



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First State Legislature, 2021 Regular Session

Senate Committee on Human Services
Senator Joy A. San Buenaventura , Chair
Senator Les Ihara, Jr., Vice Chair

Senate Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 9, 2021 at 3:00 p.m.
VIA VIDEOCONFERENCE
State Capitol, Conference Room 225

By
Judge Christine E. Kuriyama
Deputy Chief Judge, Senior Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 199, Relating to Assisted Community Treatment.

Purpose: Mandates appointment of a guardian ad litem to represent the best interest of a mentally ill individual in assistant community treatment proceedings. Eliminates the need for the office of the public defender to participate in the proceedings.

Judiciary's Position:

The Judiciary offers the following comments on this measure and continued efforts to help and treat individuals suffering from mental illness and/or substance abuse:

1. Mandatory appointment of Guardian Ad Litem (“GAL”): There will be a financial impact on the Judiciary due to the fact that a GAL will be appointed in each case. GALs are private attorneys who charge an hourly rate for their services. Currently,

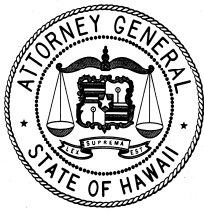


Senate Bill No. 199, Relating to Assisted Community Treatment
Senate Committee on Human Services
Senate Committee on Health
Tuesday, February 9, 2021 at 3:00 p.m.
Page 2

court-appointed GALs charge \$60.00/hour for out of court tasks and \$90.00/hour for in-court tasks pursuant to HRS Section 571-87.

2. In light of possible objections and legal challenges to the proposed amendments, e.g., mandatory appointment of a GAL, removing the Office of the Public Defender as defense counsel for the subject, allowing the hearing to proceed without attempts to secure the participation of the subject, etc., the Judiciary is unable to comment further with respect to the proposed changes.
3. It may be prudent to request an analysis of this bill by the Legislative Reference Bureau to determine whether such amendments should be adopted and implemented.

Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 199, RELATING TO ASSISTED COMMUNITY TREATMENT.

BEFORE THE:

SENATE COMMITTEES ON HUMAN SERVICES AND ON HEALTH

DATE: Tuesday, February 9, 2021 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Ian T. Tsuda,
Deputy Attorney General, at (808) 693-7081)

Chairs San Buenaventura and Keohokalole and Members of the Committees:

The Department of the Attorney General (Department) shares the following comments and concerns.

The purpose of this bill is to amend part VIII of chapter 334, Hawaii Revised Statutes (HRS), regarding Assisted Community Treatment (ACT), by (1) adding a new section to require the appointment of a guardian ad litem (GAL) for subjects of ACT proceedings, (2) amending section 334-126, HRS, to eliminate the requirement that the subject of a petition be present at the hearing, provided that the subject has been served with the petition and the subject's GAL is present, and (3) amend sections 334-125 and 334-126, HRS, to remove the requirement that the public defender or other counsel be appointed and given notice of ACT proceedings. While there are no concerns with items (1) and (2) identified above, and while a subject of an ACT petition may retain the subject's own attorney, item (3)'s removal of appointment of counsel for subjects who cannot afford legal assistance would leave the ACT susceptible to legal challenges for several reasons.

The appointment of counsel is one of the significant provisions of the ACT to afford subjects due process under the Fourteenth Amendment of the U.S. Constitution and article I, section 5, of the Constitution of the State of Hawai'i. This bill's proposed

removal of the right to counsel would remove a significant protection afforded by the procedures of the ACT statutes.

For these reasons, the Department recommends the provisions regarding the removal of the right to counsel be deleted from the bill.

Thank you for the opportunity to testify.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on Human
Services and the Senate Committee on Health**

February 9, 2021

S.B. No. 199: RELATING TO ASSISTED COMMUNITY TREATMENT

Chairs San Buenaventura and Keohokalole, Vice Chairs Ihara and Baker, and Members of the Committees:

The Office of the Public Defender does *not* oppose S.B. No. 199.

This measure seeks to remove the Office of the Public Defender (OPD) and mandates the appointment of a guardian ad litem to represent the best interest of the mentally ill individual in Assisted Community Treatment (ACT) proceedings.

