer or other law enforcement officer may transport the subject of the order to a designated mental health program for purposes of implementation of the assisted community treatment order.

We strongly feel that law enforcement should not become a transport service provider when a person does not comply with community treatment. We currently have the authority to take into custody and transport to any designated facility any person who is imminently dangerous to self or others under section 334-59, HRS, Emergency Examination and Hospitalization.

The Honolulu Police Department urges you to oppose Senate Bill No. 310, SD2, HD1, as currently written. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Sugimoto", written over a horizontal line.

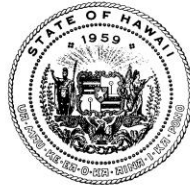
ROY SUGIMOTO, Major  
District 1

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha", written over a horizontal line.  
LOUIS M. KEALOHA  
Chief of Police

*Serving and Protecting With Aloha*

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.  
DIRECTOR OF HEALTH

**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

STATE COUNCIL ON MENTAL HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File: DOH/ADAD

**TESTIMONY IN SUPPORT OF SB 310, SD2, HD1: RELATING TO  
MENTAL HEALTH TREATMENT**

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Michael Zarate

EX-OFFICIO:

Lynn N. Fallin  
Deputy Director for  
Behavioral  
Health Administration

TO: Rep. Karl Rhoads, Chair; Rep. Sharon E. Har, Vice Chair  
and Members, Committee on Judiciary

FROM: G. Mike Durant, Chairperson  
State Council on Mental Health

**Hearing: Tuesday, 4/2/13; 2:00 pm; CR 325**

The State Council on Mental Health passed a resolution in support of SB 310 at its January meeting. Members of the council are appointed by the Governor and include mental health consumers, family members, providers, several state agencies and representatives from all counties.

We believe this bill will improve the lives of severely mentally ill individuals who are being criminalized by being arrested for petty crimes that arise out of their illness, undergo expensive and unnecessary hospitalizations, or have become homeless because of their mental illness.

Our current law covering these situations is flawed and, as a result, little used by the courts. This bill specifically targets only the most severely mentally ill individuals in our community who are psychotic, unable to function, and extremely vulnerable. This bill is the culmination of 2 years of work involving nearly every agency and group involved with the treatment of mental illness. The amendments made during the hearings have produced a better bill and increased support.

In states where similar laws have been enacted, hospitalization and incarceration have been reduced, individuals with violent histories have become significantly less likely to commit violence after Assisted Community Treatment, and individuals with severe psychiatric illnesses who were not in an assisted community program were almost

twice as likely to be victimized as individuals that were part of the program.

I became involved with improving the lives of those with serious mental illness because I had a son who developed schizophrenia and was first hospitalized at the age of 19. For several years he functioned well while taking medication. At about the age of 30 he became less compliant with his medication and was hospitalized several times. He was stabilized in the hospital but became non-compliant with his medication when he was released. Without the proper medication his behavior became erratic and even dangerous. As a result, he took his life 3 years ago at the age of 33. I believe this law could have helped him to stay on his medication after leaving the hospital and may have deterred him from taking his life.

Thank you for the opportunity to testify in support of SB310, SD2, HD1



**TESTIMONY ON SENATE BILL 310, SD 2, HD2  
RELATING TO ASSISTED COMMUNITY TREATMENT**

by

Mark R. Mitchell, Ph.D.,  
Mental Health Branch Administrator  
Department of Public Safety

House Judiciary Committee

April 2, 2013

My name is Dr. Mark Mitchell. I am currently the Mental Health Branch Administrator for the Hawaii Department of Public Safety, and oversee the mental health services for all the state correctional facilities, as well as liaison with community mental health care.

I am testifying in support of H.B. No. 310, SD 2, HD2 amendments introduced by Julio C. Herrera, Deputy Attorney General which revises Chapter 334-121 through 334-141, and 334 part VIII of the Hawaii Revised Statutes in order modify the existing statute pertaining to Involuntary Outpatient Treatment.

The purpose of modifying the existing statute is to make it operational, since the present statute on Involuntary Outpatient Treatment is written in such a manner that there has been only one individual in 13 years for whom the statute has been affected. Modifications to convert the involuntary outpatient treatment statute have been made to make it more consistent with similar statutes in other

states to permit the effective treatment of mentally ill individuals whose failure to remain on medications predictably leads to decompensation thereby requiring unnecessary and over restrictive interventions such as arrest, hospitalization or incarceration.

**Forty-one states presently have statutes that enable involuntary community treatment orders.**

**No fewer than nine independent studies on the effects of implementing similar statutes in other states have demonstrated remarkable improvement in the lives of those who are mentally ill, as well as dramatic reductions in the impact of costly public and private services and resultant costs of delivery of those services.** The study literature on the effects of Assisted Community Treatment reveal significant treatment efficacy, with 75% of patients reporting that it helped them gain control over their lives and 81% reporting that it helped them get and stay well. Overall medication treatment adherence increased by 51%, and positive engagement with other mental health services increase by 103%. There were concomitant reductions in danger and violence, with 55% fewer recipients engaging in suicide attempts or physical self-harm and a 47% reduction in harm to others. Individual outcomes that resulted in significant systemic impact included: a 74% reduction in homelessness, 77% fewer psychiatric hospitalizations, a 56% reduction in the length of hospitalizations, 83% fewer arrests, 87% fewer incarcerations, a 49% reduction in the abuse of alcohol and a 48 % reduction in the abuse of drugs.

