

S.B. NO. 1239

JAN 24 2019

A BILL FOR AN ACT

RELATING TO INVOLUNTARY HOSPITALIZATION.

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

1 SECTION 1. Section 334-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "psychiatric facility" to
3 read as follows:

4 "Psychiatric facility" means a public or private hospital
5 or part thereof [~~which~~] that provides inpatient [~~or outpatient~~]
6 care, custody, diagnosis, treatment, or rehabilitation services
7 for mentally ill persons or for persons habituated to the
8 excessive use of drugs or alcohol or for intoxicated persons."

9 SECTION 2. Section 334-59, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

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

13 (1) If a law enforcement officer has reason to believe
14 that a person is imminently dangerous to self or
15 others, the officer shall call for assistance from the
16 mental health emergency workers designated by the

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1 director. Upon determination by the mental health
2 emergency workers that the person is imminently
3 dangerous to self or others, the person shall be
4 transported by ambulance or other suitable means^[7] to
5 ~~[a licensed psychiatric facility]~~ the nearest
6 emergency department designated by the director for
7 further evaluation and possible emergency
8 hospitalization. ~~[A law enforcement officer may also~~
9 ~~take into custody and transport to any facility~~
10 ~~designated by the director any person threatening or~~
11 ~~attempting suicide.]~~ The officer shall make
12 application for the examination, observation, and
13 diagnosis of the person in custody. The application
14 shall state or shall be accompanied by a statement of
15 the circumstances under which the person was taken
16 into custody and the reasons therefor which shall be
17 transmitted with the person to a physician, advanced
18 practice registered nurse, or psychologist at the
19 ~~[facility.]~~ emergency department.

- 20 (2) Upon written or oral application of any licensed
21 physician, advanced practice registered nurse,
22 psychologist, attorney, member of the clergy, health

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

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1 the oral ex parte order. The written application
2 shall be executed subject to the penalties of perjury
3 but need not be sworn to before a notary public.

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

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

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

10 (C) In need of care or treatment;

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

20 (b) Emergency examination. A patient who is delivered for
21 emergency examination and treatment to [~~a facility~~] an emergency
22 department designated by the director shall be examined by a

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1 licensed physician or advanced practice registered nurse without
2 unnecessary delay, and may be given such treatment as is
3 indicated by good medical practice. A psychiatrist, advanced
4 practice registered nurse, or psychologist may further examine
5 the patient to diagnose the presence or absence of a mental
6 disorder, assess the risk that the patient may be dangerous to
7 self or others, and assess whether or not the patient needs to
8 be hospitalized."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

15

BY REQUEST

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Report Title:

Emergency Mental Health Examination; Designation of Emergency Departments by the Director of Health

Description:

Permits the Director of Health to designate emergency departments to which persons requiring emergency mental health treatment may be taken by law enforcement.

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

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO INVOLUNTARY HOSPITALIZATION.

PURPOSE: This bill clarifies that persons who need an emergency examination for possible involuntary hospitalization may be transported to the nearest emergency department designated by the Director of Health. If the person is determined to need involuntary hospitalization and is not in the emergency department of a psychiatric facility that has inpatient psychiatric beds, the person shall be transported to a psychiatric facility.

MEANS: Amend sections 334-1 and 334-59 (a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: To clarify ambiguities and inconsistencies in chapter 334, Hawaii Revised Statutes, with respect to where persons subject to emergency examination and involuntary hospitalization shall be transported. If a person meets the criteria for involuntary hospitalization and is transported to a psychiatric facility for hospitalization, that facility must have inpatient capabilities; defining a psychiatric facility as having outpatient services is confusing, and if it does not also have inpatient beds, it is inappropriate. Thus, the definition of psychiatric facility in section 334-1 is amended by deleting "or outpatient."

The current section 334-59, Hawaii Revised Statutes, uses the terms "facility designated by the director" and "psychiatric facility" inconsistently. Persons found eligible for emergency examination must be transported to the closest emergency department designated by the Director of Health. Not all emergency

departments have mental health assessment capabilities at this time for all persons, so the concept of "designated by the director" is being maintained. It is not required that the emergency department be part of a hospital that also includes psychiatric beds. Once a person is determined to qualify for involuntary hospitalization, if that person is not in an emergency department that is part of a psychiatric facility, then the person shall be transported to a psychiatric facility. Also, there is no need for a separate procedure for persons who are suicidal; if they are found to be imminently dangerous to themselves because they are suicidal. The involuntary hospitalization procedures is identical to those for persons who are unable to care for themselves or are a danger to others.

Impact on the public: Individual patients are more likely to receive assessment and treatment more quickly and at the appropriate level of care. The burden of conducting emergency examinations of persons transported to emergency departments to determine if they meet the requirements of involuntary hospitalization will not be limited to only hospitals that have inpatient psychiatric beds. Once those persons are determined to meet the criteria for involuntary hospitalization, then they will be transported to a psychiatric facility, if they are not already being examined there, for that level of care.

Impact on the department and other agencies: Law enforcement officers and emergency medial services will have clear guidance on where patients needing an emergency examination for possible involuntary hospitalization may be transported.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: HTH 495.

OTHER AFFECTED
AGENCIES: Department of Public Safety; Hawaii Health
Systems Corporation.

EFFECTIVE DATE: Upon approval.