Pursuant to article I, section 14 of the Hawai‘i Constitution, “The State shall provide counsel for an indigent defendant charged with an offense *punishable by imprisonment.*” (Emphasis added).

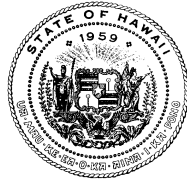
Prior to the enactment of ACT, HRS § 802-1 limited the OPD’s duty to representing only indigent persons threatened by imprisonment or confinement. This limitation was inclusive to indigent individuals charged with criminal offenses punishable by confinement in jail or prison, juveniles subject to confinement under HRS chapter 571, and persons threatened by confinement in psychiatric or other mental institutions, including accompanying requests for involuntary medical treatment. In each instance, the individual’s liberty and their personal freedom to live and breathe outside of confinement is at stake. ACT, enacted under HRS chapter 334, however, extended the right to counsel to persons subject to ACT petitions even though ACT does not involve the same liberty interests contemplated by or necessitated by the HRS or the Hawai‘i Constitution.

Because the individuals subject to ACT petitions are not threatened by confinement or imprisonment, the Office of the Public Defender has *no objection* to its removal as long as a guardian ad litem is appointed to represent the interest of the individual.

The ACT program involves social services treatment providers and implementation of those services. It does not involve liberty interests. The ACT process and the

individual's best interest are best served with the appointment of a GAL whose duty is to advise the court on whether ACT is in the best interest of the the mentally ill individual. *See In re Doe*, 108 Hawai'i 144, 154, 118 P.3d 54, 64 (2005) (the purpose of a guardian ad litem is to protect the person under disability and to ensure that the person's interest are not compromised). This is in stark contrast to the role of the OPD, which is to litigate legal issues on behalf of its clients according to the clients' requests, which often contradicts what may be in the clients' best interests. Without consent by the individual, the OPD will continue to litigate against the social service providers and family members who seek only to implement social services and treatment to the mentally ill individuals.

Thank you for the opportunity to comment on S.B. No. 199.



LATE

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony COMMENTING on S.B. 199
RELATING TO ASSISTED COMMUNITY TREATMENT

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HUMAN SERVICES

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON HEALTH

Hearing Date: 2/9/2021

Hearing Time: 3:00 p.m.

1 **Department Position:** The Department of Health (“Department”) respectfully offers comments
2 on this measure.

3 **Department Testimony:** The subject matter of this measure intersects with the scope of the
4 Department’s Behavioral Health Administration (BHA) whose statutory mandate is to assure a
5 comprehensive statewide behavioral health care system by leveraging and coordinating public,
6 private and community resources. Through the BHA, the Department is committed to carrying
7 out this mandate by reducing silos, ensuring behavioral health care is readily accessible, and
8 person-centered.

9 The Department is committed to addressing the needs of individuals who live with
10 behavioral health issues and are in need of necessary medical treatment when it is in their best
11 interest. Assisted Community Treatment (ACT) is an important method to ensure the
12 application of those services for those who would benefit from treatment over their objection.
13 The Department is committed to supporting the availability and effectiveness of ACT including
14 working with state agencies and community partners to improve access and implementation.

1 This bill seeks to improve both access and implementation of ACT by providing the
2 subject of an ACT petition with a Guardian Ad Litem (GAL), not requiring the subject to attend
3 related hearings, and removing the role of the public defender or court appointed attorney in
4 related proceedings. Non-attendance by individuals subject to an ACT petition at hearings has
5 resulted in continuances, delaying the process of implementation.

6 The role of a GAL to represent the best interests of the individuals when they are absent
7 or unable to meaningfully participate in the proceedings is helpful. This measure's impact on
8 access to legal counsel for ACT proceedings may raise constitutional concerns. The Department
9 respectfully defers to the Attorneys General for comments and proposed amendments
10 regarding access to legal counsel and representation.