**Additionally, it is important to the state of Hawaii to avoid unnecessary criminalization of mentally ill individuals who in need of treatment rather than**

**incarceration.** The incarceration of these individuals burdens the criminal justice system and the courts, clogging court calendars with these repeat offenders that should be treated by the mental health system. Furthermore, criminal records (particularly long-term incarceration and / or repeated arrests) for the mentally ill reduce their employment opportunities even when they are eventually reengaged in community treatment and/or rehabilitation.

In acknowledgement of the complexities of implementing the revised statute, it is recognized the full implementation may take up to two years. However, given that there literally are individuals presently dying in our streets for lack of appropriate mental health treatment, we are requesting that Section 26 , be modified as follows: This act shall be fully implemented no later than July 1, 2015, notwithstanding any individual provider's ability to implement the provisions of this statute at the earliest possible date subsequent to passage of the statute and procedures established by the Family Law Division of the Attorney General's Office.

Thank you for your thoughtful consideration.

Sincerely,

Mark R. Mitchell, Ph.D.

Mental Health Branch Administrator

Hawaii Department of Public Safety





**S.B. 310, S.D. 2, H.D. 1 RELATING TO MENTAL HEALTH TREATMENT**  
**House Committee on Judiciary**  
**April 2, 2013, 2:00 p.m.**  
**Room 329**

My name is Loraine Fleming, Director of Behavioral Health, Orthopedic, and Transplant Services with The Queen's Medical Center. QMC supports the intent of S.B. 310, SD2, HD1 which is meant to promote better access to mental health treatment for individuals disabled by their mental illness that they are unable to cognitively accept their diagnosis of mental illness or to continue on prescribed treatment. However, we respectfully request that the measure be amended.

The Queen's Medical Center supports implementation of an assisted community treatment program. Such a program is similar to Kendra's Law in New York which has been very successful in improving the treatment follow-up for patients with significant psychiatric disorders. Lack of cooperation with treatment follow-up is a common problem among patients with serious psychiatric disorders. The very nature of the illness frequently involves lack of insight or awareness of their illness and may also involve symptoms of suspiciousness and paranoia, particularly related to their medications. Therefore, a program that would provide for greater supervision and assistance for patients who are reluctant to take medication or attend treatment sessions could greatly benefit their mental health and well being.

However, even with the positive intention, we are concerned that an unintended consequence of the measure may be adding mental health consumers, under the care and treatment of the State, to the private hospitals. Private hospitals are not state entities, and are already absorbing a great majority of mental health patients, either through the current MH1 process or through court orders, without contracts with the State or the Judiciary, and therefore largely without payment. This measure potentially adds to the hospitals the burden of non-compliant persons subject to assisted community treatment, with further mandating treatment, with or without payment. We understand that the Department of Health currently does not have the capacity to implement this measure and may seek additional resources to support the measure. In the meantime, we request that the language be clarified that persons who may be subject to this law be directed to the State hospital for any issues related to compliance.

We request the following amendments to ensure that the individual is not inappropriately involuntarily hospitalized in a private facility:

- 1) Section 5, Page 6, line 18: Insert the word 'state' to 'hospitals' and 'state' emergency rooms
- 2) Section 10, 14, Lines 14-16: Mandates treatment by a designated mental health program, regardless of ability to pay. Inpatient treatment is included in the definition of a 'designated mental health program' (Section 5, page 7, lines 1-6). We request either a change to 'state' inpatient treatment or consideration for mandated payment to private hospitals.
- 3) Section 11, Page 15, Line 6: Add the word 'state' to 'hospitalized' to clarify that any individual's failure to comply with treatment will subject the person to state hospitalization.
- 4) Section 11, Page 15, Line 22 and Page 16, lines 2-3: Insert 'state' into 'involuntary hospitalization'. Private hospitals should not be subject to orders for involuntary hospitalization.
- 5) Section 17, Page 19, Line 22: Insert the word 'state' to hospital
- 6) Section 17, Page 20, Line: Insert the word 'state' to inpatient units.

Thank you for the opportunity to testify in support of this measure.

# WAIKIKI HEALTH CENTER



*Quality medical and social services,  
regardless of ability to pay*

## TESTIMONY IN SUPPORT OF SB 310: RELATING TO MENTAL HEALTH

TO: Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair

FROM: Marc Gannon, LSW, MBA  
Chief of Community Health Services, Waikiki Health Center

**Hearing: Tuesday, April 2, 2013; 2:00 p.m., CR 325**



Chair Rhoads, Vice Chair Har, and Members of the Committee on Judiciary:

On behalf of Waikiki Health Center, I offer testimony today in support of SB 310 which proposes changes to the existing involuntary community treatment law. Such changes are intended to provide the severely mentally ill with essential services and monitoring and promote continuity of care. Chronically homeless persons whom are severely persistently mentally ill (SPMI) have an extremely high rate of recidivism. Many SPMI clients whom we assist to gain residency are evicted and quickly become homeless, or return to the emergency room, incarceration, or psychiatric facilities.

Assisted Community Treatment is modeled after existing state laws which address the same mental health concerns that we see in our clients. New York's Kendra's Law, amongst many others, has shown to reduce hospitalization, arrests and imprisonment, homelessness, and acts of violence. Though it's primary purpose is to aid medical and social service agencies and support treatment adherence, it also provides for protection of the mentally ill individual and targets only the most severely mentally ill. This bill would provide support our staff needs to assist this population with treatment opportunities and long term housing solutions.

