
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 the State's mental
2 health laws provide the State with a variety of methods to help
3 and support individuals suffering from mental illness or
4 substance abuse. As the number of individuals in need of help
5 increases, so has the need to enhance these laws in a manner
6 that demystifies the complexities of existing procedures,
7 clarifies the circumstances under which action can be taken, and
8 bolsters available tools to best serve these individuals. Legal
9 mechanisms, such as emergency procedures, involuntary
10 hospitalization, assisted community treatment, and authorization
11 for the administration of treatment, enable the State and mental
12 health providers to provide compassionate assistance to
13 individuals suffering from mental illness or substance abuse
14 when they need it the most.

15 Accordingly, the purpose of this Act is to clarify, update,
16 and revise Hawaii's mental health laws by:



- 1 (1) Requiring the department of health to submit annual
2 reports to the legislature on emergency
3 transportations and assisted community treatment
4 petitions and orders, based on information provided by
5 service providers and the department of the attorney
6 general;
- 7 (2) Clarifying emergency transportation, examination, and
8 hospitalization procedures for individuals who may be
9 mentally ill or suffering from substance abuse and are
10 imminently dangerous to self or others;
- 11 (3) Requiring treatment providers to provide relevant
12 treatment information to the department of the
13 attorney general, upon the department's request, for
14 purposes of preparing a petition for assisted
15 community treatment;
- 16 (4) Amending the procedures for involuntary
17 hospitalizations and assisted community treatment
18 petitions;
- 19 (5) Clarifying the circumstances under which a subject of
20 an order for assisted community treatment can be



1 administered medication over the subject's objection;

2 and

3 (6) Allowing a single psychiatrist, rather than a panel of
4 three, to provide administrative authorization for
5 medical treatment over the objection of a patient who
6 is in the custody of the director of health and in a
7 psychiatric facility.

8 SECTION 2. Chapter 334, Hawaii Revised Statutes, is
9 amended by adding a new section to part I to be appropriately
10 designated and to read as follows:

11 **"§334-A Annual report; emergency transportations; assisted**
12 **community treatment.** Each provider of services involved in an
13 emergency transportation initiated by a law enforcement officer,
14 court order, or health care provider; assisted community
15 treatment petition; or assisted community treatment order
16 pursuant to part IV or VIII, and the department of the attorney
17 general, shall provide the necessary data to the department to
18 complete the report under this section. Based on this data, the
19 department shall submit an annual report to the legislature no
20 later than thirty days prior to the convening of each regular
21 session.



1 The report shall include, at a minimum, an evaluation of
2 the effectiveness of the strategies employed by each provider
3 operating pursuant to parts IV and VIII in reducing
4 hospitalization of persons subject to emergency transportation
5 or assisted community treatment and in reducing involvement with
6 local law enforcement by persons subject to assisted community
7 treatment orders. The evaluation and report shall also include
8 any other measures identified by the department regarding
9 individuals subject to assisted community treatment petitions
10 and orders and all of the following, based on information that
11 is available:

12 (1) The number of individuals brought to each of the
13 facilities operated by service providers through
14 emergency transportation, and the number of those
15 individuals transported due to enforcement of an order
16 for assisted community treatment;

17 (2) The number of individuals involuntarily hospitalized
18 through emergency transportation and emergency
19 examination;

20 (3) The number of individuals subject to assisted
21 community treatment orders;



- 1 (4) The petitioner's relationship to the individual
2 subject to the assisted community treatment petition;
3 (5) The number of individuals under assisted community
4 treatment orders who become involved with the criminal
5 justice system by way of arrests, convictions,
6 probation, incarceration, or other relevant data;
7 (6) The need for hospitalization and related length of
8 stay for individuals after they become subject to an
9 assisted community treatment order;
10 (7) Adherence to prescribed treatment by individuals
11 subject to an assisted community treatment order; and
12 (8) Other indicators of successful engagement, if any, by
13 individuals subject to an assisted community treatment
14 order."

15 SECTION 3. Chapter 334, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding a new subpart to part IV to be designated as
18 subpart A and to read:

19 "A. Emergency Procedures

20 **§334-B Emergency procedures.** The emergency procedures in
21 this subpart shall consist of emergency transportation,



1 emergency examination, and emergency hospitalization for
2 individuals who may be mentally ill or suffering from substance
3 abuse and imminently dangerous to self or others.

4 **§334-C Emergency transportation initiated by a law**
5 **enforcement officer.** (a) When a law enforcement officer has a
6 reasonable suspicion that an individual is imminently dangerous
7 to self or others and needs to be detained for emergency
8 examination, the law enforcement officer shall contact a mental
9 health emergency worker; provided that the law enforcement
10 officer may temporarily detain the individual if the law
11 enforcement officer:

12 (1) Is unable to reach a mental health emergency worker
13 telephonically after three attempts;

14 (2) Has reason to believe that the situation requires
15 immediate intervention to prevent harm to the
16 individual or others;

17 (3) Contacts a mental health emergency worker at the
18 earliest time possible; and

19 (4) Documents the reasons why the situation necessitated
20 that the individual be detained.



1 If the mental health emergency worker determines that the
2 individual is mentally ill or suffering from substance abuse and
3 is imminently dangerous to self or others, the law enforcement
4 officer shall detain the individual for transportation to a
5 facility for an emergency examination.

6 (b) When a crisis intervention officer has probable cause
7 to believe that an individual is mentally ill or suffering from
8 substance abuse and is imminently dangerous to self or others,
9 the crisis intervention officer shall detain the individual for
10 transportation to a facility for an emergency examination. The
11 crisis intervention officer shall contact a mental health
12 emergency worker to determine the type of facility where the
13 individual shall be transported.

14 (c) Any individual detained under this section shall be
15 transported directly to a psychiatric facility or other facility
16 designated by the director, as determined by a mental health
17 emergency worker; provided that if a medical emergency occurs
18 during transport, the individual shall be transported to the
19 nearest emergency department. A law enforcement officer shall
20 make an application for the emergency examination of the
21 individual. The application shall state in detail the



1 circumstances under which and reasons why the individual was
2 taken into custody. The application shall be transmitted with
3 the individual to the psychiatric facility or other facility
4 designated by the director and be made a part of the
5 individual's clinical record.

6 (d) For the purposes of this section, "crisis intervention
7 officer" has the same meaning as defined in section 353C-1.

8 **§334-D Emergency transportation initiated by a court**
9 **order.** (a) Upon written or oral application of any licensed
10 physician, advanced practice registered nurse, psychologist,
11 attorney, member of the clergy, health or social service
12 professional, or any state or county employee in the course of
13 employment, a judge may issue a written or oral ex parte order:

14 (1) Stating that there is probable cause that the
15 individual is:

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

17 and

18 (B) Imminently dangerous to self or others;

19 (2) Stating the findings upon which the conclusion is
20 based; and



1 (3) Directing that a law enforcement officer take the
2 individual into custody and transport the individual
3 directly to a psychiatric facility or other facility
4 designated by the director for an emergency
5 examination.

6 The person who made the application shall notify a mental
7 health emergency worker of the written or oral ex parte order
8 and, when possible, shall coordinate the transport of the
9 individual with the emergency worker.

10 (b) If an application under subsection (a) was made
11 orally, the person who made the application shall reduce the
12 application to writing and submit it to the judge who issued the
13 ex parte order by noon of the next court day after the order was
14 issued. The written application shall be made under penalty of
15 law but need not be sworn to before a notary public. If the
16 judge issued an ex parte order orally, the judge shall reduce
17 the oral order to writing by the close of the next court day
18 after the order was issued. The written ex parte order shall be
19 transmitted with the individual to the psychiatric facility or
20 other facility designated by the director and be made a part of
21 the individual's clinical record.



§334-E Emergency transportation initiated by a health care provider. (a) Any licensed physician, advanced practice registered nurse, physician assistant, licensed clinical social worker, or psychologist who has examined an individual and determines that the individual is mentally ill or suffering from substance abuse and is imminently dangerous to self or others may direct a law enforcement officer to detain and transport the individual by ambulance or other suitable means to a psychiatric facility or other facility designated by the director for an emergency examination, and may administer treatment, within the examining health care provider's scope of practice, as necessary for the individual's safe transportation. The examining health care provider shall provide a written statement of circumstances and reasons necessitating the emergency examination. The written statement shall be transmitted with the individual to the psychiatric facility or other facility designated by the director and be made a part of the individual's clinical record.

