

ACT 28

H.B. NO. 1661

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that a comprehensive mental health response crisis system is needed to serve the dual purposes of supporting individuals suffering from a behavioral health crisis and maintaining public safety. The legislature further finds that the mental health crisis response system has multiple steps for mental health crisis intervention, including initial contact by first responders, determining need and basis for involuntary transport for evaluation, and determination for disposition once an individual has been taken into custody pursuant to section 334-59(a), Hawaii Revised Statutes.

The legislature further finds that the department of health, along with a wide range of stakeholder partners, including the legislature, has been actively evaluating and restructuring the mental health crisis response system through the task force and working group established by Act 90 and Act 263, Session Laws of Hawaii 2019.

The purpose of this Act is to support the efforts of the mental health task force and working group by amending chapter 334, Hawaii Revised Statutes, to further define and guide the process that occurs when an individual has been transported to an emergency room or behavioral health crisis center pursuant to

section 334-59(a), Hawaii Revised Statutes, order for evaluation and the disposition of the individual once the evaluation has been completed.

SECTION 2. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

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

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

“(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a psychiatric facility [designated by the director] or a behavioral health crisis center shall be [examined] provided an examination, which shall include a screening to determine whether the criteria for involuntary hospitalization listed in section 334-60.2 persists, by a licensed physician, medical resident under the supervision of a licensed physician, or advanced practice registered nurse without unnecessary delay, and [may] shall be [given] provided such treatment as is indicated by good medical practice. [A] If, after the examination, screening, and treatment, the licensed physician, medical resident under the supervision of a licensed physician, or advanced practice registered nurse determines that the involuntary hospitalization criteria persist, then a psychiatrist[;] or advanced practice registered nurse[; or psychologist may] who has prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall further examine the patient 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 needs to be hospitalized. If it is determined that hospitalization is not needed, an examination pursuant to section 334-121.5 shall be completed.

(c) Release from emergency examination. If, after examination, the licensed physician [or], psychiatrist, or advanced practice registered nurse [who performs the emergency examination, in consultation with a psychologist if applicable, concludes] with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization determines that [the patient need not be hospitalized,] the involuntary hospitalization criteria set forth in section 334-60.2 are not met or do not persist and the examination pursuant to section 334-121.5, where required, has been completed, the patient shall be discharged [immediately] expediently, unless the patient is under criminal charges, in which case the patient shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the [physician,] psychiatrist or advanced practice registered nurse[; or psychologist] with prescriptive authority and who holds an accredited national certification in an 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 [physician,] psychiatrist or advanced practice registered nurse[; or psychologist may] 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 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.

(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the [~~responsible~~] treating physician [~~excludes~~] 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 [~~must~~] shall be released within forty-eight hours of the patient's admission[;] to a psychiatric facility, 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 proceedings, the facility shall be authorized to detain the patient until further order of the court."

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

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

SECTION 6. This Act shall take effect on July 1, 2020.

(Approved September 15, 2020.)