Thank you for the opportunity to testify in support of SB 310.

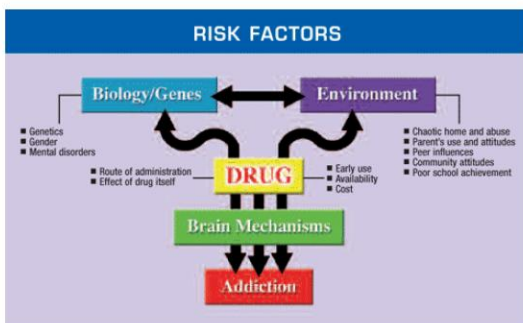
**SB310 SD2 HD1 Relating to Health** Establishes an assisted community treatment program in lieu of the involuntary outpatient treatment program.

-  COMMITTEE ON JUDICIARY: Representative Rhoads, Chair; Representative Har, Vice Chair
-  Tuesday, Apr. 2, 2013; 2:00 p.m. Room 325

**Hawaii Substance Abuse Coalition Supports SB310 SD2 HD1.**

*GOOD MORNING CHAIR RHOADS, VICE CHAIR HAR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than twenty non-profit treatment and prevention agencies.*

Often people with psychiatric disorders who live on the street self-medicate their condition with street drugs, which prolonged use usually leads to addiction. Addiction is a brain disease that impairs brain functions in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control. This impairment of brain functions precludes them from making good decisions. It is a chronic, relapsing brain disease that is characterized by compulsive drug seeking and use, despite harmful consequences - a brain disease that causes numerous changes its structure and how it works. People with both a substance use disorder and a co-occurring psychiatric disorder generally use multiple drugs that lead to significant economic and social problems.



Addiction with psychiatric disorders impairs brain functions such as will power, behavior control, memory and judgment....interfering with their ability to make good decisions.

While the initial decision to take drugs is mostly voluntary, however, when drug abuse takes over, a person's ability to exert self-control can become seriously impaired.

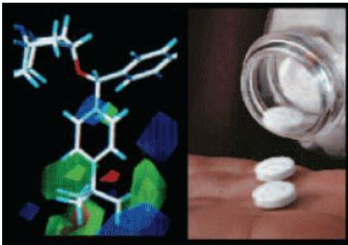
**The costs of incarceration, prolonged hospitalizations, and institutionalization are enormous.** Increasing the availability of outpatient services to those who need them is substantially more effective and significantly less expensive. Moreover, it's an issue of community safety as well as providing proper medical care to a severe medical condition. In many instances, the patient needs help in

making decisions because the patient is impaired for making good decisions and has little behavioral control over their drug addiction.

The proposed bill does not create new law; it is a modification of current law. The current law has a good intent but it is essentially ineffective. This bill would change it to be more effective to help those people who are vulnerable and basically non-functioning.

**Addiction and co-occurring psychiatric disorders can be treated successfully.** Addiction is a treatable disease. Discoveries in the science of addiction have led to advances in drug abuse treatment that help people stop abusing drugs and resume their productive lives.

While addiction may not be cured; it need not be a life sentence. Like other chronic diseases, addiction can be managed successfully. Treatment enables people to counteract addiction's powerful disruptive effects on brain and behavior and regain control of their lives.



Research shows that combining treatment medications, where available, with behavioral therapy is the best way to ensure success for most patients. Treatment approaches must be tailored to address each patient's drug abuse patterns and drug-related medical, psychiatric, and social problems.

Recovery is more than possible; it is likely when properly treated. The integration of substance abuse treatment and mental health services has become a major treatment initiative over the last few years. Given that adequate treatment is now available, this bill is necessary step towards improving the lives of severely mentally ill individuals who are suffering with their families or have become homeless.

We appreciate the opportunity to provide testimony and are available for questions.

**TESTIMONY IN SUPPORT OF SB 310 SD2, HD1: RELATING TO MENTAL ILLNESS**

TO: Representative Karl Rhoads, Chair, House Judiciary Committee  
Representative Sharon Har, Co-Chair House Judiciary Committee  
Members, House Judiciary Committee

FROM: Connie Mitchell, MS, APRN, BC, Executive Director  
IHS, The Institute for Human Services, Inc.

**Hearing: Tuesday, April 2, 2013 2:00 p.m. Room 325**

IHS, The Institute for Human Services strongly supports SB310 SD2, HD 1 and the amendments most recently forwarded by the Attorney General's office for your consideration.

It is important to keep in mind the context for the proposed changes to our Involuntary Community Treatment statute. There are currently scores of persons suffering from serious and persistent mental illness or substance abuse or dually diagnosed who do not receive the treatment that they need because their illness has robbed them of the ability to understand their illness and to consent to treatment. Some of their families struggle to care for them and agonize over the loss of the son or daughter, brother or sister, mother or father they once knew to an illness that transforms them into an angry, confused stranger who rejects any help that is offered. Others, not-so-fortunate, lose their families and friends, jobs and homes and now roam the streets, just a shadow of the person that they once were. When civil libertarians speak of protecting the rights of these mentally ill persons to refuse treatment, they fail to comprehend the devastating impact of mental illness on a person's judgment and capacity to make wise decisions for their own health.