11 Regarding involuntary treatment, the Department feels strongly that we need to
12 continue to dialogue the concept that an individual who is severely psychotic whether through
13 mental illness, substance abuse or both, can be in a state of "unconsciousness" similar to that
14 of an individual who is unconscious because of a physical cause. The need to be able to render
15 immediate treatment and aid in those cases without explicit consent of the individual such as
16 with CPR, for people with mental illness is important to us. We continue to strive for a balance
17 with individuals suffering from acute mental illness where they can be treated during a time
18 where they are, for all intents and purposes "unconscious", but still assure that their right to
19 self determination and representation during proceedings will be honored.

20 As written, we do not believe that this measure strikes that balance. However, we
21 remain committed to working with stakeholders to refine the current statute. Further, we
22 humbly ask the legislature to consider the programmatic and policy efforts that have been
23 undertaken in the last year that provide a foundation for continued active response for our
24 most vulnerable individuals. Specifically, we support the addition of the GAL and not requiring
25 the subject to attend the hearing as long as the GAL attends.

1 **Offered Amendments:** None.

2 Thank you for the opportunity to testify on this measure.

3 **Fiscal Implications:** Undetermined.

C. Kimo Alameda, PhD

Bay Clinic CEO, Psychologist, Professor, Youth Association President
561 Puloku St.
Hilo, Hawaii 96720
808-345-9280 adrkimo@icloud.com

February 4, 2021

**SENATE and HOUSE COMMITTEE ON
HEALTH (HTH) & HUMAN SERVICES (HMS)**

NOTICE OF HEARING

DATE: February (Tuesday) 9, 2021. **TIME:** 3:00pm. **PLACE:** Conference Room 225

Testimony in Support of HB #345 and SB #119

Mandate the assignment of a guardian ad litem to represent an individual with mental illness.

Dr. C. Kimo Alameda, Bay Clinic Inc. CEO

Thank you for the opportunity to testify on behalf of Bay Clinic in **SUPPORT of HB #345 and SB #119**, requesting that the courts mandates the assignment of a guardian ad litem to represent the best interest of a mentally ill individual in assistant community treatment proceedings. This Bill will eliminate the need for the office of the public offender to participate in the proceedings.

The community treatment program (ACT) established in 2013 provides individuals with severe mental illness who are unlikely to live safely in the community without available supervision with the necessary medical treatment and medication when it is in the individual's best interest. It is true that these individuals are given an opportunity to receive on-going treatment in the least restrictive setting but many mentally ill individuals fail to participate in the program. I believe a guardian ad litem to be appointed to represent the individual's best interest through engagement strategies like motivational interviewing is a good idea.

Sincerely

C. Kimo Alameda, PhD.



SB-199

Submitted on: 2/4/2021 9:27:20 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	No

Comments:

The appointment of a guardian ad litem in these cases might be a good idea. The question of "what is in the best interests of the respondent" in a case like this is a good one and a guardian ad litem can shed some insight for the Court.

That said, we have a lot of concerns about eliminating the legal representation provided by the Office of the Public Defender. After all, despite the desire to "help" the individual, this is nonetheless a legal proceeding, the outcome of which does impact a person's legal rights. For that reason, we see no basis to eliminate a right which exists under the current law. We have sat in Task Force meetings for the past few years at which many stakeholders have criticized the Office of the Public Defender for their vigorous representation of these individuals at the proceedings. While we understand where those concerns are coming from, we are not convinced that the solution to that problem is to eliminate that representation. As said this is a legal proceeding and there are specific legal requirements that have to be shown and proven before the treatment can be ordered.

We have been involved with this issue since the law was first passed. Over time, the criteria have been loosened and expanded to accommodate some of the valid issues raised by proponents of the treatment. We have actually supported most of those. However, they still have to "prove their case in Court" and if the respondent meets the criteria then presumably the Court will order the treatment. Simply because the Public Defender is making it inconvenient by representing their client is not a good reason to eliminate them from the process. They are doing their job and representing their clients. A basic tenet of the judicial system is the right to legal representation. While the bill does not say that they cannot have an attorney, the reality is that most, if not all of these individuals will not otherwise be in a position to retain private counsel. For that reason, we find this provision in the bill concerning and counter to the appropriate functioning of the judicial system.

THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 9, 2021
TIME: 3:00 PM
PLACE: Conference Room 225
TIMESLOT: HMS

February 5, 2021

Senate and House Committee On
Health & Human Services

Testimony in Support of HB #345 and SB #199

“Huli Au Ola”, Maui County Area Health Education Center, is in **support of HB #345 and SB #199**, this allows an assignment of a guardian ad litem to represent an individual in community treatment proceedings. This bill will remove the public defender to participate in these proceedings.

I believe guardian ad litem should be appointed to represent the individual’s best interest.

Respectfully submitted,
Rosie F Davis
Executive Director



SB199 Guardian for Mentally Ill in ACT

COMMITTEE ON HUMAN SERVICES:

- Sen. Joy San Buenaventura, Chair; Sen. Les Ihara, Vice Chair

COMMITTEE ON HEALTH,

- Sen. Jarrett Keohokalole, Chair; Sen. Rosalyn Baker, Vice Chair
- Tuesday, Feb. 9 2021: 3:00 pm: Videoconference

HSAC Supports SB199:

GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

- Streamlines a legal process for getting seriously mentally ill persons treated
- ACT advocates for the needs of the most at risk/vulnerable population in Hawaii
- Allocation of resources from the emergency room not be wasted by people coming repeatedly and not getting the psychiatric treatment they need, especially during COVID pandemic

We appreciate the opportunity to provide testimony and are available for questions.

DATE: Feb. 6, 2021

TO: Senate Committee on Health Human Services Committee
Senator Joy A. San Buenaventura, Chair
Senator Les Ihara, Vice Chair

Senate Committee on Human Services
Senator Jarrett Keohakalole, Chair
Senator Rosalyn Baker, Vice Chair

FROM: IHS, The Institute for Human Service, Inc.
Connie Mitchell, Executive Director

RE: SB199 Relating to Assisted Community Treatment

IHS, The Institute for Human Services, Inc. is in strong support of SB199 which makes amendments to the Assisted Community Treatment statute.

For the past 15 months, IHS has been implementing an Outreach Program that identifies homeless individuals suffering mental illness who have lost decisional capacity and continue to refuse treatment. The goal is to engage and motivate the individual to accept treatment.

This Bill was requested to streamline the legal process without compromising an individual's right to due process and ensure his/her right to treatment for serious mental illness or psychosis suffered as a result of chronic substance use, particularly with methamphetamine. Auto appointment of Guardian Ad Litem upon petition being filed would speed up the legal process by possibly having the GAL's opinion possibly be made available at the first hearing. Removing the Public Defender from participation in the court process still leaves the individual's best interests to be represented by the appointment of a guardian ad litem

Sadly, many of these potential subjects of ACT are high users of the emergency medical system and the destination emergency departments. We encounter many of them on outreach with significant medical conditions including severely infected wounds which might never have reached life-threatening status had the individual had the ability to understand their situation and the diseases that afflict both mind and body.

Even sadder, when the Assisted Community Treatment Process process requires months to complete, the subject or potential subject of our petition may suffer tragic consequences. One of our subjects of petition assaulted a police officer before the petition was brought to trial, further criminalizing him in order for him to access treatment. A female subject died as a result of being hit by a car while crossing a Highway and yet another young man who already had his foot amputated due to self-neglect died in the hospital of septicemia that resulted from the infection of his wounds.

The most significant benefits of the amendments proposed in SB199 is that it will facilitate access to treatment over objection for many more persons who have no understanding of their mental illness and how it impacts their quality of life without compromising due process. Among homeless people whom we serve every day, these people are among our most vulnerable.

Indeed, thousands, if not millions of dollars in health care costs could be saved by having the court mandate treatment for those who direly need it, in a more timely manner. During the current COVID pandemic, easing the numbers of behavioral health crises coming to emergency departments could also improve the likelihood that persons in a medical crisis would be more likely to access treatment.

We hope your Committees will see fit to pass SB199. Mahalo!

