
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. The legislature finds that Hawaii's current
2 standard for involuntary hospitalization does not adequately
3 prevent harm either to members of the public or persons
4 suffering from mental illness or substance abuse. By requiring
5 proof that a person is "imminently dangerous to self or others",
6 the law essentially requires the point of danger--and thus
7 potential harm--to have already been reached. Instead, the
8 standard should be more flexible to allow the person to receive
9 treatment before the point of danger has been reached and
10 avoidable harm occurs.

11 The legislature notes that the National Alliance on Mental
12 Illness, in its December 2016 public policy platform, asserts
13 that states should "adopt broader, more flexible standards that
14 would provide for involuntary commitment and/or court ordered
15 treatment when an individual, due to mental illness is gravely
16 disabled..." in addition to other grounds. The policy platform
17 defines a "gravely disabled" person as one who "is substantially



1 unable...to provide for any of his or her basic needs, such as
2 food, clothing, shelter, health or safety[.]" The policy
3 platform also explains that "requir[ing] proof of dangerousness
4 often produce[s] unsatisfactory outcomes because individuals are
5 allowed to deteriorate needlessly before involuntary commitment
6 and/or court-ordered treatment can be instituted."

7 The legislature acknowledges that, collectively, Act 221,
8 Session Laws of Hawaii 2013, and Act 114, Session Laws of Hawaii
9 2016, deleted the term "gravely disabled" from the criteria for
10 involuntary hospitalization and increased dependence on a
11 danger-based definition, in furtherance of a pilot program for
12 assisted community treatment that is now permanent. Mentally
13 ill persons who are gravely disabled may not be imminently
14 dangerous to themselves or others, but still pose a very real
15 danger to themselves or the public and thus should be covered by
16 the law. While the legislature supports the continuation of the
17 assisted community treatment program and its complementary role
18 in treating mental illness and substance abuse on an outpatient
19 basis, the legislature is cognizant that a portion of the
20 mentally ill population, including the chronically homeless, are



1 being deprived of urgent, medically appropriate mental health
2 intervention that is best administered on an inpatient basis.

3 The purpose of this Act is to protect mentally ill
4 individuals and the public more effectively by amending the
5 definition of "dangerous to self", defining the terms "gravely
6 disabled" and "psychiatric deterioration", broadening the term
7 of "imminently dangerous to self and others", and increasing the
8 maximum period of emergency hospitalization.

9 SECTION 2. Section 334-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"PART I. GENERAL AND ADMINISTRATIVE PROVISIONS**

12 **§334-1 Definitions.** As used in this chapter unless
13 otherwise indicated by the context:

14 "Administrator" means the person in charge of a public or
15 private hospital.

16 "Admission procedures" mean the various methods for
17 admission of mentally ill persons or of persons habituated to
18 the excessive use of drugs or alcohol to public and private
19 psychiatric facilities.

20 "Authorized absence" means absence of a patient from a
21 psychiatric facility for any period of time with permission.



1 "Behavioral health crisis center" means a facility that is
2 specifically designed and staffed to provide care, diagnosis, or
3 treatment for persons who are experiencing a mental illness or
4 substance use disorder crisis.

5 "Community mental health center" means one or more
6 facilities which alone or in conjunction with other facilities,
7 public or private, are part of a coordinated program providing a
8 variety of mental health services principally for persons
9 residing in a community or communities in or near which the
10 center is located.

11 "Conservator" shall have the meaning provided in section
12 560:5-102.

13 "Court" means any duly constituted court and includes
14 proceedings, hearings of per diem judges as authorized by law.

15 "Dangerous to others" means likely to do substantial
16 physical or emotional injury on another, as evidenced by a
17 recent act, attempt or threat.

18 "Dangerous to property" means inflicting, attempting or
19 threatening imminently to inflict damage to any property in a
20 manner which constitutes a crime, as evidenced by a recent act,
21 attempt or threat.



