
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

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

1 SECTION 1. The legislature finds that:

2 (1) Hawaii has identified serious problems of high
3 incarceration and hospitalization rates of those with
4 severe mental illness;

5 (2) Assisted community treatment provides an opportunity
6 for people with serious mental illness to be treated
7 in the least restrictive setting; and

8 (3) Assisted community treatment reduces the trend towards
9 criminalizing mental illness.

10 Individuals with severe mental illness often cycle between
11 homelessness, emergency room treatment, incarceration, and
12 hospitalization. This situation reflects a failure to provide
13 needed treatment to persons who may need it most and is
14 extremely costly. However, the legislature finds that the human
15 and financial costs of the current situation can be mitigated if
16 individuals are assisted in receiving treatment in the
17 community.



1 In several states that have implemented assisted community
2 treatment systems similar to that established by this Act,
3 research shows that hospitalization rates have dropped by half,
4 the length of hospital stays has been reduced by up to thirty
5 days per patient, arrest rates have declined by up to two-
6 thirds, and days spent in correctional confinement facilities
7 have been reduced by seventy-two per cent. Moreover, patients
8 in one state program, despite having violent histories, were
9 found to be four times less likely to perpetrate serious
10 violence after participating in an assisted community treatment
11 program.

12 The purpose of this Act is to establish an assisted
13 community treatment program.

14 SECTION 2. Section 334-121, Hawaii Revised Statutes, is
15 amended to read as follows:

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

- 20 (1) The person is suffering from a severe mental disorder
- 21 or from substance abuse; and



- 1 (2) The person is [~~capable of surviving~~] unlikely to live
2 safely in the community [~~with~~] without available
3 supervision [~~from family, friends, or others,~~] based
4 on the professional opinion of a psychiatrist; and
- 5 (3) The person, at some time in the past:
- 6 (A) [~~has~~] Has received inpatient hospital treatment
7 for a severe mental disorder or substance abuse[~~;~~
8 ~~or~~];
- 9 (B) [~~has~~] Has been imminently dangerous to self or
10 others[~~;~~] or
- 11 (C) [~~is~~] Has been gravely disabled,
12 as a result of a severe mental disorder or substance
13 abuse; and
- 14 (4) The person, based on the person's treatment history
15 and current [~~behavior,~~] condition, is now in need of
16 treatment in order to prevent a relapse or
17 deterioration which would predictably result in the
18 person becoming imminently dangerous to self or
19 others[~~;~~] or obviously ill; and
- 20 (5) In recent years, the person has a history of lack of
21 adherence to treatment for mental illness or substance
22 abuse which has been a significant factor in causing



1 the person to become dangerous to self or others or
2 gravely disabled, as may be established by:

3 (A) Evidence that, at least twice within the last
4 thirty-six months, the lack of adherence to
5 treatment has been a significant factor in
6 necessitating involuntary transportation of the
7 person to a hospital for psychiatric evaluation,
8 hospitalization of the person in a facility
9 providing inpatient treatment, or treatment of
10 the person in a forensic or other mental health
11 or substance abuse unit of a correctional
12 facility;

13 (B) Evidence that, within the last forty-eight
14 months, lack of adherence to treatment has
15 resulted in one or more acts of serious violent
16 behavior toward self or others or threats,
17 attempts, or acts of serious physical harm to
18 self or others; or

19 (C) Other clear and convincing evidence within the
20 discretion of the court; and

21 ~~(5)~~ (6) The person's current mental status or the nature
22 of the person's disorder limits or negates the



1 person's ability to make an informed decision to
2 voluntarily seek or comply with recommended treatment;
3 and
4 ~~[(6)]~~ (7) There is a reasonable prospect that the
5 ~~[outpatient]~~ assisted community treatment ordered will
6 be beneficial to the person~~[-]~~ as the least
7 restrictive alternative."

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

10 "[+]§334-122[+] **Definitions.** For the purposes of this
11 part:

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



1 "Community" includes any location where an individual may
2 receive behavioral health services, including but not limited to
3 hospitals and emergency rooms, correctional facilities, state
4 contracted or private behavioral health programs, independent
5 living, community health centers, and crisis or homeless
6 shelters and programs.

7 "Designated mental health program" includes a state-
8 operated or privately-contracted provider who is authorized to
9 provide mental health services including, but not limited to
10 inpatient treatment, outpatient treatment, case management, day
11 treatment, crisis services, mental health services in
12 correctional facilities, or adult mental health division
13 community mental health centers.

14 "Interested party" means a parent, grandparent, spouse,
15 sibling, adult child, reciprocal beneficiary, civil union
16 partner, service provider, case manager, outreach worker, or
17 mental health professional.

18 "Obviously ill" means that a person is incapable of making
19 an informed medical decision and has behaved in such a manner as
20 to indicate that the person is unlikely, without supervision and
21 assistance of others, to satisfy the person's need for
22 nourishment, personal or medical care, shelter, or self-



1 protection and safety, so that it is probable that substantial
2 bodily harm, significant psychiatric deterioration or
3 debilitation, or serious illness will result unless adequate
4 treatment is afforded.

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

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

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

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

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

20 "(a) Any ~~[person]~~ interested party may file a petition
21 with the family court alleging that another person meets the



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

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

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

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

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

16 The hearing on the petition need not be limited to the facts
17 stated in the petition.

18 The petition shall be executed subject to the penalties of
19 perjury[~~-~~] including criminal prosecution pursuant to section
20 710-1060. The petition need not express any belief, or state any
21 supporting facts, with reference to the criteria set forth in



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

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

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

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

11 (2) A copy of the petition; and

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

19 SECTION 6. Section 334-126, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsection (a) to read:



1 "(a) The time and form of the procedure incident to
2 hearing the issues in the petition shall be provided by family
3 court rule and consistent with this part. Nothing in this part
4 or in the procedure provided by the family court shall limit or
5 restrict the application of section 710-1060, relating to
6 perjury, to any statement, information, or testimony given by
7 any person in any proceeding pursuant to this part."