(b) Any individual who is subject to an order for assisted community treatment and fails to comply with the order for assisted community treatment, despite reasonable efforts made by a designated assisted community treatment provider, as defined



1 in section 334-122, to solicit compliance, may be transported to
2 a psychiatric facility or other facility designated by the
3 director for an emergency examination if it is in the clinical
4 judgment of a licensed physician, advanced practice registered
5 nurse, physician assistant, licensed clinical social worker, or
6 psychologist that the individual may be in need of emergency
7 hospitalization pursuant to section 334-G. At the direction of
8 the examining health care provider, a law enforcement officer
9 may detain and transport the individual by ambulance or other
10 suitable means to a psychiatric facility or other facility
11 designated by the director. The examining health care provider
12 shall provide a written statement of circumstances and reasons
13 explaining why the individual may be in need of emergency
14 hospitalization. The written statement shall be transmitted
15 with the individual to the psychiatric facility or other
16 facility designated by the director and be made a part of the
17 individual's clinical record.

18 (c) Those performing the emergency transport shall
19 coordinate the transport of the individual with the mental
20 health emergency worker.



(d) The examining health care provider shall also provide a copy of the written statement required under this section to the department within five business days.

§334-F Emergency examination. (a) A licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or advanced practice registered nurse may conduct an initial examination and screening of a patient transported under section 334-C, 334-D, or 334-E to determine whether the criteria for involuntary hospitalization listed in section 334.60.2 persists and administer treatment as indicated by good medical practice; provided that if after the examination, screening, and treatment, the licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or advanced practice registered nurse determines that the involuntary hospitalization criteria persists, then the patient shall be further examined by a qualified psychiatric examiner to diagnose the presence or absence of a mental illness or substance use disorder, further assess the risk that the patient may be dangerous to self or others, and assess whether or not the patient continues to meet the criteria for



1 involuntary hospitalization as provided in section 334-60.2. If
2 no initial examination and screening of the patient is
3 conducted, a qualified psychiatric examiner shall conduct an
4 emergency examination of a patient transported under section
5 334-C, 334-D, or 334-E without unnecessary delay and provide the
6 patient with treatment as indicated by good medical practice;
7 provided that the emergency examination shall include a
8 determination of whether the patient meets the criteria for
9 involuntary hospitalization as provided in section 334-60.2.

10 (b) If, following an emergency examination of a patient
11 under subsection (a), a qualified psychiatric examiner
12 determines that the criteria for involuntary hospitalization do
13 not exist, the patient shall be discharged expeditiously;
14 provided that if the patient is not under an order for assisted
15 community treatment, a qualified psychiatric examiner shall
16 conduct an examination pursuant to section 334-121.5 before the
17 discharge. A patient under criminal charges shall be returned
18 to the custody of a law enforcement officer.

19 **§334-G Emergency hospitalization.** (a) If, following an
20 emergency examination pursuant to section 334-F(a), a qualified
21 psychiatric examiner determines that the criteria for



1 involuntary hospitalization exist, the patient shall be
2 hospitalized on an emergency basis or transferred to another
3 psychiatric facility or other facility designated by the
4 director for emergency hospitalization.

5 (b) The patient admitted under subsection (a) shall be
6 released within seventy-two hours of the patient's admission to
7 a psychiatric facility or other facility designated by the
8 director, unless:

9 (1) The patient voluntarily agrees to further
10 hospitalization; or

11 (2) A proceeding for court-ordered evaluation or
12 hospitalization is initiated as provided in section
13 334-60.3.

14 If the seventy-two-hour time period expires on a Saturday,
15 Sunday, or holiday, the time for initiation shall be extended to
16 the close of the next court day. Upon initiation of the
17 proceeding, the facility may detain the patient until further
18 order of the court.

19 (c) If at any time during the period of emergency
20 hospitalization a qualified psychiatric examiner determines that
21 a patient no longer meets the criteria for emergency



1 hospitalization, the patient shall be discharged expeditiously;
2 provided that if the patient is not under an order for assisted
3 community treatment, a qualified psychiatric examiner shall
4 conduct an examination pursuant to section 334-121.5 before the
5 discharge. A patient under criminal charges shall be returned
6 to the custody of a law enforcement officer.

7 (d) The patient shall have the right, immediately upon
8 emergency hospitalization, to telephone an attorney and the
9 patient's surrogate, guardian, family member including a
10 reciprocal beneficiary, or adult friend. The patient shall be
11 allowed to confer with an attorney in private.

12 **§334-H Notice of emergency transportation, examination,**
13 **and hospitalization.** Notice of an individual's emergency
14 transportation, examination, and hospitalization under this
15 subpart may be given to at least one of the following persons in
16 the following order of priority: the individual's spouse or
17 reciprocal beneficiary, legal parents, adult children,
18 surrogate, legal guardian, or if none can be found, the closest
19 adult relative, as long as the individual:



(1) Has capacity to make health care decisions and consents that notice may be given to at least one of the persons listed in this section;

(2) Is given the opportunity to object and does not object, or the health care provider can reasonably infer from the circumstances based on the exercise of professional judgment that the individual does not object; or

(3) Is incapacitated or an emergency circumstance exists, and the health care provider determines, based on the exercise of professional judgment, that giving notification is in the best interest of the individual.

The staff of the facility shall make reasonable efforts to ensure that the patient's family, including a reciprocal beneficiary, is notified of the emergency hospitalization, unless the patient is an adult and waives notification."

2. By designating section 334-60.1 as subpart B and inserting a title before section 334-60.1 to read:

"B. Voluntary Admission"



3. By designating sections 334-60.2 through 334-60.7 as subpart C and inserting a title before section 334-60.2 to read:

"C. Involuntary Hospitalization"

4. By designating sections 334-61 and 334-62 as subpart D and inserting a title before section 334-61 to read:

"D. General Provisions"

SECTION 4. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

"§334-I Records and disclosure of information. (a) A
treatment provider who provided or is providing medical,
psychiatric, therapeutic, or social services treatment to an
individual shall provide relevant treatment information, if
available, to the department of the attorney general upon the
department's request for the purpose of preparing a petition for
assisted community treatment. The treatment information may
include a certificate issued pursuant to section 334-123(c), a
treatment plan prepared pursuant to section 334-126(g), records
related to actions or proceedings pursuant to part IV, records
relating to the individual's treatment history, and other
records deemed relevant by the individual's treatment provider.



1 (b) The petitioner of an assisted community treatment
2 order, department of the attorney general, and family court
3 shall disclose an assisted community treatment order to state
4 and county law enforcement agencies, an assisted community
5 treatment provider, or any other entity necessary to carry out
6 the terms of the assisted community treatment order."

7 SECTION 5. Section 334-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding two new definitions to be appropriately
10 inserted and to read:

11 "Qualified psychiatric examiner" means a licensed
12 psychiatrist or advanced practice registered nurse with
13 prescriptive authority who holds an accredited national
14 certification in an advanced practice registered nurse
15 psychiatric specialization.

16 "Surrogate" means a person appointed under:

17 (1) A power of attorney for health care to make a health
18 care decision for the individual who made the
19 appointment; or

20 (2) Law or court order to make health care decisions for
21 an individual."



2. By amending the definition of "patient" to read:

"Patient" means ~~[a person]~~ an individual under observation, care, or treatment at a psychiatric facility~~[,]~~ or other facility designated by the director."

3. By amending the definition of "treatment" to read:

"Treatment" means the broad range of emergency, outpatient, intermediate, domiciliary, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, psychosocial rehabilitation, career counseling, and other special services ~~[which]~~ that may be extended to ~~[handicapped persons.]~~ an individual with a disability."

SECTION 6. Section 334-60.2, Hawaii Revised Statutes, is amended to read as follows:

"§334-60.2 Involuntary hospitalization criteria. [A ~~person~~] An individual may be committed to a psychiatric facility for involuntary hospitalization~~[,]~~ if the court finds:

(1) That the ~~[person]~~ individual is mentally ill or suffering from substance abuse;

(2) That the ~~[person]~~ individual is imminently dangerous to self or others; and



1 (3) That the ~~[person]~~ individual is in need of care or
2 treatment, or both, and there is no suitable
3 alternative available through existing facilities and
4 programs ~~[which]~~ that would be less restrictive than
5 hospitalization."

