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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

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

4 "Imminently dangerous to self or others" means that,  
5 without intervention, the person will likely become dangerous  
6 within the next ninety days."

7 SECTION 2. Section 334-59, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

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

11 (1) If a law enforcement officer has reason to believe  
12 that a person is imminently dangerous to self or  
13 others, the officer shall call for assistance from the  
14 mental health emergency workers designated by the  
15 director. Upon determination by the mental health  
16 emergency workers that the person is imminently  
17 dangerous to self or others, the person shall be  
18 transported by ambulance or other suitable means, to a



1 licensed psychiatric facility for further evaluation  
2 and possible emergency hospitalization. A law  
3 enforcement officer may also take into custody and  
4 transport to any facility designated by the director  
5 any person threatening or attempting suicide [~~, or may~~  
6 ~~take into custody and transport to any designated~~  
7 ~~mental health program, any person subject to an~~  
8 ~~assisted community treatment order, issued pursuant to~~  
9 ~~part VIII of this chapter, for further evaluation and~~  
10 ~~possible emergency hospitalization)]. The officer  
11 shall make application for the examination,  
12 observation, and diagnosis of the person in custody.  
13 The application shall state or shall be accompanied by  
14 a statement of the circumstances under which the  
15 person was taken into custody and the reasons therefor  
16 which shall be transmitted with the person to a  
17 physician, advanced practice registered nurse, or  
18 psychologist at the facility [~~, or to a licensed~~  
19 ~~psychiatrist at a designated mental health program)].~~~~

20 (2) Upon written or oral application of any licensed  
21 physician, advanced practice registered nurse,



1           psychologist, attorney, member of the clergy, health  
2           or social service professional, or any state or county  
3           employee in the course of employment, a judge may  
4           issue an ex parte order orally, but shall reduce the  
5           order to writing by the close of the next court day  
6           following the application, stating that there is  
7           probable cause to believe the person is mentally ill  
8           or suffering from substance abuse [~~or~~], is imminently  
9           dangerous to self or others and in need of care or  
10          treatment, or both, giving the findings upon which the  
11          conclusion is based [~~, and directing~~]. The order shall  
12          direct that a law enforcement officer or other  
13          suitable individual take the person into custody and  
14          deliver the person to a designated mental health  
15          program, if subject to an assisted community treatment  
16          order issued pursuant to part VIII of this chapter, or  
17          to the nearest facility designated by the director for  
18          emergency examination and treatment [-], or both. The  
19          ex parte order shall be made a part of the patient's  
20          clinical record. If the application is oral, the  
21          person making the application shall reduce the



1 application to writing and shall submit the same by  
2 noon of the next court day to the judge who issued the  
3 oral ex parte order. The written application shall be  
4 executed subject to the penalties of perjury but need  
5 not be sworn to before a notary public.

6 (3) Any licensed physician, advanced practice registered  
7 nurse, physician assistant, or psychologist who has  
8 examined a person and has reason to believe the person  
9 is:

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

11 (B) Imminently dangerous to self or others; and

12 (C) In need of care or treatment;

13 may direct transportation, by ambulance or other  
14 suitable means, to a licensed psychiatric facility for  
15 further evaluation and possible emergency  
16 hospitalization. A licensed physician, an advanced  
17 practice registered nurse, or physician assistant may  
18 administer treatment as is medically necessary, for  
19 the person's safe transportation. A licensed  
20 psychologist may administer treatment as is  
21 psychologically necessary."



1 SECTION 3. Section 334-127, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) If after hearing all relevant evidence, including the  
4 results of any diagnostic examination ordered by the family  
5 court, the family court finds that the criteria for assisted  
6 community treatment under section 334-121(1) ~~[+]have[+]~~ been met  
7 beyond a reasonable doubt and that the criteria under  
8 ~~[+section+]~~ sections 334-121(2) to 334-121(7) have been met by  
9 clear and convincing evidence, the family court shall order the  
10 subject to obtain assisted community treatment for a period of  
11 not more than ~~[one hundred eighty days.]~~ one year. The written  
12 treatment plan submitted pursuant to section 334-126(h) shall be  
13 attached to the order and made a part of the order.