The proposed bill makes necessary changes to the existing statute governing involuntary outpatient treatment of person with serious mental illness and severe addiction to facilitate access to treatment that is currently not supported by the current law. With the amendments proposed, persons under court ordered assisted community treatment can finally be sustained in treatment that previously may have been interrupted by the subject's failure to continue treatment related to denial of their illness or addiction.

The proposed statute also clarifies for whom an assisted community treatment order can be petitioned. Those posing a danger to self will clearly include the seriously mentally ill person whose mental illness impairs their capacity for self-care and results in neglect that is likely to lead to illness or injury to him or herself.

We believe that the passage of this bill will result in fewer seriously mentally ill persons being criminalized because of behavior that is heavily influenced by their mental illness. It will also eventually result in a decreased burden of emergency evaluations in the hospital emergency departments and a reduction in the Hawaii State Hospital census related to the repeated hospitalization of persons who fail to remain in treatment after discharge.

SB310 will be a welcome addition to the tool belt of our homeless outreach workers who encounter homeless persons who are so out of touch with reality because of mental illness or substance abuse that they are literally on a trajectory toward permanent injury or death. Help us save lives with the passage of this bill.

Thank you for the opportunity to testify in support of SB310.



... *HELPING HAWAII LIVE LIFE WELL*

1124 FORT STREET MALL, SUITE 205. HONOLULU, HI 96813  
ACCESSIBLE ENTRANCE: 67 SOUTH PAUAHI OFF BETHEL PH. 808.521.1846  
F: 808.533.6995 E: [INFO@MENTALHEALTH-HI.ORG](mailto:INFO@MENTALHEALTH-HI.ORG) W: [WWW.MENTALHEALTH-HI.ORG](http://WWW.MENTALHEALTH-HI.ORG)

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MANAGER

March 31, 2013

TO: Rep. Karl Rhoads, Chair, House Judiciary Committee; Rep. Sharon Har,  
Vice Chair, and Committee members

FROM: **Mary Pat Waterhouse**, President, Board of Directors; and **Marya Grambs**, Executive Director, Mental Health America of Hawaii

**RE: SB310, SD2, HD1, ASSISTED COMMUNITY TREATMENT**

### TESTIMONY IN STRONG SUPPORT

We are writing on behalf of Mental Health America of Hawaii, Hawaii's oldest mental health advocacy and education organization, to convey our strong support for this bill, along with amendments that have been proposed. This bill and the proposed amendments represent a collaborative effort between I.H.S., Mental Health America of Hawaii, NAMI, the Department of Public Safety, the Hawaii Disability Rights Center, and the Attorney General's office.

SB310, SD2, HD1 will enable psychotic, severely mentally ill individuals who cycle between the streets, hospitals, and jails to be ordered by Family Court to receive treatment in the community.

These individuals are living lives devoid of dignity and quality of life. They can be suffering from command hallucinations which force them to commit dangerous acts, have paranoid delusions, lack knowledge that they are ill, and be unable to take care of themselves. Many roam the streets lost in their own psychotic reality, behave in bizarre and unpredictable ways, and become so incapacitated by their mental illness that they live in extremely degraded circumstances, thus endangering their health -- while remaining oblivious about the reality of their condition. Their judgment is so impaired that they cannot make an informed decision about treatment. They are enormously costly to law enforcement, E.R/ hospital, and jail systems.

This bill:

- Enables these severely mentally ill persons to be ordered by Family Court to enter into treatment in the community, supervised by a psychiatrist or similar mental health professional;



- Defines criteria for court ordered community treatment that will make this treatment available to a specific group of people who have demonstrated a clear need for it;
- Makes it possible for mental health and service providers to sustain treatment with mentally ill persons who are refusing treatment because they are unaware of their disability;
- Allows individual service providers who are ready to implement this statute to do so expeditiously while the Department of Health continues to establish infrastructure for broader system implementation; and
- Allows the order to “follow the person” into other institutional settings (hospital, jail) to promote continuity of care.

We urge you to pass this bill. It will make our most vulnerable citizens safer and it will make our community safer. In other states and metropolitan areas where such laws exist, they have been shown to:

- Reduce hospitalization, arrests/incarceration, and homelessness;
- Reduce violence on the part of individuals who have been violent in the past;
- Reduce the victimization of these individuals; and
- Benefit the person: upwards of 85% of the individuals under such court orders say that the orders have helped them manage their illness and have better quality of life.

Thank you for the opportunity to submit testimony on this critically needed bill. For the safety of our community and the protection of vulnerable individuals, we urge you to pass this bill.



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Campaign Member

## Testimony in Support of SB310 SD2 HD1 with proposed amendments

House Committee on Judiciary

April 2, 2013 2 p.m.

State Capitol, Conference Room 325

The National Alliance on Mental Illness, Hawaii State Chapter, supports this bill because it will save lives. That life could be one of my sons, who lived homeless and ill on the streets in Waikiki.

Every day NAMI receives telephone calls from family members of people who are gravely ill. These family members are desperate because they are unable to assist their loved one to receive treatment. Rather they must watch the mental health of someone they love or deeply care about deteriorate on a daily basis. Frequently the ill family member's condition leads them to become homeless and sometimes physical complications come into play.