6 SECTION 7. Section 334-60.3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§334-60.3 Initiation of proceeding for involuntary**
9 **hospitalization.** (a) Any person may file a petition alleging
10 that ~~[a person located in the county]~~ an individual meets the
11 criteria for commitment to a psychiatric facility~~[-]~~ as provided
12 in section 334-60.2. The petition shall be filed in the county
13 where the individual resides and executed subject to ~~[the]~~
14 penalties ~~[of perjury]~~ provided by law but need not be sworn to
15 before a notary public. The ~~[attorney general, the attorney~~
16 ~~general's deputy, special deputy, or appointee designated to~~
17 ~~present the case]~~ department of the attorney general shall
18 assist the petitioner ~~[to state]~~ in stating the substance of the
19 petition in plain and simple language. The petition may be
20 accompanied by a certificate of the ~~[licensed physician,~~
21 ~~advanced practice registered nurse,]~~ qualified psychiatric



1 examiner or psychologist who has examined the [~~person~~]
2 individual within two days before [~~submission of~~] the
3 petition[~~7~~] is filed, unless the [~~person~~] individual whose
4 commitment is sought has refused to submit to medical or
5 psychological examination, in which case the fact of refusal
6 shall be alleged in the petition. The certificate shall set
7 forth the signs and symptoms relied upon by the [~~physician,~~
8 ~~advanced practice registered nurse,~~] qualified psychiatric
9 examiner or psychologist to determine the [~~person~~] individual is
10 in need of [~~care or~~] treatment[~~7, or both,~~] and whether the
11 [~~person~~] individual is capable of realizing and making a
12 rational decision with respect to the [~~person's~~] individual's
13 need for treatment. If the petitioner believes that further
14 [~~evaluation~~] examination is necessary before commitment, the
15 petitioner may request [~~such~~] further [~~evaluation.~~] examination.

16 (b) In the event the subject of the petition has been
17 given an examination, evaluation, or treatment in a psychiatric
18 facility within five days before submission of the petition, and
19 hospitalization is recommended by the staff of the facility, the
20 petition may be accompanied by the administrator's certificate



1 in lieu of a ~~[physician's]~~ qualified psychiatric examiner's or
2 psychologist's certificate.

3 (c) The petition shall include the name, address, and
4 telephone number of at least one of the following persons in the
5 following order of priority: the subject of the petition's
6 spouse or reciprocal beneficiary, legal parents, adult children,
7 surrogate, and legal guardian [~~if one has been appointed~~]. If
8 the subject of the petition has no living spouse or reciprocal
9 beneficiary, legal parent, adult ~~[children]~~ child, surrogate,
10 or legal guardian, or if none can be found, notice shall be
11 served on at least one of the subject's closest adult relatives,
12 if any can be found."

13 SECTION 8. Section 334-60.4, Hawaii Revised Statutes, is
14 amended by amending subsections (a) through (c) to read as
15 follows:

16 "(a) The court shall set a hearing on the petition and
17 notice of the time and place of the hearing shall be served in
18 accordance with, and to those persons specified in, a current
19 order of commitment. If there is no current order of
20 commitment, notice of the hearing shall be served personally on
21 the subject of the petition and served personally or by



1 certified or registered mail, return receipt requested,
2 deliverable to the addressee only, on the subject's spouse or
3 reciprocal beneficiary, legal parents, adult children,
4 surrogate, and legal guardian[, ~~if one has been appointed~~]. If
5 the subject of the petition has no living spouse or reciprocal
6 beneficiary, legal parent, adult [~~children,~~] child, surrogate,
7 or legal guardian, or if none can be found, notice of the
8 hearing shall be served on at least one of the subject's closest
9 adult relatives, if any can be found. Notice of the hearing to
10 the subject's spouse or reciprocal beneficiary, legal parents,
11 adult children, or closest adult relative may be waived if the
12 subject of the petition is an adult and requests that these
13 persons not be notified. Notice of the hearing shall also be
14 served on the public defender, attorney for the subject of the
15 petition, or other court-appointed attorney [~~as the case may~~
16 ~~be~~]. If the subject of the petition is a minor, notice of the
17 hearing shall also be served upon the person who has had the
18 principal care and custody of the minor during the sixty days
19 preceding the date of the petition, if that person can be found
20 within the State. Notice shall also be given to other persons
21 as the court may designate.



1 (b) The notice shall include the following:

2 (1) The date, time, and place of the hearing[~~7~~]; a clear
3 statement of the purpose of the proceedings and of
4 possible consequences to the subject[~~7~~] of the
5 petition; and a statement of the legal standard upon
6 which commitment is authorized;

7 (2) A copy of the petition;

8 (3) A [~~written notice~~,] statement, in plain and simple
9 language, that the subject may waive the hearing by
10 voluntarily agreeing to hospitalization[~~7~~] or, with
11 the approval of the court, to some other form of
12 treatment;

13 (4) A filled-out form indicating [~~such~~] the waiver;

14 (5) A [~~written notice~~,] statement, in plain and simple
15 language, that the subject or the subject's surrogate,
16 guardian, or representative may apply at any time for
17 a hearing on the issue of the subject's need for
18 hospitalization, if the subject has previously waived
19 such a hearing;



1 (6) [~~Notice~~] A statement that the subject is entitled to
2 the assistance of an attorney and that the public
3 defender has been notified of these proceedings; and

4 (7) [~~Notice~~] A statement that if the subject does not want
5 to be represented by the public defender, the subject
6 may contact the subject's own attorney[~~;~~ and

7 ~~(8) If applicable, notice that the petitioner intends to~~
8 ~~adduce evidence to show that the subject of the~~
9 ~~petition is an incapacitated or protected person, or~~
10 ~~both, under article V of chapter 560, and whether~~
11 ~~appointment of a guardian is sought at the hearing.~~
12 ~~If appointment of a guardian is to be recommended, and~~
13 ~~a nominee is known at the time the petition is filed,~~
14 ~~the identity of the nominee shall be disclosed].~~

15 (c) If the subject of the petition executes and files a
16 waiver of the hearing, upon acceptance by the court following a
17 court determination that the [~~person~~] subject understands the
18 [~~person's~~] subject's rights and is competent to waive them, the
19 court shall order the subject to be committed to a facility that
20 has agreed to admit the subject as an involuntary patient or, if



1 the subject is at such a facility, that the subject be retained
2 there."

3 SECTION 9. Section 334-60.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§334-60.5 Hearing on petition.** (a) The court shall
6 adjourn or continue a hearing for failure to timely notify the
7 subject of the petition's spouse or reciprocal beneficiary,
8 legal [~~parents,~~] parent, adult [~~children,~~] child, surrogate,
9 guardian, or relative, or other person determined by the court
10 to be entitled to notice, or for failure by the subject to
11 contact an attorney as provided in section 334-60.4(b)(7) unless
12 the subject waived notice pursuant to section 334-60.4(a) or the
13 court determines that the interests of justice require that the
14 hearing continue without adjournment or continuance.

15 (b) The time and form of the procedure incident to hearing
16 the issues in the petition shall be provided by court rule.
17 Unless the hearing is waived, the judge shall hear the petition
18 as soon as possible and no later than ten days after the date
19 the petition is filed unless a reasonable delay is sought for
20 good cause shown by the subject of the petition, the subject's



1 attorney, or those persons entitled to receive notice of the
2 hearing under section 334-60.4.

3 (c) The subject of the petition shall be present at all
4 hearings unless the subject waives the right to be present, is
5 unable to attend, or creates conditions that make it impossible
6 to conduct ~~[the]~~ a hearing in a reasonable manner as determined
7 by the judge. A waiver is valid only upon acceptance by the
8 court following a judicial determination that the subject
9 understands the subject's rights and is competent to waive them,
10 or is unable to participate. If the subject is unable to
11 participate, the judge shall appoint a guardian ad litem or a
12 temporary guardian as provided in article V of chapter 560, to
13 represent the subject throughout the proceedings.

14 (d) Hearings may be held at any convenient place within
15 the circuit. Hearings may be conducted by video conferencing
16 unless the court determines personal appearance is necessary.
17 The subject of the petition, any interested party, or the court
18 on its own motion may request a hearing in another circuit
19 because of convenience to the parties, witnesses, or the court
20 or because of the ~~[individual's]~~ subject's mental or physical
21 condition.



1 (e) The ~~[attorney general, the attorney general's deputy,~~
2 ~~special deputy, or appointee]~~ department of the attorney general
3 shall present the case for a petitioner for hearings convened
4 under this chapter, ~~[except that the attorney general, the~~
5 ~~attorney general's deputy, special deputy, or appointee need not~~
6 ~~participate in or be present at a hearing whenever]~~ unless a
7 petitioner ~~[or some other appropriate person]~~ has retained
8 private counsel who will be present in court and will present to
9 the court the case for involuntary hospitalization.

10 (f) Counsel for the subject of the petition shall be
11 allowed adequate time for investigation of the matters at issue
12 and for preparation~~[,]~~ and shall be permitted to present the
13 evidence that the counsel believes necessary to a proper
14 disposition of the proceedings, including evidence as to
15 alternatives to inpatient hospitalization.