SB-199

Submitted on: 2/6/2021 2:59:07 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
david gierlach	Testifying for st elizabeth's church	Support	No

Comments:

I strongly support SB199, to assist our most vulnerable residents who are severely mentally ill or severely impaired due to substance abuse.

While I write as an individual, I have served as President of Institute for Human Services (IHS, where I am a current board member), the Hawaii State Bar Association and Hawaii Women Lawyers. I've spent thousands of volunteer hours helping Hawaii find better ways to address our homelessness crisis, civil rights and our legal system.

SB199 amends our Assisted Community Treatment law ("ACT") to finally provide critical tools needed for changing the lives of some of our most vulnerable residents who are chronically mentally ill and homeless. Some of these individuals are practically catatonic and "frozen", unable to respond intelligibly or to help themselves with life-saving treatment. Others have had so much methamphetamine use, that their cognitive abilities have been destroyed and they appear to have schizophrenia with active psychosis. Still others have severely infected wounds that are being ignored and are now life threatening, threatening loss of limbs or life, because of their lack of capacity to act. Our Chief Medical Examiner reports that the death toll in our homeless community ranges from 70-100 individuals a year – someone's son, father, mother or daughter, who has died because we do not have an adequate safety net for their needs.

The current ACT court process is so slow that some people have died or been hospitalized while IHS has been pursuing an ACT petition. SB199 will require immediate appointment of a guardian ad litem (GAL) upon submission of an ACT petition, to assist in determining need for treatment, and to satisfy the individual's right to representation in the ACT process. SB199 will also remove the Public Defender in these cases that are conducted in Family Court. The Public Defender process injects opposition to the ACT petition without appropriate determination of the person's best interests, since they lack decisional authority due to severe illness.

SB199 will increase the likelihood that persons suffering from severe mental illness or substance abuse will receive timely and appropriate care and treatment. We have miracles of modern medicine that can treat even the most severe mental illnesses, but these treatments require either actual or implied consent processes so that treatment may be rendered. This bill is appropriately limited to those with mental illness

or substance abuse who are imminently dangerous to self or others, and in need of care or treatment. This is often life-saving treatment, that enables the person to become more highly functioning and to restore communication and bridges with family and community.

We owe it to these individuals to provide them life-saving treatment and help restore their lucidity when they lack their own decision-making authority.



949 Kamokila Boulevard, 3rd Floor, Suite 350, Kapolei, HI 96707
808.675.7300 | www.ohanahealthplan.com

February 9, 2021
3:00 p.m.
Conference Room 225

To: The Honorable Chair Joy A. San Buenaventura
The Honorable Vice Chair Les Ihara, Jr.
Senate Committee on Human Services

The Honorable Chair Jarrett Keohokalole
The Honorable Vice Chair Rosalyn H. Baker
Senate Committee on Health

From: 'Ohana Health Plan
Rachel Wilkinson, Government Affairs Sr. Manager

Re: SB 199, Relating to Assisted Community Treatment; **In Support**

'Ohana Health Plan is a wholly owned subsidiary of Centene Corporation, a leading multi-national healthcare enterprise committed to helping people live healthier lives. Since 2008, 'Ohana Health Plan has provided government-sponsored managed care services to families—from keiki to kupuna—and individuals with complex medical needs primarily through QUEST Integration (Medicaid), Medicare Advantage and Medicare Prescription Drug Plans across the state.

'Ohana Health Plan offers our **support** of SB 199, which mandates appointment of a guardian ad litem to represent the best interest of a mentally ill individual in assisted community treatment (ACT) proceedings; eliminates the need for the office of the public defender to participate in the proceedings.

Since 2013, 'Ohana Health Plan has also served adults diagnosed with a qualifying serious mental illness (SMI) and/or a serious and persistent mental illness (SPMI) through the state's Community Care Services (CCS) program.

Our CCS members are some of Hawaii's most vulnerable—individuals who have been diagnosed with schizophrenia, Post Traumatic Stress Disorder, substance induced psychosis, bipolar disorder, and major depression. They have significant impairment in

their social or functional behavior, unable to achieve optimal health outcomes without the support of persons to help navigate their care.