A person with a mental illness is just that, a person with a brain disease. Some of the people living with mental illness have a condition called anosognosia. People with this condition have an impairment which comes with their mental illness and impacts their ability to know they are sick. Anosognosia affects the lives of approximately 60 percent of the people who have schizophrenia and 40 percent of the people who suffer from bi-polar disorder. As a result of not knowing they are ill and therefore not getting help with their illness, many of these ill people spend their adult life cycling in and out of hospitals and jails. If a person receives treatment for a mental illness when it first manifests itself and continues to receive treatment at times that the disease recurred, that person has a better long term prognosis. The longer or more frequently the disease goes untreated the more the likelihood that the person's prognosis will worsen.

This bill enables a process under which some of the people who are living in dire and life threatening circumstances can receive treatment on an outpatient basis through an entity in their community. It offers some exceedingly ill people the possibility of regaining their health and returning to a better life.

It will save lives.

Thank you for your consideration.

Kathleen Hasegawa  
Executive Director

## **HAWAII DISABILITY RIGHTS CENTER**

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

### **THE HOUSE OF REPRESENTATIVES THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2013**

#### **Committee on Judiciary Testimony on S.B. 310, SD2, HD1 Relating To Mental Health Treatment Tuesday, April 2, 2013, 2:00 P.M. Conference Room 325**

Chair Rhoads and Members of the Committee:

While the Hawaii Disability Rights Center does not support the bill in its current HD1 form, we have been working with the Office of the Attorney General on a Proposed HD2, which we believe will meet legal requirements and which we will be able to support.

Our prime objection to the HD1 version of the bill is that it alters the current law which prohibits forcible medication under the Outpatient Treatment Law, in a way that does not meet legal or constitutional requirements. The draft we have developed with the Attorney General's office should address these deficiencies and adequately protect the rights of individuals with mental illness.

Thank you for the opportunity to testify on this measure.



**HAWAII CATHOLIC CONFERENCE**

6301 Pali Highway  
Kaneohe, HI 96744-5224

**SUBMITTED ONLINE**

Hearing on April 2, 2013 @ 2:00 p.m.  
Conference Room # 325

**DATE:** April 1, 2013

**House Committee on Judiciary**

Rep. Karl Rhoads, Chair

Rep. Sharon Har, Vice Chair

**FROM:** Walter Yoshimitsu, Executive Director

**RE: Support SB 310 SD2 HD1 Relating to Mental Health Treatment**

Mahalo for the opportunity to testify. I am Walter Yoshimitsu, representing the Hawaii Catholic Conference. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii under the leadership of Bishop Larry Silva. We strongly support the need to further the discussions on mental health services in the community for those who are vulnerable and in need of services.

While we do not profess to have all the answers to the mental care crisis in our islands, we want to stress that at the very center of the Church's social teaching is the life, dignity, and rights of the human person. We are called to serve the poor and vulnerable; to build bridges of solidarity among peoples of differing races and nations, language and ability, gender and culture. Even to those whom society has deemed as broken and unchangeable.

There is obviously a great need in the community for this legislature, and social service organizations, to deal with the issue of mental health treatment. Many of our homeless brothers and sisters are struggling and in dire need of services.

Everyone agrees that with the proper treatment, symptoms can be eliminated or reduced, and these precious people can be helped to overcome, and even break, the cycle. Having said this, we acknowledge that there are some severely mentally ill people who will not accept treatment because they may not have the ability to understand their need for assistance. In some cases, they may not even believe they are ill. This bill is to assist them to get the necessary treatment in the community, thereby keeping them out of jail and out of the hospital, and reducing the likelihood of their becoming homeless.

For this reason, we support the bill and are extremely grateful that you are having this very important discussion.

Mahalo for your kind consideration.



# Community Alliance *for* Mental Health

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To: The Hawai'i State House of Representatives Committee on the Judiciary  
Re: SB 310, SD2, HD1

To: The Honorable Representatives Rhoads and the members of their committee.

Aloha,

The Community Alliance for Mental Health along with United Self Help neither supports nor opposes SB 310, SD 2, HD 1. We do however acknowledge the need to address Hawai'i's most vulnerable population when they are in their direst straights. After three years of negotiations SB 310, SD2, HD 1 presents a compromise which albeit unpleasant is tolerable to the consumers of Hawai'i.

Mahalo,  
Scott Wall  
Vice-President



## CATHOLIC CHARITIES HAWAII

### **TESTIMONY IN SUPPORT OF SB 310, SD2, HD1: Relating to Mental Health Treatment**

TO: Representative Karl Rhodes, Chair, Representative Sharon Har, Vice Chair and Members of the Committee on Health

FROM: Trisha Kajimura, Social Policy Director, Catholic Charities Hawaii

**Hearing: Tuesday, April 2, 2013, 2:00 pm; Conference Room 325**

Thank you for the opportunity to testify on SB 310, which establishes an assisted community treatment program in Hawaii. I am Trisha Kajimura, Social Policy Director for Catholic Charities Hawaii. **I am testifying in support of SB 310.**

Catholic Charities Hawaii (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawaii for over 60 years. CCH has programs serving elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawaii.

Catholic Charities Hawaii recognizes that serious and persistent mental illness is a significant problem in our community and seen often among the homeless. Our agency provides housing assistance for the homeless and those at-risk of homelessness. We understand how difficult it is to help people who are dealing with an untreated mental illness and how vulnerable they are on the streets. We are very concerned that without treatment, these people cannot care for themselves adequately to avoid harm and mistreatment. They are also seen frequently at emergency rooms and are often arrested and incarcerated.