16 (g) No individual may be found to require treatment in a
17 psychiatric facility unless at least one ~~[physician, advanced~~
18 ~~practice registered nurse,]~~ qualified psychiatric examiner or
19 psychologist who has personally examined the individual
20 testifies in person at the hearing. This testimony may be
21 waived by the subject of the petition. If the subject of the



1 petition [~~has refused~~] refuses to be examined by a [~~licensed~~
2 ~~physician, advanced practice registered nurse,~~] qualified
3 psychiatric examiner or psychologist, the subject may be
4 examined by a court-appointed [~~licensed physician, advanced~~
5 ~~practice registered nurse,~~] qualified psychiatric examiner or
6 psychologist. If the subject refuses to be examined and there
7 is sufficient evidence to believe that the allegations of the
8 petition are true, the court may make a temporary order
9 committing the subject to a psychiatric facility for a period of
10 no more than five days for the purpose of a diagnostic
11 examination [~~and evaluation~~]. The subject's refusal to be
12 examined shall be treated as a denial that the subject is
13 mentally ill or suffering from substance abuse. Nothing in this
14 section shall limit the [~~individual's~~] subject's privilege
15 against self-incrimination.

16 (h) The subject of the petition in a hearing under this
17 section has the right to secure an independent [~~medical or~~
18 ~~psychological evaluation~~] examination and present evidence
19 thereon.

20 (i) If after hearing all relevant evidence, including the
21 result of any diagnostic examination ordered by the court, the



1 court finds that ~~[an individual]~~ a subject of a petition is not
2 a person requiring medical, psychiatric, psychological, or other
3 rehabilitative treatment or supervision, the court shall order
4 that the ~~[individual]~~ subject be discharged if the ~~[individual]~~
5 subject has been hospitalized ~~[prior to]~~ before the hearing.

6 (j) If the court finds that the criteria for involuntary
7 hospitalization under section 334-60.2(1) has been met beyond a
8 reasonable doubt and that the criteria under ~~[sections]~~ section
9 334-60.2(2) and ~~[334-60.2(3)]~~ (3) have been met by clear and
10 convincing evidence, the court may issue an order to any law
11 enforcement officer to ~~[deliver]~~ transport the subject of the
12 order to a facility that has agreed to admit the subject as an
13 involuntary patient, or if the subject is already a patient in a
14 psychiatric facility, authorize the facility to retain the
15 patient for treatment for a period of ninety days unless sooner
16 discharged. The court may also authorize the involuntary
17 administration of medication, where the subject has an existing
18 order for assisted community treatment~~[,]~~ issued pursuant to
19 part VIII of this chapter~~[, relating to assisted community~~
20 ~~treatment,]~~ and in accordance with the treatment prescribed by
21 that ~~[prior]~~ existing order. Notice of the subject's commitment



1 and the facility name and location where the subject will be
2 committed shall be provided to those persons entitled to notice
3 pursuant to section 334-60.4. An order of commitment shall
4 specify which of those persons served with notice pursuant to
5 section 334-60.4, together with such other persons as the court
6 may designate, shall be entitled to receive any subsequent
7 notice of intent to discharge, transfer, or recommit. The court
8 shall forward to the Hawaii criminal justice data center all
9 orders of involuntary civil commitment or information from all
10 orders of involuntary civil commitment, as requested by the
11 Hawaii criminal justice data center, which in turn shall forward
12 the information to the Federal Bureau of Investigation, or its
13 successor agency, for inclusion in the National Instant Criminal
14 Background Check System database. The orders or information
15 shall also be maintained by the Hawaii criminal justice data
16 center for disclosure to and use by law enforcement officials
17 for the purpose of firearms permitting, licensing, or
18 registration pursuant to chapter 134. This subsection shall
19 apply to all involuntary civil commitments without regard to the
20 date of the involuntary civil commitment.



1 ~~[(k)] The court may find that the subject of the petition~~
2 ~~is an incapacitated or protected person, or both, under article~~
3 ~~v of chapter 560, and may appoint a guardian or conservator, or~~
4 ~~both, for the subject under the terms and conditions as the~~
5 ~~court shall determine.~~

6 ~~{(l)}~~ (k) Persons entitled to notice ~~[are]~~ pursuant to this
7 section shall also be entitled to be present in the courtroom
8 for the hearing and to receive a copy of the hearing transcript
9 or recording, unless the court determines that the interests of
10 justice require otherwise."

11 SECTION 10. Section 334-60.7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§334-60.7 Notice of intent to discharge.** (a) When the
14 administrator, the administrator's deputy, or the attending
15 physician of a psychiatric facility contemplates discharge of an
16 involuntary patient because of expiration of the court order for
17 commitment or because the patient is no longer a proper subject
18 for commitment, as determined by the criteria for involuntary
19 hospitalization in section 334-60.2, the administrator, the
20 administrator's deputy, or the attending physician shall provide
21 notice of intent to discharge, or if the patient voluntarily



1 agrees to further hospitalization, the administrator, the
2 administrator's deputy, or the attending physician shall provide
3 notice of the patient's admission to voluntary inpatient
4 treatment. The following requirements and procedures shall
5 apply:

6 (1) The notice and a certificate of service shall be filed
7 with the family court and served on those persons whom
8 the order of commitment specifies as entitled to
9 receive notice, by mail at the person's last known
10 address. ~~[Notice]~~ If the commitment resulted directly
11 from legal proceedings under chapter 704 or 706,
12 notice shall also be sent to the prosecuting attorney
13 of the county from which the person was originally
14 committed, by facsimile or electronically, for the
15 sole purpose of victim notification; and

16 (2) Any person specified as entitled to receive notice may
17 waive this right in writing with the psychiatric
18 facility[+]

19 ~~(3) If no objection is filed within five calendar days of~~
20 ~~mailing the notice, the administrator or attending~~
21 ~~physician of the psychiatric facility shall discharge~~



1 ~~the patient or accept the patient for voluntary~~
2 ~~inpatient treatment;~~

3 ~~(4) If any person specified as entitled to receive notice~~
4 ~~files a written objection, with a certificate of~~
5 ~~service, to the discharge or to the patient's~~
6 ~~admission to voluntary inpatient treatment on the~~
7 ~~grounds that the patient is a proper subject for~~
8 ~~commitment, the family court shall conduct a hearing~~
9 ~~as soon as possible, prior to the termination of the~~
10 ~~current commitment order, to determine if the patient~~
11 ~~still meets the criteria for involuntary~~
12 ~~hospitalization in section 334-60.2. The person~~
13 ~~filing the objection shall also notify the psychiatric~~
14 ~~facility by telephone on the date the objection is~~
15 ~~filed;~~

16 ~~(5) If the family court finds that the patient does not~~
17 ~~meet the criteria for involuntary hospitalization in~~
18 ~~section 334-60.2, the court shall issue an order of~~
19 ~~discharge from the commitment; and~~

20 ~~(6) If the family court finds that the patient does meet~~
21 ~~the criteria for involuntary hospitalization in~~



1 ~~section 334-60.2, the court shall issue an order~~
2 ~~denying discharge from the commitment].~~

3 (b) For civil commitments that do not result directly from
4 legal proceedings under [~~chapters~~] chapter 704 [~~and~~] or 706,
5 when the administrator, the administrator's deputy, or the
6 attending physician of a psychiatric facility contemplates
7 discharge of an involuntary patient, the administrator, the
8 administrator's deputy, or the attending physician [~~may~~] shall
9 assess whether an assisted community treatment plan is indicated
10 pursuant to section 334-123 and, if so indicated, may
11 communicate with an aftercare provider as part of discharge
12 planning, as appropriate."

13 SECTION 11. Section 334-76, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§334-76 Discharge from custody.** (a) Subject to any
16 special requirements of law as provided in sections 704-406,
17 704-411, and 706-607 or elsewhere, with respect to patients
18 committed on court order from a criminal proceeding, the
19 administrator of a psychiatric facility, the administrator's
20 deputy, or the attending physician, pursuant to section
21 334-60.7, shall:



(1) Send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to those persons specified in the order of commitment as entitled to receive notice of intent to discharge, by mail at their last known address; and

(2) ~~[Send]~~ In cases where the commitment directly resulted from legal proceedings under chapter 704 or 706, send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to the prosecuting attorney of the county from which the person was originally committed, by facsimile or electronically.

(b) The administrator ~~[or]~~, the administrator's deputy, or the physician assuming medical responsibility for the patient shall discharge an involuntary patient when the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334-60.2.

(c) Nothing in this section shall preclude a psychiatric facility from accepting for voluntary inpatient treatment, in accordance with the procedures in section 334-60.1, a patient for whom the facility contemplates discharge pursuant to section



1 334-60.7 and who voluntarily agrees to further hospitalization
2 after the period of commitment has expired or where the patient
3 is no longer a proper subject for commitment."

