
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

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PART I

MENTAL HEALTH EXAMINATION

SECTION 1. The legislature finds that law enforcement officers are sometimes restricted in discharging their sworn duties due to constraints imposed by the federal courts and the judiciary over constitutional concerns.

The legislature also finds that psychiatric facilities licensed by the director of health lack a sufficient number of licensed physicians practicing psychiatry and clinical psychologists. This shortage is a barrier to addressing the increasing number of people in the state that pose an imminent danger to themselves or others or are obviously mentally ill and behaving in a manner deemed disorderly.

The purpose of this Act is to allow law enforcement officers to take into custody persons who are apparently mentally ill and behaving in a manner which in a mentally well person would be disorderly and remove unnecessary procedures



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1 established by the director of health which are used to
2 determine if a person is an imminent danger to self or to
3 others.

4 SECTION 2. Section 334-59, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§334-59 Emergency examination and hospitalization.** (a)

7 Initiation of proceedings. An emergency admission may be
8 initiated as follows:

9 (1) If a law enforcement officer has reason to believe
10 that a person is imminently dangerous to self or
11 others [~~, the officer shall call for assistance from~~
12 ~~the mental health emergency workers designated by the~~
13 ~~director. Upon determination by the mental health~~
14 ~~emergency workers that the person is imminently~~
15 ~~dangerous to self or others,~~] or if the person is
16 apparently mentally ill and conducting oneself in a
17 manner which in a mentally well person would be
18 disorderly, the person shall be transported by
19 ambulance or other suitable means, to a licensed
20 psychiatric facility for further evaluation and
21 possible emergency hospitalization. A law enforcement



1 officer may also take into custody and transport to
2 any facility designated by the director any person
3 threatening or attempting suicide. The officer shall
4 make application for the examination, observation, and
5 diagnosis of the person in custody. The application
6 shall state or shall be accompanied by a statement of
7 the circumstances under which the person was taken
8 into custody and the reasons therefor which shall be
9 transmitted with the person to a physician practicing
10 psychiatry, advanced practice registered nurse, or
11 clinical psychologist at the facility.

12 (2) Upon written or oral application of any licensed
13 physician, advanced practice registered nurse,
14 psychologist, attorney, member of the clergy, health
15 or social service professional, or any state or county
16 employee in the course of employment, a judge may
17 issue an ex parte order orally, but shall reduce the
18 order to writing by the close of the next court day
19 following the application, stating that there is
20 probable cause to believe the person is mentally ill
21 or suffering from substance abuse, is imminently



1 dangerous to self or others and in need of care or
2 treatment, or both, giving the findings upon which the
3 conclusion is based. The order shall direct that a
4 law enforcement officer or other suitable individual
5 take the person into custody and deliver the person to
6 a designated mental health program, if subject to an
7 assisted community treatment order issued pursuant to
8 part VIII of this chapter, or to the nearest facility
9 designated by the director for emergency examination
10 and treatment, or both. The ex parte order shall be
11 made a part of the patient's clinical record. If the
12 application is oral, the person making the application
13 shall reduce the application to writing and shall
14 submit the same by noon of the next court day to the
15 judge who issued the oral ex parte order. The written
16 application shall be executed subject to the penalties
17 of perjury but need not be sworn to before a notary
18 public.

- 19 (3) Any licensed physician, advanced practice registered
20 nurse, physician assistant, or psychologist who has



1 examined a person and has reason to believe the person
2 is:

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

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

5 (C) In need of care or treatment;

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

15 (b) Emergency examination. A patient who is delivered for
16 emergency examination and treatment to a facility designated by
17 the director shall be examined by a licensed physician
18 practicing psychiatry, advanced practice registered nurse or
19 clinical psychologist without unnecessary delay and may be given
20 such treatment as is indicated by good medical practice. A
21 psychiatrist, advanced practice registered nurse or clinical



1 psychologist may further examine the patient to diagnose the
2 presence or absence of a mental disorder, assess the risk that
3 the patient may be dangerous to self or others, and assess
4 whether or not the patient needs to be hospitalized.

5 (c) Release from emergency examination. If the physician
6 practicing psychiatry, advanced practice registered nurse or
7 clinical psychologist who performs the emergency examination,
8 [~~in consultation with a psychologist if applicable,~~] concludes
9 that the patient need not be hospitalized, the patient shall be
10 discharged immediately unless the patient is under criminal
11 charges, in which case the patient shall be returned to the
12 custody of a law enforcement officer.

13 (d) Emergency hospitalization. If the physician[~~7~~]
14 practicing psychiatry, advanced practice registered nurse or
15 clinical psychologist who performs the emergency examination has
16 reason to believe that the patient is:

- 17 (1) Mentally ill or suffering from substance abuse;
18 (2) Imminently dangerous to self or others; and
19 (3) In need of care or treatment, or both;

20 the physician[~~7~~] practicing psychiatry, advanced practice
21 registered nurse or clinical psychologist may direct that the



1 patient be hospitalized on an emergency basis or cause the
2 patient to be transferred to another psychiatric facility for
3 emergency hospitalization, or both. The patient shall have the
4 right immediately upon admission to telephone the patient's
5 guardian or a family member including a reciprocal beneficiary,
6 or an adult friend and an attorney. If the patient declines to
7 exercise that right, the staff of the facility shall inform the
8 adult patient of the right to waive notification to the family
9 including a reciprocal beneficiary, and shall make reasonable
10 efforts to ensure that the patient's guardian or family
11 including a reciprocal beneficiary, is notified of the emergency
12 admission but the patient's family including a reciprocal
13 beneficiary, need not be notified if the patient is an adult and
14 requests that there be no notification. The patient shall be
15 allowed to confer with an attorney in private.