The process for employing the existing ACT law can be lengthy and cumbersome to manage, thereby resulting in the community and our members being underserved. We support this bill and believe it is an important step in improving the ACT process so that individuals with SMI/SPMI: 1) receive treatment and 2) their best interests and needs are represented accordingly.

Thank you for the opportunity to submit testimony on this measure.

SB-199

Submitted on: 2/8/2021 12:25:18 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick F. Hurney	Testifying for Habitat for Humanity Hawaii Island, Inc.	Support	No

Comments:

Please support SB199 (Assisted Community Treatment)

The following are reasons why you should support SB 199:

Streamlines a legal process for getting seriously mentally ill persons treated

- ACT advocates for the needs of the most at risk/vulnerable population in Hawaii
- Allocation of resources from the emergency room not be wasted by people coming repeatedly and not getting the psychiatric treatment they need, especially during COVID pandemic
- Can promote long term stability for subjects of ACT
- Auto appointment of Guardian ad litem speeds up the legal process by possibly having the GAL's opinion be made available at the first hearing.
- Ensures an objective party to personally meet with the subject of the petition in order to act on subject's behalf and ensure their best interests
- The elimination of a public defender participating in the court process still leaves the individual's best interests to be represented by the appointment of a guardian ad litem

Mahalo

Patrick F. Hurney

SB-199

Submitted on: 2/8/2021 1:41:45 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shirley David	Testifying for St. Michael the Archangel Parish	Support	No

Comments:

Residents with mental health issues are not getting the help needed to put them on a path that offers treatment that can get them off the streets and into housing. SB199 is needed to keep them out of the ER's and courts and into permanent housing.

DATE: February 9, 2021

LATE

TO: Senate Committee on Health Human Services Committee
Senator Joy A. San Buenaventura, Chair
Senator Les Ihara, Vice Chair
Senate Committee on Human Services
Senator Jarrett Keohakalole, Chair
Senator Rosalyn Baker, Vice Chair

FROM: Christopher Thomas, Attorney, representing IHS, The Institute for Human Service, Inc.
(o.b.o. Connie Mitchell, Executive Director)

RE: SB199 Relating to Assisted Community Treatment

My name is Christopher Thomas and I am an Attorney licensed in the State of Hawaii. I represent the Institute for Human Services (IHS) via the prosecution of Assisted Community Treatment (ACT) petitions. I.H.S. employs a systematic, team-oriented approach to identifying candidates for ACT and pursuing treatment Orders through the State's Circuit/Family Court system.

I am providing testimony in support of passing this legislation and strengthening our current ACT statute to guarantee legal protection to incapacitated Respondents. I am in support of making the appointment of Guardian Ad Litem's (GAL's) mandatory, if certain contingencies occur in the processing of an ACT lawsuit.

The current language in the current Statute holds that the appointment of a GAL is a discretionary process of the Court. The appointment should be mandatory if a Respondent is incapacitated. The pertinent portion of our current Statute is as follows:

§334-126 Hearing on Petition, subsection (e): "The subject of the petition shall be present at the hearing. However, if the subject has been served with the petition and does not appear at the hearing, the court *may* appoint a guardian ad litem to represent the best interests of the subject through the proceedings."

I am advocating the word "*shall*" be substituted for the current word "*may*," in this instance.

The current, common, practice before the Court tracks this trajectory in utilizing the law. The current practice of the Court is, that if the Respondent (whom is alleged to have mental illness or substance addiction) does not personally appear at the initial "return" hearing on the original Petition, the Court will customarily appoint a Guardian Ad Litem. However, this appointment is discretionary.

I am further advocating that the appointment of a Guardian Ad Litem be a mandatory requirement of the prosecution of an ACT Petition, and that a GAL be appointed immediately upon the first return hearing on the Petition if the Respondent fails to appear after being served with notice of hearing.

Making the appointment of a GAL mandatory at the first opportunity will serve to expedite the ACT process. It will furthermore provide guaranteed additional protection and representation to the Respondent.

Thank you for your consideration of this testimony. For these reasons, we ask that you pass this bill from this Committee.