4 SECTION 12. Section 334-121, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§334-121 Criteria for assisted community treatment.** [A
7 ~~person~~] An individual may be ordered to obtain assisted
8 community treatment if the family court finds, based on the
9 professional opinion of a [~~psychiatrist or advanced practice~~
10 ~~registered nurse with prescriptive authority and who holds an~~
11 ~~accredited national certification in an advanced practice~~
12 ~~registered nurse psychiatric specialization,~~] qualified
13 psychiatric examiner, that:

14 (1) The [~~person~~] individual is mentally ill or suffering
15 from substance abuse;

16 (2) The [~~person~~] individual is unlikely to live safely in
17 the community without available supervision, is now in
18 need of treatment in order to prevent a relapse or
19 deterioration that would predictably result in the
20 [~~person~~] individual becoming imminently dangerous to
21 self or others, and the [~~person's~~] individual's



1 current mental status or the nature of the [~~person's~~]
2 individual's disorder limits or negates the [~~person's~~]
3 individual's ability to make an informed decision to
4 voluntarily seek or comply with recommended treatment;

5 (3) The [~~person~~] individual has a:

6 (A) Mental illness that has caused that [~~person~~]
7 individual to refuse needed and appropriate
8 mental health services in the community; or

9 (B) History of lack of adherence to treatment for
10 mental illness or substance abuse that resulted
11 in the [~~person~~] individual becoming dangerous to
12 self or others and that now would predictably
13 result in the [~~person~~] individual becoming
14 imminently dangerous to self or others; and

15 (4) Considering less intrusive alternatives, assisted
16 community treatment is essential to prevent the danger
17 posed by the [~~person,~~] individual, is medically
18 appropriate, and is in the [~~person's~~] individual's
19 medical interests."

20 SECTION 13. Section 334-121.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§334-121.5 **Examination for assisted community treatment**
2 **indication.** A [~~licensed psychiatrist or advanced practice~~
3 ~~registered nurse with prescriptive authority and who holds an~~
4 ~~accredited national certification in an advanced practice~~
5 ~~registered nurse psychiatric specialization~~] qualified
6 psychiatric examiner associated with the [~~licensed~~] psychiatric
7 facility where a [~~person~~] patient is located who was committed
8 to involuntary hospitalization, delivered for emergency
9 examination or emergency hospitalization, or voluntarily
10 admitted to inpatient treatment at a psychiatric facility
11 pursuant to part IV shall, before the [~~person's~~] patient's
12 discharge, examine the [~~person~~] patient to determine whether an
13 assisted community treatment plan is indicated pursuant to this
14 part. If a plan is indicated, the [~~psychiatrist or advanced~~
15 ~~practice registered nurse~~] qualified psychiatric examiner shall
16 prepare the certificate specified by section 334-123. The
17 department of the attorney general shall assist with the
18 preparation and filing of any petition brought pursuant to
19 section 334-123 and with the presentation of the case at any
20 related court proceedings; provided that, if the petitioner is a
21 private provider or other private individual, the petitioner may



1 decline the assistance. The psychiatric facility may notify
2 another mental health program for assistance with the
3 coordination of care in the community for the person. Nothing
4 in this section shall delay the appropriate discharge of a
5 ~~[person]~~ patient from the psychiatric facility after the
6 examination for assisted community treatment indication has been
7 completed."

8 SECTION 14. Section 334-122, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding two new definitions to be appropriately
11 inserted and to read:

12 "Assisted community treatment provider" means a mental
13 health provider, which may include a qualified psychiatric
14 examiner or a mental health program, that is or will be
15 responsible, in accordance with an assisted community treatment
16 order, for the coordination, management, or administration of a
17 subject of the order's treatment.

18 "Mental health program" means a hospital, psychiatric
19 facility, clinic, or other facility providing mental health
20 treatment to individuals suffering from mental illness or
21 substance abuse."



2. By amending the definition of "assisted community treatment" to read:

"Assisted community treatment" includes medication specifically authorized by court order; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; supervision of living arrangements; and any other services prescribed to either alleviate the ~~[person's]~~ subject of the order's disorder or disability, maintain or maximize semi-independent functioning, or prevent further deterioration that may reasonably be predicted to result in the need for hospitalization or more intensive or restrictive levels of care in the community or incarceration for criminal behavior."

3. By amending the definitions of "subject of the order" and "subject of the petition" to read:

"Subject of the order" means ~~[a person]~~ an individual who has been ordered by the court to obtain assisted community treatment.

"Subject of the petition" means the ~~[person]~~ individual who, under a petition filed under section 334-123, is alleged to meet the criteria for assisted community treatment."



1 4. By deleting the definition of "advanced practice
2 registered nurse".

3 ~~["Advanced practice registered nurse" means a registered
4 nurse licensed to practice in this State who:~~

5 ~~(1) Has met the qualifications set forth in chapter 457
6 and this part;~~

7 ~~(2) Because of advanced education and specialized clinical
8 training, is authorized to assess, screen, diagnose,
9 order, utilize, or perform medical, therapeutic,
10 preventive, or corrective measures;~~

11 ~~(3) Holds an accredited national certification in an
12 advanced practice registered nurse psychiatric
13 specialization; and~~

14 ~~(4) Holds prescriptive authority pursuant to section 457-
15 8.6."]~~

16 5. By deleting the definition of "treating psychiatrist".

17 ~~["Treating psychiatrist" means the psychiatrist who is
18 responsible for the management and supervision of a person's
19 treatment under order of the court."]~~

20 SECTION 15. Section 334-123, Hawaii Revised Statutes, is
21 amended by amending subsections (c) and (d) to read as follows:



1 "(c) The petition may be accompanied by a certificate of a
2 ~~[licensed psychiatrist or advanced practice registered nurse~~
3 ~~with prescriptive authority and who holds an accredited national~~
4 ~~certification in an advanced practice registered nurse~~
5 ~~psychiatric specialization]~~ qualified psychiatric examiner who
6 has examined the subject of the petition in person within twenty
7 calendar days before the filing of the petition. For purposes
8 of the petition, an examination shall be considered valid so
9 long as the ~~[licensed psychiatrist or advanced practice~~
10 ~~registered nurse with prescriptive authority and who holds an~~
11 ~~accredited national certification in an advanced practice~~
12 ~~registered nurse psychiatric specialization]~~ qualified
13 psychiatric examiner has obtained enough information from the
14 subject of the petition and has had face-to-face contact to
15 reach a diagnosis of the subject of the petition, and to express
16 a professional opinion concerning the same, even if the subject
17 of the petition is not fully cooperative. If the petitioner
18 believes that further ~~[evaluation]~~ examination is necessary
19 before treatment, the petitioner may request further
20 ~~[evaluation.]~~ examination.



(d) The petition shall include the name of a proposed assisted community treatment provider and the name, address, and telephone number of at least one of the following persons in the following order of priority: the subject of the petition's spouse or reciprocal beneficiary, legal parents, adult children, [and] surrogate, or legal guardian[, if one has been appointed]. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult ~~[children,]~~ child, surrogate, or legal guardian, or if none can be found, the petition shall include the name, address, and telephone number of at least one of the subject's closest adult relatives, if any can be found."

SECTION 16. Section 334-124, Hawaii Revised Statutes, is amended to read as follows:

"§334-124 Hearing date. The family court shall set a hearing date on a petition, and any subsequent hearing dates for the petition, as soon as possible~~[,]~~ but no later than ten days after the filing of the petition. A hearing on the petition may be continued pending further examination of the subject of the petition, for the appointment of a guardian ad litem, or for good cause."



1 SECTION 17. Section 334-125, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Notice of the hearing under this part shall be:

5 (1) Served personally on the subject of the petition
6 pursuant to family court rules;

7 (2) Served personally or by certified or registered mail,
8 return receipt requested, deliverable to the addressee
9 only, to as many as are known to the petitioner of the
10 subject's spouse or reciprocal beneficiary, legal
11 ~~[parents,]~~ parent, adult ~~[children,]~~ child, surrogate,
12 and legal guardian~~[, if one has been appointed]~~. If
13 the subject of the petition has no living spouse or
14 reciprocal beneficiary, legal parent, adult
15 ~~[children,]~~ child, surrogate, or legal guardian, or if
16 none can be found, notice of the hearing shall be
17 served on at least one of the subject's closest adult
18 relatives, if any can be found;

19 (3) Served on the guardian ad litem appointed for the
20 subject of the petition ~~[or the subject's existing~~



1 ~~guardian, if the court determines the existence of~~
2 ~~one,~~ as provided in section 334-123.5;

3 (4) Served on the attorney for the subject of the
4 petition, if applicable; ~~and~~

5 (5) Served on the assisted community treatment provider
6 proposed in the petition, unless the petitioner is
7 also the proposed assisted community treatment
8 provider; and

9 ~~[(5)]~~ (6) Given to other persons as the court may
10 designate."