SB 310 offers this population a means of getting help when they are unable to ask for it themselves. In the types of cases it is specified to address, it will help people receive the mental health treatment that they need to regain their dignity and a chance for the best health outcomes possible. This type of treatment will also save the state money on avoidable emergency room visits and incarceration.

Please help this vulnerable group. Catholic Charities Hawaii urges you to pass SB 310. Please contact me at (808)527-4810 or [trisha.kajimura@catholiccharitieshawaii.org](mailto:trisha.kajimura@catholiccharitieshawaii.org) if you have any questions.





PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

March 31, 2013

P13:025T:LKR

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TO: Representative Karl Rhoads, Chair  
Representative Sharon Har, Vice Chair  
Members, Committee on Judiciary

FROM: Laura Kay Rand, Interim Executive Director, PHOCUSED

HEARING: Committee on Judiciary  
April 2, 2013 at 2:00 p.m.

Testimony in Support of SB310, SD2, HD1, Relating to Mental Health Treatment

Thank you for the opportunity to provide testimony in support of SB310, which establishes an assisted community treatment program. PHOCUSED is a coalition of health, housing, human services agencies and individual advocates voicing the needs of the marginalized and underserved in Hawaii.

The State's mental health services for the most severely mentally ill individuals have been decimated. This has predictably resulted in these individuals being arrested for petty crimes that arise out of their illness, utilizing Emergency Department services, undergoing expensive and unnecessary hospitalizations, and/or becoming homeless because of their mental illness. This is a very expensive revolving door that is hurtful to these individuals and/or the community. The mental health system that does exist is fragmented, confusing and nearly impossible to navigate.

Assisted Community Treatment is part of the solution. It provides a process whereby the Family Court can order a person with severe mental illness, who is not complying with treatment, to accept treatment in the community, thereby not bouncing in and out of the hospital, jail, and streets. In many other states, this approach has resulted in a reduction in hospitalization and incarceration rates, and patients with violent histories have become significant less likely to commit crime.

I urge your support of SB310. We appreciate the opportunity to testify in support of this measure.

Sincerely,  
Laura Kay Rand  
Interim Executive Director

**SB310**

Submitted on: 4/1/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Anson Rego	Individual	Support	No

Comments: I am testifying in Support of SB310 SD2 HD1 with proposed amendments. Presently, ill animals are given better care than humans; if abandoned or ill these animals are picked up, given safety, care, and treatment and if possible, coordination to find a good home. A severely mentally ill person who does not take his medication can become more ill and left on the street to get more ill and die without care or treatment, while ambulances and police drive by. They—the severe mentally ill with no insight as to their illness---often must wait to be arrested probably due to crimes usually relating to their illness and then suffer worse consequences, such as being locked up waiting days/weeks for a mental exam and get to mental health court if there is a slot open weeks or months later serve time after pleading guilty. Then they may get treatment. This is not anecdotal; it is factual. I read the State Department of Health response recommending a study. This type of bill has been studied and debated in our community for years, as well as throughout the United States. I myself attended seminars in Hawaii on the subject. The State Department of Hawaii should have proposed its own bill years ago and should not and can no longer ignore the severe mentally ill. The severe mentally ill has not been assisted in this proposed limited manner much too long. According to Dr Mark Mitchell's knowledgeable testimony, the status on involuntary outpatient treatment is that Hawaii's current law has been substantially ineffective. In my own experience as an attorney, I have also attempted to assist family members over the years to obtain involuntarily outpatient treatment for their loved one under the current law. It has been very difficult if not impossible to obtain. For those concerned with potential civil right violations, I share their concern. I, however, with the proposed amendments in place, trust in our judicial system with counsel and judges, all of whom are charged to review and analyze the details and history of each individual case to insure the law, like all other laws, is properly applied. Mahalo for your taking this important step forward to helping our specifically severe mental ill community in this limited manner. This bill supports families obtain care for their mentally ill relatives.  
Anson Rego Waianae Attorney

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**SB310**

Submitted on: 4/1/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carol kozlovich	Individual	Support	No

Comments:

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April 1, 2013

Distinguished Legislators:

I would like to express my full support of SB 310 SD2 HD1 WITH PROPOSED AMENDMENTS. An effective Assisted Community Treatment law is vitally necessary in this community. I have discussed this bill extensively with Marya Grambs and Connie Mitchell, two of the community mental health advocates who have done extensive work on this, and believe it is well-researched and well-designed.

Through my work at Queen's Medical Center and in the community for the past 12 years, I have come to have firsthand experience of the gross inadequacies of the current Outpatient Treatment law. I have been involved with four or five cases, and there was not an effective outcome in any of them. The family court judges were either unfamiliar with the law, uncomfortable with prescribing an effective intervention, or both. In addition, it was the hospital's burden to have to pay the legal fees for the petition and the hospital's psychiatrist to pursue the order, even though the patient was registered under the state mental health department and had intensive outpatient services already in place. The current law is unuseable and a waste of resources and effort.

Through my work as a community psychiatrist, I am keenly aware of the many individuals who are suffering irreparable consequences as the result of their psychiatric illness, lack of insight, inadequate community mental health services, and lack of appropriate treatment laws that would facilitate getting them into treatment. I believe this legislation is a large step in the right direction. There are many other jurisdictions in which this type of law has been effectively implemented (e.g. Kendra's Law), and without being used inappropriately or indiscriminately.