LATE

SB-199

Submitted on: 2/9/2021 2:55:49 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristen Alice Apruzzese	Testifying for Community Alliance Partners	Support	No

Comments:

Community Alliance Partners supports this bill. As a coalition of social service providers and stakeholders working to end homelessness, we recognize the urgent need to connect people in need of mental health treatment with the care they need. This bill would streamline that process by eliminating the need to involve the Office of the Public Defender in matters of Assisted Community Treatment.

Mahalo nui for your consideration.

LATE

TESTIMONY OF JULIE ARIGO IN SUPPORT OF SB199

To the House Committee on Health, Human Services & Homelessness
For Hearing on February 9, 2021, at 3:00pm

I strongly support SB199, to assist our most vulnerable residents who are severely mentally ill or severely impaired due to substance abuse.

I write as an individual although I serve as a board member of the Institute for Human Services. As an individual, I have personally witnessed a relative who has experienced homelessness due to many years of substance abuse. As a result of recently receiving medical treatment on a consistent and timely manner to help with his mental state of mind, I have seen the positive change it makes in stabilizing and keeping his mental disability from progressively getting worse...to the point where I am more comfortable knowing he is not a danger to himself or to others. I have also met another woman who shared her story with me...how her father had been living on the streets for so many years and after receiving the treatment he needed (given to him by a doctor who would look for him on the streets), her father's life literally turned around to where he is now working and a productive member of our society. These treatments are life-changing. If we could help more persons in need of this help, we not only do good for them but for our society as well.

SB199 amends our Assisted Community Treatment law ("ACT") to finally provide critical tools needed for changing the lives of some of our most vulnerable residents who are chronically mentally ill and homeless. Some of these individuals are practically catatonic and "frozen", unable to respond intelligibly or to help themselves with life-saving treatment. Others have had so much methamphetamine use, that their cognitive abilities have been destroyed and they appear to have schizophrenia with active psychosis. Still others have severely infected wounds that are being ignored and are now life threatening, threatening loss of limbs or life, because of their lack of capacity to act. Our Chief Medical Examiner reports that the death toll in our homeless community ranges from 70-100 individuals a year – someone's son, father, mother or daughter, who has died because we do not have an adequate safety net for their needs.

The current ACT court process is so slow that some people have died or been hospitalized while IHS has been pursuing an ACT petition. SB199 will require immediate appointment of a guardian ad litem (GAL) upon submission of an ACT petition, to assist in determining need for treatment, and to satisfy the individual's right to representation in the ACT process. SB199 will also remove the Public Defender in these cases that are conducted in Family Court. The Public Defender process injects opposition to the ACT petition without appropriate determination of the person's best interests, since they lack decisional authority due to severe illness.

SB199 will increase the likelihood that persons suffering from severe mental illness or substance abuse will receive timely and appropriate care and treatment. We have miracles of modern medicine that can treat even the most severe mental illnesses, but these treatments require either actual or implied consent processes so that treatment

may be rendered. This bill is appropriately limited to those with mental illness or substance abuse who are imminently dangerous to self or others, and in need of care or treatment. This is often life-saving treatment, that enables the person to become more highly functioning and to restore communication and bridges with family and community.

I ask for your consideration in supporting SB199.

Respectfully submitted, Julie Arigo

Honolulu, Hawaii February 8, 2021

SB-199

Submitted on: 2/5/2021 4:59:38 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christy MacPherson	Individual	Support	No

Comments:

As a former ACT case manager, I strongly support this bill.

TESTIMONY OF ELLEN GODBEY CARSON IN SUPPORT OF SB199

To the House Committee on Health, Human Services & Homelessness
For Hearing on February 4, 2021, at 9:00am, Conf. Room 329

I strongly support SB199, to assist our most vulnerable residents who are severely mentally ill or severely impaired due to substance abuse.

While I write as an individual, I have served as President of Institute for Human Services (IHS, where I am a current board member), the Hawaii State Bar Association and Hawaii Women Lawyers. I've spent thousands of volunteer hours helping Hawaii find better ways to address our homelessness crisis, civil rights and our legal system.