11 2. By amending subsection (c) to read:

12 "(c) Notice ~~[of all subsequent hearings shall be served in~~
13 ~~accordance with subsections (a) and (b), and in accordance with~~
14 ~~all applicable family court rules relating to service of notice,~~
15 ~~including that service need not be made on parties in default~~
16 ~~for failure to appear.]~~ to the subject of the petition's spouse
17 or reciprocal beneficiary, legal parent, adult child, or closest
18 adult relative may be waived if the subject is an adult and
19 requests that these persons not be notified."

20 SECTION 18. Section 334-126, Hawaii Revised Statutes, is
21 amended by amending subsection (g) to read as follows:



1 "(g) No subject of the petition shall be ordered to
2 receive assisted community treatment unless at least one
3 ~~[psychiatrist or advanced practice registered nurse with~~
4 ~~prescriptive authority and who holds an accredited national~~
5 ~~certification in an advanced practice registered nurse~~
6 ~~psychiatric specialization testifies in person at the hearing]~~
7 qualified psychiatric examiner who has personally ~~[assessed]~~
8 examined the subject~~[,]~~ within a reasonable time before the
9 filing of the petition ~~[up to the time when the psychiatrist or~~
10 ~~advanced practice registered nurse with prescriptive authority~~
11 ~~and who holds an accredited national certification in an~~
12 ~~advanced practice registered nurse psychiatric specialization]~~
13 provides oral testimony at ~~[court.]~~ the hearing. The ~~[testimony~~
14 ~~of the psychiatrist or advanced practice registered nurse with~~
15 ~~prescriptive authority and who holds an accredited national~~
16 ~~certification in an advanced practice registered nurse~~
17 ~~psychiatric specialization]~~ qualified psychiatric examiner shall
18 ~~[state]~~ provide the facts ~~[which]~~ that support the allegation
19 that the subject meets all the criteria for assisted community
20 treatment, provide a written treatment plan, which shall include
21 non-mental health treatment if appropriate, provide the



1 rationale for the recommended treatment, and identify the
2 ~~[designated mental health program responsible for the~~
3 ~~coordination of care.]~~ assisted community treatment provider.

4 If the recommended assisted community treatment includes
5 medication, the testimony ~~[of]~~ provided by the ~~[psychiatrist or~~
6 ~~advanced practice registered nurse with prescriptive authority~~
7 ~~and who holds an accredited national certification in an~~
8 ~~advanced practice registered nurse psychiatric specialization]~~
9 qualified psychiatric examiner shall describe the types or
10 classes of medication ~~[which]~~ that should be authorized, and
11 describe the physical and mental beneficial and detrimental
12 effects of ~~[such]~~ the medication."

13 SECTION 19. Section 334-127, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§334-127 Disposition.** (a) If, after ~~[hearing]~~
16 considering all relevant evidence, including the results of any
17 diagnostic examination ordered by the family court, the family
18 court finds that the subject of the petition does not meet the
19 criteria for assisted community treatment, the family court
20 shall dismiss the petition. Notice of the dismissal shall be



1 provided to those persons entitled to notice pursuant to section
2 334-125.

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 section
8 334-121(2) to (4) have been met by clear and convincing
9 evidence, the family court shall order the subject to obtain
10 assisted community treatment for a period of no more than two
11 years. The written treatment plan submitted pursuant to
12 section 334-126(g) shall be attached to the order and made a
13 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 or advanced practice registered nurse with~~
20 ~~prescriptive authority and who holds an accredited national~~
21 ~~certification in an advanced practice registered nurse~~



1 ~~psychiatric specialization.]~~ assisted community treatment
2 provider.

3 The court order shall [~~also~~] state who should receive
4 notice of intent to discharge early in the event that the
5 [~~treating psychiatrist or advanced practice registered nurse~~
6 ~~with prescriptive authority and who holds an accredited national~~
7 ~~certification in an advanced practice registered nurse~~
8 ~~psychiatric specialization]~~ assisted community treatment
9 provider determines, before the end of the court ordered period
10 of treatment, that the subject should be discharged early from
11 assisted community treatment.

12 Notice of the order shall be provided to the director, the
13 [~~interested party who filed the petition,~~] petitioner, and those
14 persons entitled to notice pursuant to section 334-125.

15 (c) The family court shall also designate on the order the
16 [~~treating psychiatrist or advanced practice registered nurse~~
17 ~~with prescriptive authority and who holds an accredited national~~
18 ~~certification in an advanced practice registered nurse~~
19 ~~psychiatric specialization who is to be responsible for the~~
20 ~~management and supervision of the subject's treatment, or shall~~
21 ~~assign an administrator of a designated mental health program~~



1 ~~to, in turn, designate the treating psychiatrist or advanced~~
2 ~~practice registered nurse with prescriptive authority and who~~
3 ~~holds an accredited national certification in an advanced~~
4 ~~practice registered nurse psychiatric specialization during the~~
5 ~~treatment period without court approval, and may designate~~
6 ~~either a publicly employed psychiatrist or advanced practice~~
7 ~~registered nurse with prescriptive authority and who holds an~~
8 ~~accredited national certification in an advanced practice~~
9 ~~registered nurse psychiatric specialization, or a private~~
10 ~~psychiatrist or advanced practice registered nurse with~~
11 ~~prescriptive authority and who holds an accredited national~~
12 ~~certification in an advanced practice registered nurse~~
13 ~~psychiatric specialization; provided that the private~~
14 ~~psychiatrist or advanced practice registered nurse with~~
15 ~~prescriptive authority and who holds an accredited national~~
16 ~~certification in an advanced practice registered nurse~~
17 ~~psychiatric specialization shall agree to the designation. The~~
18 ~~order for assisted community treatment shall be subject to the~~
19 ~~Health Care Privacy Harmonization Act, chapter 323B.] assisted~~
20 ~~community treatment provider.~~



1 (d) Nothing in this section shall preclude the subject's
2 stipulation to the continuance [+]of[+] an existing court
3 order."

4 SECTION 20. Section 334-129, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§334-129 Failure to comply with assisted community**
7 **treatment.** (a) A [~~treating psychiatrist or advanced practice~~
8 ~~registered nurse with prescriptive authority and who holds an~~
9 ~~accredited national certification in an advanced practice~~
10 ~~registered nurse psychiatric specialization~~] qualified
11 psychiatric examiner may prescribe or administer to the subject
12 of the order reasonable and appropriate medication or
13 medications, if specifically authorized by [~~the~~] a court order,
14 and treatment that is consistent with accepted medical standards
15 and the [~~family~~] court order, including the written treatment
16 plan submitted pursuant to section 334-126(g) [~~-~~], in accordance
17 with the procedures described in subsection (b).

18 (b) [~~No subject of the order shall be physically forced to~~
19 ~~take medication under a family court order for assisted~~
20 ~~community treatment unless the subject is within an emergency~~
21 ~~department or admitted to a hospital, subsequent to the date of~~



1 ~~the current assisted community treatment order.]~~ A qualified
2 psychiatric examiner may administer medication or medications
3 specifically authorized by a court order to a subject of the
4 order over objection of the subject during emergency examination
5 or hospitalization under part IV, subpart A or while committed
6 for involuntary hospitalization under part IV, subpart C.

7 (c) A subject of the order may be transported to [a
8 ~~designated mental health program, or a hospital emergency~~
9 ~~department,]~~ a psychiatric facility or other facility designated
10 by the director for failure to comply with an order for assisted
11 community treatment via the following methods:

12 (1) By an interested party with the consent of the subject
13 of the order; or

14 (2) In accordance with section ~~[334-59.]~~ 334-E(b).

15 (d) The ~~[designated mental health program's treating~~
16 ~~psychiatrist or advanced practice registered nurse with~~
17 ~~prescriptive authority and who holds an accredited national~~
18 ~~certification in an advanced practice registered nurse~~
19 ~~psychiatric specialization or designee of the psychiatrist or~~
20 ~~advanced practice registered nurse with prescriptive authority~~
21 ~~and who holds an accredited national certification in an~~



~~advanced practice registered nurse psychiatric specialization]~~
assisted community treatment provider shall make [all]
reasonable efforts to solicit the subject's compliance with the
prescribed treatment. If the subject fails or refuses to comply
after the efforts to solicit compliance, the [treating
~~psychiatrist or advanced practice registered nurse with~~
~~prescriptive authority and who holds an accredited national~~
~~certification in an advanced practice registered nurse~~
~~psychiatric specialization]~~ assisted community treatment
provider shall [assess whether the subject of the order meets
criteria for involuntary hospitalization under part IV of this
chapter, and] proceed [with the admission pursuant to section
~~{334-59(a)(2) or (3)};~~ pursuant to section 334-D or 334-E;
provided that the refusal of treatment shall not, by itself,
constitute a basis for involuntary hospitalization.