8 2. By amending subsections (g) and (h) to read as follows:

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



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

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

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



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

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

10 SECTION 7. Section 334-127, Hawaii Revised Statutes, is
11 amended to read as follows:

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

18 (b) If after hearing all relevant evidence, including the
19 results of an examination ordered by the family court, the
20 family court finds by clear and convincing evidence that the
21 subject of the petition meets the criteria for [~~involuntary~~
22 ~~outpatient~~] assisted community treatment, the family court shall



1 order the subject to obtain [~~outpatient~~] assisted community
 2 treatment for a period of not more than [~~180~~] one hundred eighty
 3 days. [~~The order shall also state the outpatient treatment~~
 4 ~~which the subject is to obtain.~~]

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

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

18 (c) The family court shall also designate on the order the
 19 [~~outpatient treatment~~] treating psychiatrist who is to be
 20 responsible for the management and supervision of the subject's
 21 [~~outpatient~~] treatment, or shall [~~designate~~] assign an
 22 administrator of a [~~community~~] designated mental health [~~center~~]

1 program to, in turn, designate [~~such an outpatient treatment~~]
2 the treating psychiatrist during the treatment period without
3 court approval, and may designate either a publicly employed
4 psychiatrist, or a private psychiatrist, provided that the
5 private psychiatrist shall agree to the designation.

6 (d) Nothing in this section shall preclude the subject of
7 the petition's stipulation of continuing an existing court
8 order."

9 SECTION 8. Section 334-128, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[§]334-128[§]~~ **Treatment costs and fees.** Private
12 treatment pursuant to the court order shall be at the expense of
13 the subject of the petition, except to the extent such charges
14 are covered by other laws or programs. Treatment through a
15 [~~community~~] designated mental health [~~center~~] program shall be
16 pursuant to its fee schedules; however, the subject of the order
17 shall not be denied treatment by a [~~community~~] designated mental
18 health [~~center~~] program for failure to pay [~~such~~] the fees."

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

21 "~~[§]334-129[§]~~ **Failure to comply with [~~outpatient~~]**
22 **community treatment.** (a) [~~An outpatient treatment~~] A treating



1 psychiatrist may prescribe or administer to the subject of the
2 order reasonable and appropriate medication~~[7]~~ or medications,
3 if specifically authorized by the court order, and treatment
4 which is consistent with accepted medical standards and the
5 family court order.

6 (b) No subject of the order shall be physically forced to
7 take medication [~~or forcibly detained for treatment~~] under a
8 family court order for [~~involuntary outpatient treatment.~~]
9 assisted community treatment except under the order of a
10 psychiatrist while hospitalized or in a correctional setting.

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

17 (c) The [~~outpatient treatment~~] treating psychiatrist or
18 psychiatrist's designee shall make all reasonable efforts to
19 solicit the subject's compliance with the prescribed treatment.
20 If the subject fails or refuses to comply after the efforts to
21 solicit compliance, the [~~outpatient treatment~~] treating
22 psychiatrist shall so notify the court and may submit a petition



1 under part IV for the involuntary hospitalization of the
2 subject~~[7]~~; provided that the refusal of treatment shall not
3 constitute evidence toward any of the criteria for involuntary
4 hospitalization."

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

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

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

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

20 The ~~[outpatient treatment]~~ treating psychiatrist shall send
21 to the clerk of the family court which issued the order for
22 ~~[involuntary outpatient]~~ assisted community treatment,



1 notification that in the psychiatrist's opinion the subject of
2 the order should be discharged prior to the end of the period
3 specified in the court order.

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

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

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

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



1 If the family court finds that the subject of the order
2 does not meet the criteria for [~~involuntary outpatient~~] assisted
3 community treatment, the family court shall dismiss the
4 objection and order the early discharge of the subject."

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

7 "~~[+]§334-133[+]~~ **Petition for additional period of**
8 **treatment; hearing.** Prior to the expiration of the period of
9 [~~involuntary outpatient~~] assisted community treatment ordered by
10 the family court, any person, including [~~an outpatient~~
11 ~~treatment~~] a treating psychiatrist, may file a petition with the
12 family court for an order of continued [~~involuntary outpatient~~]
13 assisted community treatment. The petition shall be filed and
14 notice provided in the same manner as under sections 334-123 and
15 334-125.

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



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

3 This section shall be in addition to the provisions on the
4 objection to discharge."

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

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

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

20 "[~~"Outpatient treatment" includes~~] "Community services"
21 include any substance abuse or mental health treatment provided
22 through individual or group therapy[~~;~~]; a hospital; day or



1 partial day programs, and intensive day treatment [~~and which~~
 2 ~~does not require the individual to reside on a twenty four hour~~
 3 ~~basis in the facility for more than three days to~~]; residential
 4 programs or inpatient units; or a mental health unit in a
 5 correctional facility where the individual may receive benefit
 6 from the treatment program."

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

9 "PART VIII. [~~INVOLUNTARY OUTPATIENT~~] ASSISTED COMMUNITY
 10 TREATMENT"

11 SECTION 17. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 18. This Act shall take effect on July 1, 2050.



Report Title:

Mental Health; Assisted Community Treatment; Court Order

Description:

Amends the process for obtaining a court order for involuntary outpatient treatment. Replaces the term "involuntary outpatient treatment" with "assisted community treatment" and makes amendments to existing judicial procedures. Effective July 1, 2050. (HB991 HD1)

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