16 (e) Release from emergency hospitalization. If at any
17 time during the period of emergency hospitalization the
18 responsible physician concludes that the patient no longer meets
19 the criteria for emergency hospitalization the physician shall
20 discharge the patient. If the patient is under criminal
21 charges, the patient shall be returned to the custody of a law



1 enforcement officer. In any event, the patient must be released
2 within [~~forty-eight~~] seventy-two hours of the patient's
3 admission, unless the patient voluntarily agrees to further
4 hospitalization, or a proceeding for court-ordered evaluation or
5 hospitalization, or both, is initiated as provided in section
6 334-60.3. If that time expires on a Saturday, Sunday, or
7 holiday, the time for initiation is extended to the close of the
8 next court day. Upon initiation of the proceedings the facility
9 shall be authorized to detain the patient until further order of
10 the court."

11 PART II

12 TEMPORARY RESTRAINING ORDER DATABASE

13 SECTION 3. The legislature finds that law enforcement
14 officers do not have sufficient access to a suspect's temporary
15 restraining orders and past interactions with law enforcement.
16 Providing law enforcement with the ability to access records
17 regarding temporary restraining orders can provide insight into
18 a subject's history, potential mental health issues, and
19 propensity for violence. This lack of knowledge results in law
20 enforcement officers being unable to properly assess the subject



1 of a 911 call in order to properly prepare for an encounter with
2 an alleged suspect.

3 The purpose of this Act is to establish a state wide
4 temporary restraining order database within the judiciary that
5 catalogs a person's temporary restraining orders which can be
6 accessed by state and county law enforcement officers.

7 SECTION 4. Chapter 586-4, Hawaii Revised Statutes, is
8 amended by adding a section to be appropriately designated to
9 read as follows:

10 "§586-4- Temporary restraining order database. (a) There is
11 established within the judiciary, the state wide temporary
12 restraining order database, responsible for providing the
13 department of attorney general access to all current and expired
14 temporary restraining orders for individuals in the state."

15 PART III

16 PUBLIC PSYCHIATRIC BEDS

17 SECTION 5. The legislature finds that a minimum of 50 beds
18 per 100,000 people is considered necessary to provide minimally
19 adequate treatment for individuals with severe mental illness.
20 Hawaii fails to meet this minimum standard. In order to better
21 help those with severe mental illness and to better protect the



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1 citizens of Hawaii, we must restore a sufficient number of beds
2 to create access to inpatient care for qualifying individuals in
3 crisis and to stop eliminating public psychiatric beds.

4 The purpose of this Act is to appropriate funds to the
5 department of health to:

6 (1) Plan, design, construct, and equip new licensed
7 psychiatric facilities; and

8 (2) Expand current licensed psychiatric facilities.

9 SECTION 6. The director of finance is authorized to issue
10 general obligation bonds in the sum of \$50,000,000 or so much
11 thereof as may be necessary and the same sum or so much thereof
12 as may be necessary is appropriated for fiscal year 2020-2021
13 for the purpose of financing capital improvement projects for
14 the planning, design, construction of, and equipment for new or
15 existing licensed psychiatric facilities.

16 SECTION 7. The sum appropriated for the capital
17 improvement projects set forth in section 6 of this Act shall be
18 expended by the department of health for the purposes of this
19 Act.

20 SECTION 8. The appropriation made for the capital
21 improvement projects authorized by this Act shall not lapse at



1 the end of the fiscal biennium for which the appropriation is
2 made; provided that all moneys from the appropriation
3 unencumbered as of June 30, 2022, shall lapse as of that date.

4 PART IV

5 EMERGENCY EXAMINATION AND HOSPITALIZATION SUBSIDY PROGRAM

6 SECTION 9. The director of health shall establish an
7 emergency examination and hospitalization subsidy program within
8 the department of health for the purpose of recruiting,
9 retaining, and subsidizing the salaries of licensed physicians
10 practicing psychiatry and clinical psychologists employed by
11 licensed psychiatric facilities.

12 SECTION 10. The director of health shall adopt rules,
13 pursuant to chapter 91, necessary for the purposes of section 9.

14 SECTION 11. The director of health shall submit a report
15 of the status of the emergency examination and hospitalization
16 subsidy program, including any proposed legislation, to the
17 legislature no later than twenty days prior to the convening of
18 the regular session of 2021.

19 SECTION 12. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$2,000,000 or so much



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1 thereof as may be necessary for fiscal year 2020-2021 for the
2 emergency examination and hospitalization subsidy program.

3 The sum appropriated shall be expended by the department of
4 health for the purposes of this Act.

5 SECTION 13. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 14. This Act shall take effect upon its approval,
8 provided that section 2 shall take effect on January 1, 2021,
9 and sections 6, 7, 8, and 12 shall take effect on July 1, 2020.

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INTRODUCED BY:



JAN 23 2020



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Report Title:

Mental Health Examinations; Facilities; Appropriations

Description:

Amends emergency mental health examination procedures, creates TRO database, appropriates funds for additional mental health care facilities, appropriates funds to licensed psychiatric facilities to recruit and retain personnel and subsidize salaries.

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