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1 "Dangerous to self" means the person [~~recently has~~]:

2 (1) [~~Threatened~~] Recently has threatened or attempted
3 suicide or serious bodily harm; or

4 (2) [~~Behaved in such a manner as to indicate that the~~
5 ~~person is unable, without supervision and the~~
6 ~~assistance of others, to satisfy the need for~~
7 ~~nourishment, essential medical care, including~~
8 ~~treatment for a mental illness, shelter or self-~~
9 ~~protection, so that it is probable that death,~~
10 ~~substantial bodily injury, or serious physical~~
11 ~~debilitation or disease will result unless adequate~~
12 ~~treatment is afforded.~~] Is gravely disabled.

13 "Department" means the department of health.

14 "Director" means the director of health.

15 "Discharge" means the formal termination on the records of
16 a psychiatric facility of a patient's period of treatment at the
17 facility.

18 "Gravely disabled" means a condition in which a person is
19 unable, without supervision and the assistance of others, to
20 prevent physical or psychiatric deterioration or to satisfy the
21 need for nourishment, essential medical care including treatment



1 for a mental illness, shelter, or self-protection, so that it is
2 probable that death, substantial bodily injury, or serious
3 physical debilitation or disease will result unless adequate
4 treatment is afforded.

5 "Guardian" shall have the meaning provided in section
6 560:5-102.

7 "Health care operations" means the services and activities
8 conducted by an institution, facility, or agency licensed,
9 certified, or otherwise authorized or permitted by law to
10 provide medical or health services in the ordinary course of
11 business, including case management and care coordination,
12 quality assessment and improvement activities, medical reviews,
13 and administrative activities.

14 "Health care provider" means an individual or entity
15 licensed, certified, or otherwise authorized or permitted by law
16 to provide medical or health services in the ordinary course of
17 business or practice of a profession.

18 "Homeless individual" means an individual who is homeless
19 as defined under section 346-361 and who has a serious and
20 persistent mental illness or is otherwise eligible for
21 treatment.



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1 "Imminently dangerous to self or others" means that,
2 without intervention, the person will likely become dangerous to
3 self or dangerous to others within the next [~~forty-five~~] ninety
4 days.

5 "Incapacitated person" shall have the meaning provided in
6 section 560:5-102.

7 "Interested person" means an interested, responsible adult,
8 including but not limited to a public official, the legal
9 guardian, spouse, parent, legal counsel, adult child, or next of
10 kin of a person allegedly mentally ill, mentally deficient or
11 suffering from substance abuse or as otherwise provided in
12 article I of chapter 560.

13 "Intoxicated person" means a person who is deprived of
14 reasonable self-control because of intake of alcohol or because
15 of any substance which includes in its composition volatile
16 organic solvents.

17 "Judge" means any judge of the family court or per diem
18 judge appointed by the chief justice as provided in section 604-
19 2.

20 "Law enforcement officer" has the same meaning as in
21 section 710-1000.



1 "Licensed physician" means a physician or surgeon licensed
2 by the State to practice medicine, including a physician and
3 surgeon granted a limited and temporary license under section
4 453-3(1), (2), and (5) or a resident physician and surgeon
5 granted a limited and temporary license under paragraph (4)
6 thereof, or a medical officer of the United States while in this
7 State in the performance of the medical officer's official
8 duties.

9 "Mental health" means a state of social, psychological, and
10 physical well-being, with capacity to function effectively in a
11 variety of social roles.

12 "Mentally ill person" means a person having psychiatric
13 disorder or other disease which substantially impairs the
14 person's mental health and necessitates treatment or
15 supervision.

16 "Patient" means a person under observation, care, or
17 treatment at a psychiatric facility.

18 "Person suffering from substance abuse" means a person who
19 uses narcotic, stimulant, depressant, or hallucinogenic drugs or
20 alcohol to an extent which interferes with the person's
21 personal, social, family, or economic life.



1 "Protected person" shall have the meaning provided in
2 section 560:5-102.

3 "Psychiatric deterioration" means a substantial impairment
4 or an obvious decline of an individual's judgment, reasoning, or
5 ability to control behavior.

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

11 "Special treatment facility" means a public or private
12 facility which provides a therapeutic residential program for
13 care, diagnosis, treatment or rehabilitation services for
14 emotionally distressed persons, mentally ill persons or persons
15 suffering from substance abuse.