(e) Notice of any transport or [admission] hospitalization
under this section shall be provided pursuant to
section [334-59.5.] 334-H."

SECTION 21. Section 334-130, Hawaii Revised Statutes, is
amended to read as follows:



1 **"§334-130 Period of assisted community treatment. (a)**

2 ~~[The]~~ Unless a family court orders otherwise, the assisted
3 community treatment order shall continue to apply to the
4 subject, for the duration specified in the order, regardless of
5 whether the treatment setting changes.

6 (b) A subject of ~~[assisted community treatment is]~~ the
7 order shall be automatically and fully discharged at the end of
8 the family ~~[court-ordered]~~ court-ordered period of treatment~~[7]~~
9 pursuant to an assisted community treatment order, a period of
10 no more than two years, unless a new family court order has been
11 obtained ~~[as provided hereinbelow]~~.

12 (c) Nothing in this section shall preclude the subject's
13 stipulation to the continuance ~~[+]~~of~~[+]~~ an existing court
14 order."

15 SECTION 22. Section 334-131, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) When the ~~[treating psychiatrist or advanced practice~~
18 ~~registered nurse with prescriptive authority and who holds an~~
19 ~~accredited national certification in an advanced practice~~
20 ~~registered nurse psychiatric specialization]~~ assisted community
21 treatment provider contemplates discharge for a subject of the



1 order because of the imminent expiration of the court order or
2 because the subject of the order is no longer a proper subject
3 for assisted community treatment, as determined by the criteria
4 in section 334-121, the [~~treating psychiatrist or advanced~~
5 ~~practice registered nurse with prescriptive authority and who~~
6 ~~holds an accredited national certification in an advanced~~
7 ~~practice registered nurse psychiatric specialization~~] assisted
8 community treatment provider shall provide notice of intent to
9 discharge."

10 SECTION 23. Section 334-161, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) A patient who has been committed to a psychiatric
13 facility for involuntary hospitalization or who is in the
14 custody of the director and residing in a psychiatric facility
15 may be ordered to receive treatment over the patient's
16 objection, including the taking or application of medication, if
17 the court, or administrative [~~panel~~] decision-maker through the
18 administrative authorization process established pursuant to
19 section 334-162, finds that:

20 (1) The patient suffers from a physical or mental disease,
21 disorder, or defect;



1 (2) The patient is imminently dangerous to self or others;
2 (3) The proposed treatment is medically appropriate; and
3 (4) After considering less intrusive alternatives,
4 treatment is necessary to forestall the danger posed by the
5 patient."

6 SECTION 24. Section 334-162, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) A patient who is in the custody of the director and
9 in a psychiatric facility may be ordered to receive medical
10 treatment over the patient's objection through an administrative
11 authorization process that includes the following due process
12 safeguards:

13 (1) The facility shall give notice to the patient of the
14 authorization process and the reasons for initiating
15 the process;

16 (2) The administrative [~~panel shall consist of three~~
17 ~~members~~] decision-maker, who shall be a psychiatrist
18 with relevant clinical training and experience, and
19 who [are] is not involved with the current treatment
20 of the patient[+], shall, after considering all



1 relevant evidence, determine whether the criteria
2 under section 334-161 are met;

3 (3) The patient shall have the right to attend the
4 hearing, receive assistance from an advisor, cross
5 examine witnesses, and present testimony, exhibits,
6 and witnesses; and

7 (4) The patient shall have the right to appeal the
8 decision of the administrative [~~panel~~]
9 decision-maker."

10 SECTION 25. Section 334E-2, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Any patient in a psychiatric facility shall be
13 afforded rights, and any psychiatric facility shall provide the
14 rights to all patients; provided that when a patient is not able
15 to exercise the patient's rights, the patient's legal guardian
16 or legal representative shall have the authority to exercise the
17 same on behalf of the patient. The rights shall include but not
18 be limited to the following:

19 (1) Access to written rules and regulations with which the
20 patient is expected to comply;



- 1 (2) Access to the facility's grievance procedure or to the
- 2 department of health as provided in section 334-3;
- 3 (3) Freedom from reprisal;
- 4 (4) Privacy, respect, and personal dignity;
- 5 (5) A humane environment;
- 6 (6) Freedom from discriminatory treatment based on race,
- 7 color, creed, national origin, age, and sex;
- 8 (7) A written treatment plan based on the individual
- 9 patient;
- 10 (8) Participation in the planning of the patient's
- 11 treatment plan;
- 12 (9) Refusal of treatment except in emergency situations or
- 13 when a court order or an administrative order pursuant
- 14 to chapter 334, part VIII or X, has been issued;
- 15 (10) Refusal to participate in experimentation;
- 16 (11) The choice of physician if the physician chosen
- 17 agrees;
- 18 (12) A qualified, competent staff;
- 19 (13) A medical examination before initiation of
- 20 non-emergency treatment;
- 21 (14) Confidentiality of the patient's records;



- 1 (15) Access to the patient's records;
- 2 (16) Knowledge of rights withheld or removed by a court or
3 by law;
- 4 (17) Physical exercise and recreation;
- 5 (18) Adequate diet;
- 6 (19) Knowledge of the names and titles of staff members
7 with whom the patient has frequent contact;
- 8 (20) The right to work at the facility and fair
9 compensation for work done; provided that work is
10 available and is part of the patient's treatment plan;
- 11 (21) Visitation rights, unless the patient poses a danger
12 to self or others; provided that where visitation is
13 prohibited, the legal guardian or legal representative
14 shall be allowed to visit the patient upon request;
- 15 (22) Uncensored communication;
- 16 (23) Notice of and reasons for an impending transfer;
- 17 (24) Freedom from seclusion or restraint, except:
- 18 (A) When necessary to prevent injury to self or
19 others;
- 20 (B) When part of the treatment plan; or



1 (C) When necessary to preserve the rights of other
2 patients or staff;

3 (25) Disclosure to a court, at an involuntary civil
4 commitment hearing, of all treatment procedures
5 ~~[which]~~ that have been administered ~~[prior to]~~ before
6 the hearing; and

7 (26) Receipt by the patient and the patient's guardian or
8 legal guardian, if the patient has one, of this
9 enunciation of rights at the time of admission."

10 SECTION 26. Section 586-5.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) If, after hearing all relevant evidence, the court
13 finds that the respondent has failed to show cause why the order
14 should not be continued and that a protective order is necessary
15 to prevent domestic abuse or a recurrence of abuse, the court
16 may order that a protective order be issued for a further fixed
17 reasonable period as the court deems appropriate, including, in
18 the case where a protective order restrains any party from
19 contacting, threatening, or physically abusing a minor, a fixed
20 reasonable period extending to a date after the minor has
21 reached eighteen years of age.



1 The protective order may include all orders stated in the
2 temporary restraining order and may provide for further relief
3 as the court deems necessary to prevent domestic abuse or a
4 recurrence of abuse, including orders establishing temporary
5 visitation and custody with regard to minor children of the
6 parties and orders to either or both parties to participate in
7 domestic violence intervention services. If the court finds
8 that the party meets the requirements under
9 section ~~[334-59(a)(2),]~~ 334-D, the court ~~[further]~~ may further
10 order that the party be taken to the nearest facility for
11 emergency examination and treatment."

12 SECTION 27. Section 334-59, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§334-59 Emergency examination and hospitalization. (a)~~
15 ~~Initiation of proceedings. An emergency admission may be~~
16 ~~initiated as follows:~~

17 ~~(1) If a law enforcement officer has reason to believe~~
18 ~~that a person is imminently dangerous to self or~~
19 ~~others, the officer shall call for assistance from a~~
20 ~~mental health emergency worker designated by the~~
21 ~~director; provided that if a law enforcement officer~~



1 ~~is unable to reach a mental health emergency worker~~
2 ~~telephonically or has reason to believe the situation~~
3 ~~to be unstable to a degree that a delay of greater~~
4 ~~than two minutes would result in serious harm to the~~
5 ~~individual, others, or property, the law enforcement~~
6 ~~officer may act to gain control of the individual.~~
7 ~~Once the law enforcement officer has gained control of~~
8 ~~the individual, the law enforcement officer shall call~~
9 ~~for assistance from a mental health emergency worker~~
10 ~~designated by the director; provided that the law~~
11 ~~enforcement officer shall document why the situation~~
12 ~~neecessitated that the law enforcement officer gain~~
13 ~~control of the individual. Upon determination by the~~
14 ~~mental health emergency worker that the person is~~
15 ~~imminently dangerous to self or others, the person~~
16 ~~shall be transported by ambulance or other suitable~~
17 ~~means to a licensed psychiatric facility or other~~
18 ~~facility designated by the director for further~~
19 ~~evaluation and possible emergency hospitalization. If~~
20 ~~a crisis intervention officer has probable cause to~~
21 ~~believe that a person is imminently dangerous to self~~