The mental health system is so broken at this point that even families of mentally ill patients cannot find a provider to help their loved ones (community psychiatric services are too office-based, require patient's complete cooperation/consent to enter the system), much less get them actual treatment. The ones without families or who've families have given up any hope are essentially doomed. Most concerning are gravely mentally ill elderly patients who have been left lying on the sidewalks of our streets lying in their feces, having significant medical

issues (including severe life-threatening infections), and are allowed to refuse medical assistance. I believe this law, in concert with changes in our mental health system (loosening patient's requirements to fully consent to services at the front end), will significantly improve the mental health system.

I cannot understand why the Department of Health has been testifying against this measure. I can only imagine that the concerns are either financial in nature (these patients may be quite costly initially) or lack of critical mass of expertise (within DOH) in dealing with this special population.

I urge you Legislators to pass this bill and look forward to being able to utilize it in the community with my community partners to help those most in need.

Sincerely,

Chad Koyanagi, M.D.

Psychiatrist

**SB310**

Submitted on: 3/29/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chuck Furr	Individual	Support	No

Comments: Our community is in great need of this support and MANY more would be in agreement if they were truly aware of the issues. Let us please pass this important legislation.

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**Larry Geller**  
Honolulu, HI 96817

COMMITTEE ON JUDICIARY  
Rep. Karl Rhoads, Chair  
Rep. Sharon E. Har, Vice Chair

SB310  
JUD  
Tuesday, April 2, 2013  
2:00 p.m.  
Room 325

April 1, 2013

**Re: SB310 Relating Mental Health Treatment**

**In Opposition**

Dear Rep. Rhoads, Rep. Har and members of the Committee:

I am aware that the original law was flawed and that this bill is intended to replace it, and that those who support the bill are motivated by compassion and concern. Nevertheless, I believe that this bill is seriously flawed on civil liberties grounds, and so I oppose it.

**It is hard to see why this bill does not criminalize mental illness.** For example, this language permits a person to be involuntarily locked up in a correctional facility for failure to comply with an order of the Family Court:

No subject of the order shall be physically forced to take medication [or forcibly detained for treatment] under a family court order for [involuntary outpatient treatment.] assisted community treatment, **unless the subject is hospitalized or placed in a correctional facility subsequent to the date of the assisted community treatment order for failure to comply with the order of the court.**

How is this different from a criminal case? The object of the petition described will be assigned a Public Defender. **Public defenders are experienced in criminal law, not in complex mental health issues.** The object of the petition is still subject to physical detention in this draft of the bill. In other words, **they are deprived of liberty and freedom as in a criminal case.** There will also be a public record of the proceeding with the person's name on it, and the person may end up on federal lists of those with mental health issues.

This bill permits the involuntary commitment of individuals who are **not** a danger to themselves or others, and who have the same civil liberties we all enjoy. The process of petition, taking into custody and commitment to the state hospital described in this bill is easily subject to abuse by family members or others, and the affected person, perhaps more vulnerable than many others, will be unable to mount a defense against those who would take them away.

The person who is the object of a petition is a **fully emancipated adult--not a child over whom parents have control** with no responsibilities to live life as a parent dictates. The person may also be an ex-spouse or have other relationship to the petitioner, who could abuse a state law to impose their view of a proper lifestyle on the object of the petition.

Note that a person who is made to appear in court would have to bear the cost of paying for experts (e.g., a private psychiatrist). If the court finds that the petition is not adequate, there is no provision for the person filing the petition to be made to pay all attorneys fees and court costs. So even in a contrived, malicious or frivolous situation, the person who is the object of the petition is damaged.

**In the case of a homeless person, the individual would almost certainly be unable to afford their own experts** as this bill purports to allow. There is also the possibility that this bill could form the basis of "sweeps" designed to remove homeless people from the streets.

There are also problems with medical privacy. This bill would appear to bring protected medical information into the public record.

If a person with mental illness has difficulty advocating for him-or herself, how will they fare in court, with **an inexperienced defense attorney and unable to afford their own expert witness to counter the testimony of state-paid experts**? If they are allegedly unable to make informed decisions about their treatment, then they are being coerced without question: how can they suddenly be expected to make informed decisions about their options when in court?

Finally, unless I'm missing something, the text does not require that the paraprofessionals or mental health professionals who may petition (the definition is vague) have experience with the treatment history of the individual. This would appear to permit shopping around for sympathetic persons rather than those acting on the basis of evidence.

Accordingly, my concern lies with the individuals who could find themselves swept into the legal system almost exactly as though they were criminals, but are disadvantaged by their situation from adequately defending themselves in court.

I recommend that the Committee put more thought into this bill and the consequences of passage. If the law it seeks to replace is defective, perhaps repeal is the best course.

Larry Geller

**SB310**

Submitted on: 3/30/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis A. Carnazzo	Individual	Support	No

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## **TESTIMONY IN SUPPORT OF SB 310 SD2 HD1: RELATING TO MENTAL HEALTH**

TO:            Judiciary Committee Chair, Rep. Karl Rhoads  
                 Vice Chair Rep. Sharon E. Har  
                 Members of the House Committee on Judiciary

FROM:        Marc R. Alexander

**Hearing:    Tuesday 4/2/2013; 2:00 p.m. CR 325**

Honorable Chair Rhoads and members of the House Committee on Judiciary

Thank you for hearing this important legislative proposal and for the opportunity to submit written testimony. I strongly support SB 310, Relating to Mental Health. During 2011, I served as Governor Abercrombie's Coordinator on Homelessness. Prior to that appointment I served for 25 years as a Roman Catholic priest with a longstanding commitment to public policy issues including housing and homelessness. At present I serve as Director of Community Relations and Development for IHS, The Institute for Human Services, Inc. I speak today, however, as a private citizen.

