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## A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1           SECTION 1. Section 334-60.3, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "§334-60.3 Initiation of proceeding for involuntary  
4 hospitalization. (a) Any person may file a petition in the  
5 family court alleging that a person located in the county meets  
6 the criteria for commitment to a psychiatric facility. The  
7 petitioner shall request for the alternative relief of assisted  
8 community treatment pursuant to part VIII of this chapter and  
9 request that the family court order the appropriate treatment  
10 alternative. The petition shall be executed subject to the  
11 penalties of perjury but need not be sworn to before a notary  
12 public. The attorney general, the attorney general's deputy,  
13 special deputy, or appointee designated to present the case  
14 shall assist the petitioner to state the substance of the  
15 petition in plain and simple language. The petition may be  
16 accompanied by a certificate of the licensed physician, advanced  
17 practice registered nurse, or psychologist who has examined the



1 person within two days before submission of the petition, unless  
2 the person whose commitment is sought has refused to submit to  
3 medical or psychological examination, in which case the fact of  
4 refusal shall be alleged in the petition. The certificate shall  
5 set forth the signs and symptoms relied upon by the physician,  
6 advanced practice registered nurse, or psychologist to determine  
7 the person is in need of care or treatment, or both, and whether  
8 or not the person is capable of realizing and making a rational  
9 decision with respect to the person's need for treatment. If  
10 the petitioner believes that further evaluation is necessary  
11 before commitment, the petitioner may request ~~such~~ further  
12 evaluation.

13 (b) In the event the subject of the petition has been  
14 given an examination, evaluation, or treatment in a psychiatric  
15 facility within five days before submission of the petition, and  
16 hospitalization or assisted community treatment pursuant to part  
17 VIII of this chapter is recommended by the staff of the  
18 facility, the petition may be accompanied by the administrator's  
19 certificate in lieu of a physician's or psychologist's  
20 certificate."



1 SECTION 2. Section 334-60.4, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

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

4 (1) The date, time, place of hearing, a clear statement of  
5 the purpose of the proceedings and of possible  
6 consequences to the subject; and a statement of the  
7 legal standard upon which commitment is authorized;

8 (2) A copy of the petition;

9 (3) A written notice, in plain and simple language, that  
10 the subject may waive [~~such a~~] the hearing by  
11 voluntarily agreeing to hospitalization, or with the  
12 approval of the court, to some other form of  
13 treatment;

14 (4) A filled-out form indicating [~~such~~] the waiver;

15 (5) A written notice, in plain and simple language, that  
16 the subject or the subject's guardian or  
17 representative may apply at any time for a hearing on  
18 the issue of the subject's need for hospitalization,  
19 if the subject has previously waived [~~such~~] a hearing;



- 1 (6) Notice that the subject is entitled to the assistance  
2 of an attorney and that the public defender has been  
3 notified of these proceedings;
- 4 (7) Notice that if the subject does not want to be  
5 represented by the public defender the subject may  
6 contact the subject's own attorney;
- 7 (8) Notice, if [~~such be the case,~~] applicable, that the  
8 petitioner intends to adduce evidence to show that the  
9 subject of the petition is an incapacitated or  
10 protected person, or both, under article V of chapter  
11 560, and whether or not appointment of a guardian is  
12 sought at the hearing. If appointment of a guardian  
13 is to be recommended, and a nominee is known at the  
14 time the petition is filed, the identity of the  
15 nominee shall be disclosed[-]; and
- 16 (9) Notice that the court may order the subject who meets  
17 the criteria established by section 334-121 to submit  
18 to assisted community treatment pursuant to part VIII  
19 of this chapter, if the court finds pursuant to  
20 section 334-60.5(i) that the individual does not  
21 require hospitalization for medical, psychiatric,



1           psychological, or other rehabilitative treatment or  
2           supervision."

3           SECTION 3. Section 334-60.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (i) to read as follows:

5           "(i) If after hearing all relevant evidence, including the  
6 result of any diagnostic examination ordered by the court, the  
7 court finds that an individual [~~is not a person requiring~~] does  
8 not require hospitalization for medical, psychiatric,  
9 psychological, or other rehabilitative treatment or supervision,  
10 the court shall [~~order~~];

11           (1) Order that the individual be discharged if the  
12 individual has been hospitalized prior to the  
13 hearing[~~-~~];

14           (2) Determine whether the individual meets the criteria  
15 for assisted community treatment pursuant to section  
16 334-121; and

17           (3) Order the commencement of assisted community treatment  
18 as soon as practicable for an individual meeting the  
19 criteria."