14 If the family court finds by clear and convincing evidence  
15 that the beneficial mental and physical effects of recommended  
16 medication outweigh the detrimental mental and physical effects,  
17 if any, the order may authorize types or classes of medication  
18 to be included in treatment at the discretion of the treating  
19 psychiatrist.

20 The court order shall also state who should receive notice  
21 of intent to discharge early in the event that the treating



1 psychiatrist determines, prior to the end of the court ordered  
2 period of treatment, that the subject should be discharged early  
3 from assisted community treatment."

4 SECTION 4. Section 334-129, Hawaii Revised Statutes, is  
5 amended by amending subsections (b) to (d) to read as follows:

6 "(b) No subject of the order shall be physically forced to  
7 take medication under a family court order for assisted  
8 community treatment [~~, except in accordance with section 334-~~  
9 ~~60.5, relating to admission to a psychiatric facility,~~] unless  
10 the subject is within an emergency department or admitted to a  
11 hospital, subsequent to the date of the current assisted  
12 community treatment order.

13 (c) A subject may be transported to a designated mental  
14 health program, or a hospital emergency department, for failure  
15 to comply with an order for assisted community treatment via the  
16 following methods:

17 (1) By an interested party with the consent of the subject  
18 of the order; or

19 (2) In accordance with section 334-59.

20 (d) The designated mental health program's treating  
21 psychiatrist or psychiatrist's designee shall make all



1 reasonable efforts to solicit the subject's compliance with the  
2 prescribed treatment. If the subject fails or refuses to comply  
3 after the efforts to solicit compliance, the treating  
4 psychiatrist shall assess whether the subject of the order meets  
5 criteria for admission to a psychiatric facility under part IV  
6 of this chapter, and proceed with the admission[+] pursuant to  
7 section 334-59(a)(2) or (3); provided that the refusal of  
8 treatment shall not, by itself, constitute a basis for  
9 involuntary hospitalization."

10 SECTION 5. Section 334-130, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) A subject of assisted community treatment is  
13 automatically and fully discharged at the end of the family  
14 court ordered period of treatment, a period of not more than  
15 [~~one hundred eighty days,~~] one year, unless a new family court  
16 order has been obtained as provided hereinbelow."

17 SECTION 6. Act 221, Session Laws of Hawaii 2013, is  
18 amended by amending section 24 to read as follows:

19 "SECTION 24. This Act shall take effect on January 1,  
20 2014 [~~and shall be repealed on July 1, 2020~~]; provided that:



- 1 (1) Petitions filed pursuant to section 334-123, Hawaii  
2 Revised Statutes, for assisted community treatment  
3 involving a designated mental health program that is a  
4 state-operated provider shall not be filed until after  
5 July 1, 2015;
- 6 (2) Any private provider wishing to file a petition  
7 pursuant to section 334-123, Hawaii Revised Statutes,  
8 for assisted community treatment may do so after  
9 January 1, 2014, using its own resources, if the  
10 petitioner is to be the designated mental health  
11 program; and
- 12 (3) Any interested party wishing to file a petition  
13 pursuant to section 334-123, Hawaii Revised Statutes,  
14 for assisted community treatment may do so after  
15 January 1, 2014, using the party's own resources, if  
16 the designated mental health program is a private  
17 provider[~~;~~ ~~and~~
- 18 ~~(4) The title of chapter 334, part VIII, and sections~~  
19 ~~334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through~~  
20 ~~334-134, Hawaii Revised Statutes, shall be reenacted.~~





1 ~~in the form in which they read on the day prior to the~~  
2 ~~effective date of this Act]."~~

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

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

11 SECTION 8. Act 231, Session Laws of Hawaii 2015, is  
12 amended by amending section 9 to read as follows:

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

18 SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 10. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 11. This Act shall take effect on July 1, 2050.

5



**Report Title:**

Mental Health; Assisted Community Treatment

**Description:**

Repeals the authority of a law enforcement officer to take into custody and transport a person subject to an assisted community treatment order to any designated mental health program. Requires a court order stating probable cause to believe a person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others and in need of care or treatment, or both, to also direct the person to be taken into custody and, if subject to an assisted community treatment, transported to any designated mental health program. Extends the maximum duration of assisted community treatment that may be ordered by the court to one year. Amends the circumstances under which a subject of an assisted community treatment order may be physically forced to take medication. Takes effect 7/1/2050. (SD1)

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