SB 310 is critically important legislation because it seeks to help those who can no longer help themselves due to chronic mental illness. Many of those who are chronically homeless suffer from chronic mental illness so severe that they are unable to realize the need for treatment and the benefits it offers. The result is that they end up living on the streets in very horrific conditions and unable to function on even a most basic level. These people are our neighbors, our brothers and sisters, who are crying out for help in their helplessness. They are not acting out of free choice but from the effects of their mental illness.

The present laws governing involuntary community mental health treatment are ineffective and outdated. They result in persons who are mentally ill being criminalized repeatedly, their mental health not being improved, and waste and frustration of the limited resources of law enforcement and healthcare because of the revolving door between the streets, jails, healthcare and courts.

This legislation would increase access to mental health treatment for those so disabled by their mental illness that they are unable to recognize their illness and accept appropriate treatment. Through a court ordered community treatment protocol, with appropriate safeguards, our community would be able help to those in this terrible situation.

Please support this legislation in order to bring real help and hope to some of the most needy and desperate in our community, those who are homeless and severely mentally ill.

Mahalo for your kind consideration and for your service to our community.



FOR: April 2, 2013 House Judiciary Committee Meeting at 2 PM in Rm.  
325  
ON: SB 310 SD2. HD1  
POSITION: TESTIMONY IN SUPPORT

CHAIR RHODES AND MEMBERS OF THE COMMITTEE ON JUDICIARY:

My name is Marion Poirier, M.A., R.N., and this testimony is in SUPPORT of SB 310, SD 2, HD 1. I am a member of several mental health related groups, particularly the task force that worked on the bill draft. I also am a member of the Hawaii Health Authority.

In a former role of Executive Director of the National Alliance on Mental Illness for 12 years, I had substantial experience with the ramifications of this topic. We keep on discussing and not taking actions that could be helpful to clients, their families, and the public. We also need to be moving on creating efficient and effective means of dealing with complex health issues to better serve our population via appropriate health care and treatment. Too often people with mental health issues are not triaged appropriately.

This measure is a step in the right direction, and therefore, I support it. If we do nothing, we are harming....not visa versa!

Thank you very much for hearing this measure, and giving it your utmost consideration.

Marion Poirier  
From my iPad

Tom W. Leland, M.D.  
1487 Hiikala Place #13  
Honolulu, HI 96816

March 31, 2013

TO: Rep. Karl Rhoads, Chair, House Judiciary Committee; Rep. Sharon Har, Vice Chair, and Committee members

FROM: **Tom Leland, M. D. Psychiatrist, Retired**

RE: SB310, SD2, HD1, ASSISTED COMMUNITY TREATMENT

**TESTIMONY IN STRONG SUPPORT**

I am writing as a retired community psychiatrist who worked for 35 years for the State of Hawaii in the Adult Mental Health Division, for a private case management entity and most recently at the Oahu Community Correctional Center. My work has centered solely on the severely and persistently mentally ill residents of our community. I wish to convey my strong support for this bill, along with amendments that have been proposed. This bill and the proposed amendments represent a collaborative effort between Institute for Human Services, Mental Health America of Hawaii, the National Alliance for the Mentally Ill, the Department of Public Safety, the Hawaii Disability Rights Center, and the Attorney General's office.

SB310, SD2, HD1 will enable psychotic, severely mentally ill individuals who cycle between the streets, hospitals, and jails to be ordered by Family Court to receive treatment in the community. Furthermore, it defines criteria for court ordered community treatment that will make treatment available to specific group of people who have demonstrated a clear need for it. These individuals often deny or are unaware of the existence of his or her disability. Many roam the streets lost in their own psychotic reality, behave in bizarre and unpredictable ways, and become so incapacitated by their mental illness that they live in extremely degraded circumstances, thus endangering their health -- while remaining oblivious about the reality of their condition. Their judgment is so impaired that they cannot make an informed decision about treatment. They are enormously costly to law enforcement, E.R/ hospital, and jail systems.

SB310, SD2, HD1 will make it possible for mental health and service providers to sustain treatment with many mentally ill persons who are refusing treatment. It will allow individual service providers who are ready to implement this statute to do so expeditiously while the Department of Health continues to establish infrastructure for broader system implementation. It should be emphasized that the intent of this court order is for the subject to be primarily transported to treatment by their current network of support and allows the order to follow the person into other institutional settings to promote continuity of care.

I join others who urge you to pass this bill. It will make our most vulnerable citizens safer and it will make our community safer. In other states and metropolitan areas where such laws exist, they have been shown to reduce hospitalization, arrests/incarceration, and homelessness, reduce violence on the part of individuals who have been violent in the past, and reduce the victimization of these individuals. Moreover, upwards of 85% of the individuals under such court orders say that the orders have helped them manage their illness and have better quality of life.

Thank you for the opportunity to submit testimony on this critically needed bill. For the safety of our community and the protection of vulnerable individuals, we urge you to pass this bill.

Respectfully submitted,

Tom W. Leland, M.D.

**LATE**

**SB310**

Submitted on: 4/2/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
leilani duarte-miyaki	Individual	Support	No

Comments:

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