1 ~~or others, the crisis intervention officer shall call~~
2 ~~a mental health emergency worker to determine if the~~
3 ~~person shall be transported by ambulance or other~~
4 ~~suitable means to a behavioral health crisis center~~
5 ~~designated by the director as determined by a mental~~
6 ~~health emergency worker. A law enforcement officer~~
7 ~~may also take into custody and transport to any~~
8 ~~facility designated by the director any person~~
9 ~~threatening or attempting suicide. The law~~
10 ~~enforcement officer shall make application for the~~
11 ~~examination, observation, and diagnosis of the person~~
12 ~~in custody. The application shall state or shall be~~
13 ~~accompanied by a statement of the circumstances under~~
14 ~~which the person was taken into custody and the~~
15 ~~reasons therefor, which shall be transmitted with the~~
16 ~~person to a physician, advanced practice registered~~
17 ~~nurse, or psychologist at the facility.~~

18 ~~As used in this paragraph, "crisis intervention~~
19 ~~officer" has the same meaning as defined in section~~
20 ~~353C-1;~~



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



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

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

11 ~~(A) Mentally ill or suffering from substance abuse;~~

12 ~~(B) Imminently dangerous to self or others; and~~

13 ~~(C) In need of care or treatment,~~

14 ~~may direct transportation, by ambulance or other~~

15 ~~suitable means, to a licensed psychiatric facility or~~

16 ~~other facility designated by the director for further~~

17 ~~evaluation and possible emergency hospitalization. A~~

18 ~~licensed physician, an advanced practice registered~~

19 ~~nurse, or a physician assistant may administer~~

20 ~~treatment as is medically necessary, for the person's~~



1 ~~safe transportation. A licensed psychologist may~~

2 ~~administer treatment as is psychologically necessary.~~

3 ~~(b) Emergency examination. A patient who is delivered for~~
4 ~~emergency examination and treatment to a psychiatric facility or~~
5 ~~a behavioral health crisis center shall be provided an~~
6 ~~examination, which shall include a screening to determine~~
7 ~~whether the criteria for involuntary hospitalization listed in~~
8 ~~section 334-60.2 persists, by a licensed physician, medical~~
9 ~~resident under the supervision of a licensed physician, or~~
10 ~~advanced practice registered nurse without unnecessary delay,~~
11 ~~and shall be provided such treatment as is indicated by good~~
12 ~~medical practice. If, after the examination, screening, and~~
13 ~~treatment, the licensed physician, medical resident under the~~
14 ~~supervision of a licensed physician, or advanced practice~~
15 ~~registered nurse determines that the involuntary hospitalization~~
16 ~~criteria persist, then a psychiatrist or advanced practice~~
17 ~~registered nurse who has prescriptive authority and who holds an~~
18 ~~accredited national certification in an advanced practice~~
19 ~~registered nurse psychiatric specialization shall further~~
20 ~~examine the patient to diagnose the presence or absence of a~~
21 ~~mental illness or substance use disorder, further assess the~~



1 ~~risk that the patient may be dangerous to self or others, and~~
2 ~~assess whether or not the patient needs to be hospitalized. If~~
3 ~~it is determined that hospitalization is not needed, an~~
4 ~~examination pursuant to section 334-121.5 shall be completed.~~

5 ~~(c) Release from emergency examination. If, after~~
6 ~~examination, the licensed physician, psychiatrist, or advanced~~
7 ~~practice registered nurse with prescriptive authority and who~~
8 ~~holds an accredited national certification in an advanced~~
9 ~~practice registered nurse psychiatric specialization determines~~
10 ~~that the involuntary hospitalization criteria set forth in~~
11 ~~section 334-60.2 are not met or do not persist and the~~
12 ~~examination pursuant to section 334-121.5, where required, has~~
13 ~~been completed, the patient shall be discharged expediently,~~
14 ~~unless the patient is under criminal charges, in which case the~~
15 ~~patient shall be returned to the custody of a law enforcement~~
16 ~~officer.~~

17 ~~(d) Emergency hospitalization. If the psychiatrist or~~
18 ~~advanced practice registered nurse with prescriptive authority~~
19 ~~and who holds an accredited national certification in an~~
20 ~~advanced practice registered nurse psychiatric specialization~~



~~who performs the emergency examination has reason to believe
that the patient is:~~

~~(1) Mentally ill or suffering from substance abuse;~~

~~(2) Imminently dangerous to self or others; and~~

~~(3) In need of care or treatment, or both,~~

~~the psychiatrist or advanced practice registered nurse with
prescriptive authority and who holds an accredited national
certification in an advanced practice registered nurse~~

~~psychiatric specialization shall direct that the patient be~~

~~hospitalized on an emergency basis or cause the patient to be~~

~~transferred to another psychiatric facility or other facility~~

~~designated by the director for emergency hospitalization, or~~

~~both. The patient shall have the right immediately upon~~

~~admission to telephone the patient's guardian or a family member~~

~~including a reciprocal beneficiary, or an adult friend and an~~

~~attorney. If the patient declines to exercise that right, the~~

~~staff of the facility shall inform the adult patient of the~~

~~right to waive notification to the family, including a~~

~~reciprocal beneficiary, and shall make reasonable efforts to~~

~~ensure that the patient's guardian or family, including a~~

~~reciprocal beneficiary, is notified of the emergency admission~~



~~but the patient's family, including a reciprocal beneficiary,
need not be notified if the patient is an adult and requests
that there be no notification. The patient shall be allowed to
confer with an attorney in private.~~

~~(c) Release from emergency hospitalization. If at any
time during the period of emergency hospitalization the treating
physician determines that the patient no longer meets the
criteria for emergency hospitalization and the examination
pursuant to section 334-121.5 has been completed, the physician
shall expediently discharge the patient. If the patient is
under criminal charges, the patient shall be returned to the
custody of a law enforcement officer. In any event, the patient
shall be released within forty-eight hours of the patient's
admission to a psychiatric facility or other facility designated
by the director, unless the patient voluntarily agrees to
further hospitalization, or a proceeding for court-ordered
evaluation or hospitalization, or both, is initiated as provided
in section 334-60.3. If that time expires on a Saturday,
Sunday, or holiday, the time for initiation is extended to the
close of the next court day. Upon initiation of the~~



1 ~~proceedings, the facility shall be authorized to detain the~~
2 ~~patient until further order of the court."]~~

3 SECTION 28. Section 334-59.5, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§334-59.5 Notice of emergency transportation,~~
6 ~~examinations, and hospitalizations. Notice of an individual's~~
7 ~~emergency admission, examination, and hospitalization under this~~
8 ~~chapter may be given to at least one of the following persons in~~
9 ~~the following order of priority: the individual's spouse or~~
10 ~~reciprocal beneficiary, legal parents, adult children, legal~~
11 ~~guardian, if one has been appointed, or if none can be found,~~
12 ~~the closest adult relative, as long as the individual:~~

- 13 ~~(1) Has capacity to make health care decisions and agrees;~~
14 ~~(2) Is given the opportunity to object and does not~~
15 ~~object, or the health care provider can reasonably~~
16 ~~infer from the circumstances based on the exercise of~~
17 ~~professional judgment that the individual does not~~
18 ~~object; or~~
19 ~~(3) Is incapacitated or an emergency circumstance exists~~
20 ~~and the health care provider determines based on the~~



~~exercise of professional judgment that doing so is in
the best interest of the individual."]~~

SECTION 29. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 30. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 31. In codifying the new sections added by sections 2, 3, and 4 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 32. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 33. This Act shall take effect upon its approval.



Report Title:

DOH; Mental Health; Admission to Psychiatric Facility; Emergency Procedures; Involuntary Hospitalization; Assisted Community Treatment; Administration of Treatment Over Objection

Description:

Requires the Department of Health to submit annual reports to the Legislature on emergency transportations and assisted community treatment petitions and orders, based on information provided by service providers and the Department of the Attorney General. Clarifies the procedures for emergency transportation, examination, and hospitalization for individuals who may be mentally ill or suffering from substance abuse who are imminently dangerous to self or others. Requires treatment providers to provide relevant information to the Attorney General for purposes of preparing an assisted community treatment petition. Amends the procedures for involuntary hospitalizations and assisted community treatment petitions. Clarifies the circumstances under which a subject of an assisted community treatment order can be administered medication over objection. Allows a single psychiatrist, rather than a panel of three, to provide administrative authorization for medical treatment over the objection of a patient who is in the custody of the Director of Health and in a psychiatric facility. (CD1)

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