16 "Therapeutic living program" means a supervised living
17 arrangement that provides mental health or substance abuse
18 services for individuals or families who do not need the
19 structure of a special treatment facility and are transitioning
20 from a more restrictive treatment setting to independent living.



1 The program aids residents in meeting basic needs and provides
2 supportive services through a required service plan.

3 "Treatment" means the broad range of emergency, out-
4 patient, intermediate, domiciliary, and inpatient services and
5 care, including diagnostic evaluation, medical, psychiatric,
6 psychological, and social service care, vocational
7 rehabilitation, career counseling, and other special services
8 which may be extended to handicapped persons.

9 "Treatment summary" means a record of information including
10 present history and physical examination, mental status
11 examination, emergency department record, intake evaluation,
12 eligibility determination, current medication list and
13 prescription history, treatment plan, consultant reports,
14 diagnosis and problem lists, recent laboratory and diagnostic
15 testing, clinical or discharge summaries, and discharge
16 instructions, or any combination of such information.

17 "Unauthorized absence" means absence of a patient from a
18 psychiatric facility for any period of time without permission."

19 SECTION 3. Section 334-59, Hawaii Revised Statutes, is
20 amended by amending subsections (d) and (e) to read as follows:



1 "(d) Emergency hospitalization. If the physician,
2 advanced practice registered nurse, or psychologist who performs
3 the emergency examination has reason to believe that the patient
4 is:

5 (1) Mentally ill or suffering from substance abuse;
6 (2) Imminently dangerous to self or others; and
7 (3) In need of care or treatment, or both;

8 the physician, advanced practice registered nurse, or
9 psychologist may direct that the patient be hospitalized on an
10 emergency basis or cause the patient to be transferred to
11 another psychiatric facility for emergency hospitalization, or
12 both. The patient shall have the right, immediately upon
13 admission, to telephone the patient's guardian [~~or~~], a family
14 member [~~including~~], a reciprocal beneficiary, or an adult
15 friend, and an attorney. If the patient declines to exercise
16 that right, the staff of the facility shall inform the adult
17 patient of the right to waive notification to the guardian,
18 family [~~including a~~] member, or reciprocal beneficiary, and
19 shall make reasonable efforts to ensure that the patient's
20 guardian [~~or~~], family [~~including a~~], or reciprocal beneficiary[~~r~~
21 ~~is~~] are notified of the emergency admission, but the patient's



1 family [~~including a~~] or reciprocal beneficiary[~~r~~] need not be
2 notified if the patient is an adult and requests that there be
3 no notification. The patient shall be allowed to confer with an
4 attorney in private.

5 (e) Release from emergency hospitalization. If at any
6 time during the period of emergency hospitalization the
7 responsible physician concludes that the patient no longer meets
8 the criteria for emergency hospitalization the physician shall
9 discharge the patient. If the patient is under criminal
10 charges, the patient shall be returned to the custody of a law
11 enforcement officer. In any event, the patient must be released
12 within [~~forty-eight~~] seventy-two hours of the patient's
13 admission, unless the patient voluntarily agrees to further
14 hospitalization, or a proceeding for court-ordered evaluation or
15 hospitalization, or both, is initiated as provided in section
16 334-60.3. If that time expires on a Saturday, Sunday, or
17 holiday, the time for initiation is extended to the close of the
18 next court day. Upon initiation of the proceedings the facility
19 shall be authorized to detain the patient until further order of
20 the court."



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

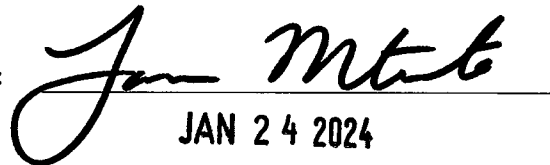
4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2024.

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INTRODUCED BY:


JAN 24 2024



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Report Title:

Mental Illness; Hospitalization

Description:

Amends the definition of "dangerous to self". Defines the terms "gravely disabled" and "psychiatric deterioration". Broadens the term of "imminently dangerous to self and others".
Increases the maximum period of emergency hospitalization.

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