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



1           "(a) Any interested party may file a petition with the  
2 family court alleging that another person meets the criteria for  
3 assisted community treatment. This petition may be initiated  
4 independently or as a request for alternative relief in a  
5 petition for involuntary hospitalization that is initiated  
6 pursuant to section 334-60.3. The petition shall state:

7           (1) Each of the criteria numbered (1) through (7) for  
8 assisted community treatment, as set out in section  
9 334-121;

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

13          (3) Facts which support petitioner's good faith belief  
14 that the subject of the petition meets each of the  
15 criteria numbered (1) through (7) set forth in section  
16 334-121; and

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

19           The hearing on the petition need not be limited to the  
20 facts stated in the petition. The petition shall be executed  
21 subject to the penalties of perjury."



1 SECTION 5. Act 221, Session Laws of Hawaii 2013, is  
2 amended by amending section 24 to read as follows:

3 "SECTION 24. This Act shall take effect on January 1,  
4 2014 [~~, and shall be repealed on July 1, 2020~~]; provided that:

5 (1) Petitions filed pursuant to section 334-123, Hawaii  
6 Revised Statutes, for assisted community treatment  
7 involving a designated mental health program that is a  
8 state-operated provider shall not be filed until after  
9 July 1, 2015;

10 (2) Any private provider wishing to file a petition  
11 pursuant to section 334-123, Hawaii Revised Statutes,  
12 for assisted community treatment may do so after  
13 January 1, 2014, using its own resources, if the  
14 petitioner is to be the designated mental health  
15 program; and

16 (3) Any interested party wishing to file a petition  
17 pursuant to section 334-123, Hawaii Revised Statutes,  
18 for assisted community treatment may do so after  
19 January 1, 2014, using the party's own resources, if  
20 the designated mental health program is a private  
21 provider [~~, and~~



1       ~~(4) The title of chapter 334, part VIII, and sections~~  
 2           ~~334 1, 334 59, 334 60.2, 334 60.5, and 334 121 through~~  
 3           ~~334 134, Hawaii Revised Statutes, shall be reenacted~~  
 4           ~~in the form in which they read on the day prior to the~~  
 5           ~~effective date of this Act]."~~

6           SECTION 6. Act 27, Session Laws of Hawaii 2015, is amended  
 7 by amending section 6 to read as follows:

8           "SECTION 6. This Act shall take effect upon its approval[~~+~~  
 9 ~~provided that the amendments made to section 334 59, Hawaii~~  
 10 ~~Revised Statutes, by section 2 of this Act shall not be repealed~~  
 11 ~~when section 334 59, Hawaii Revised Statutes, is reenacted on~~  
 12 ~~July 1, 2020, pursuant to section 24 of Act 221, Session Laws of~~  
 13 ~~Hawaii 2013]."~~

14           SECTION 7. Act 231, Session Laws of Hawaii 2015, is  
 15 amended by amending section 9 to read as follows:

16           "SECTION 9. This Act shall take effect upon its approval[~~+~~  
 17 ~~provided that the amendments made to sections 334 123, 334 125,~~  
 18 ~~and 334 126, Hawaii Revised Statutes, by this Act shall not be~~  
 19 ~~repealed when those sections are reenacted on July 1, 2020,~~  
 20 ~~pursuant to section 24, Act 221, Session Laws of Hawaii 2013]."~~





# H.B. NO. 2559

1 SECTION 10. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act does not affect rights and duties  
4 that matured, penalties that were incurred, and proceedings that  
5 were begun before its effective date.

6 SECTION 12. This Act shall take effect upon its approval.

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INTRODUCED BY:

Kal Rhoads

Tom Pom

Gene Orr

JAN 26 2016



# H.B. NO. 2559

**Report Title:**  
Mental Health

**Description:**  
Requires the family court to consider assisted community treatment as an alternative to commitment to a psychiatric facility for a person subject to a petition for involuntary hospitalization.

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