SB199 amends our Assisted Community Treatment law ("ACT") to finally provide critical tools needed for changing the lives of some of our most vulnerable residents who are chronically mentally ill and homeless. Some of these individuals are practically catatonic and "frozen", unable to respond intelligibly or to help themselves with life-saving treatment. Others have had so much methamphetamine use, that their cognitive abilities have been destroyed and they appear to have schizophrenia with active psychosis. Still others have severely infected wounds that are being ignored and are now life threatening, threatening loss of limbs or life, because of their lack of capacity to act. Our Chief Medical Examiner reports that the death toll in our homeless community ranges from 70-100 individuals a year – someone's son, father, mother or daughter, who has died because we do not have an adequate safety net for their needs.

The current ACT court process is so slow that some people have died or been hospitalized while IHS has been pursuing an ACT petition. SB199 will require immediate appointment of a guardian ad litem (GAL) upon submission of an ACT petition, to assist in determining need for treatment, and to satisfy the individual's right to representation in the ACT process. SB199 will also remove the Public Defender in these cases that are conducted in Family Court. The Public Defender process injects opposition to the ACT petition without appropriate determination of the person's best interests, since they lack decisional authority due to severe illness.

SB199 will increase the likelihood that persons suffering from severe mental illness or substance abuse will receive timely and appropriate care and treatment. We have miracles of modern medicine that can treat even the most severe mental illnesses, but these treatments require either actual or implied consent processes so that treatment may be rendered. This bill is appropriately limited to those with mental illness or substance abuse who are imminently dangerous to self or others, and in need of care or treatment. This is often life-saving treatment, that enables the person to become more highly functioning and to restore communication and bridges with family and community.

We owe it to these individuals to provide them life-saving treatment and help restore their lucidity when they lack their own decision-making authority.

Respectfully submitted, Ellen Godbey Carson Honolulu, Hawaii February 6, 2021

SB-199

Submitted on: 2/7/2021 4:35:55 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
maria castro	Individual	Support	No

Comments:

I support an 199 thank you very much

SB-199

Submitted on: 2/7/2021 11:37:20 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diane S. Martinson	Individual	Support	No

Comments:

Adding additional support to aid those who are mentally ill and the most vulnerable within our society is very important and much needed. Enhancing the Assisted Community Treatment Program with the addition of the appointment of a guardian ad litem and other measures in this bill are excellent steps. I strongly support this bill.

SB-199

Submitted on: 2/8/2021 12:45:51 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Symons	Individual	Support	No

Comments:

Strong support!

TESTIMONY OF JERRY GIBSON, VP OF BRE HOTELS IN SUPPORT OF SB199

To the House Committee on Health, Human Services & Homelessness
For Hearing on February 4, 2021, at 9:00am, Conf. Room 329

LATE

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I really thank you for your time and attention to this matter. Let’s see if we can help Hawaii take a large step forward.

Respectfully submitted on February 8, 2021.

Mahalo,

Jerry Gibson

Vice President

BRE HOTELS & RESORTS

LATE

SB-199

Submitted on: 2/8/2021 6:01:35 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Frances Becker	Individual	Support	No

Comments:

I support this SB199 because I have seen the effects of friends and other family members who need this service desperately and have been without the ability of a Guardian Ad Litem appointed to represent them in their best interest. Their mental health impairs them and they cannot make good judgments for what is best because they are in pain, panic with increased anxiety and have actually ended up on the pathway to drug addiction for what has been prescribed for them. This Bill will help bring the voice of the Guardian Ad Litem to the health professionals assigned to the case to better help the individuals with mental health and in need of the assistant community treatments.

Thank you for considering my comments.

SB-199

Submitted on: 2/9/2021 11:15:52 AM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Faith Tuipulotu	Individual	Support	No

Comments:

I support SB199

LATE

SB-199

Submitted on: 2/9/2021 12:00:04 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Individual	Support	No

Comments:

LATE

SB-199

Submitted on: 2/9/2021 12:39:30 PM

Testimony for HMS on 2/9/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
LaVerne Tolmie	Individual	Support	No

Comments:

I support this bill

LATE