

ACT 153

H.B. NO. 950

A Bill for an Act Relating to Assisted Community Treatment Orders.

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

SECTION 1. Section 334-121.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§334-121.5~~]]~~ Examination for assisted community treatment indication. A licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization associated with the licensed psychiatric facility where a person is located who was committed to involuntary hospitalization, delivered for emergency examination or emergency hospitalization, or voluntarily admitted to inpatient treatment at

a psychiatric facility pursuant to part IV shall, ~~[prior to]~~ before the person's discharge, examine the person to determine whether an assisted community treatment plan is indicated pursuant to this part. If a plan is indicated, the psychiatrist or advanced practice registered nurse shall prepare the certificate specified by section 334-123~~[-]~~ and may request assistance from the department of the attorney general with the preparation and filing of a petition brought pursuant to section 334-123. The psychiatric facility may notify another mental health program for assistance with the coordination of care in the community for the person. Nothing in this section shall delay the appropriate discharge of a person from the psychiatric facility after the examination for assisted community treatment indication has been completed."

SECTION 2. 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."

SECTION 3. Section 334-126, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested party, or the family court upon its own motion may request a hearing in another court because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition. The court may use online hearings to accommodate the needs of the parties and witnesses, in accordance with family court rules.

(d) The hearing shall be closed to the public, unless the subject of the petition requests otherwise. Individuals entitled to notice are entitled to be present in the courtroom or other approved location for the hearing and to receive a copy of the hearing transcript or recording, unless the court determines that the interests of justice require otherwise."

SECTION 4. Section 334-127, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If after hearing all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the criteria for assisted community treatment under section 334-121(1) have been met beyond a reasonable doubt and that the criteria under section 334-121(2) to ~~[334-121(4)]~~ (4) have been met by clear and convincing evidence, the family court shall order the subject to obtain assisted community treatment for a period of no more than ~~[one year-]~~ two years. The written treatment plan submitted pursuant to section 334-126(g) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication to be included in treatment at the discretion of 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.

The court order shall also state who should receive notice of intent to discharge early in the event that 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 determines, ~~[prior to]~~ before the end of the court ordered period of treatment, that the subject should be discharged early from assisted community treatment.

Notice of the order shall be provided to the director, the interested party who filed the petition, and those persons entitled to notice pursuant to section 334-125.”

SECTION 5. Section 334-130, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A subject of assisted community treatment is automatically and fully discharged at the end of the family court ordered period of treatment, a period of [~~not~~] no more than [~~one year,~~] two years, unless a new family court order has been obtained as provided hereinbelow.”

SECTION 6. Section 334-131, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The notice shall be filed with the family court [~~which~~] that issued the order for assisted community treatment, and served by personal service or by certified mail on the interested party who filed the petition and those persons whom the order for assisted community treatment specifies as entitled to receive notice.”

SECTION 7. Section 334-133, Hawaii Revised Statutes, is amended to read as follows:

“§334-133 Petition for additional period of treatment; hearing. (a) Before the expiration of the period of assisted community treatment ordered by the family court, any interested party may file, or may request the department of the attorney general to file, a petition with the family court for an order of continued assisted community treatment. The petition shall be filed, and unless the court determines the existence of a guardian, a guardian ad litem appointed, and notice provided in the same manner as under sections 334-123 and 334-125.

(b) The family court shall appoint a guardian ad litem, unless there is an existing guardian, hold a hearing on the petition, and make its decision in the same manner as provided under sections 334-123 to 334-127. The family court may order the continued assisted community treatment for no more than [~~one year~~] two years after the date of the hearing pursuant to this section if the court finds that the criteria for assisted community treatment continue to exist and are likely to continue beyond one hundred [~~eighty~~] days.

(c) Nothing in this section shall preclude the subject’s stipulation to the continuance of an existing [~~court~~] order. This section shall be in addition to the provisions on the objection to discharge.”

SECTION 8. 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 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2023.

(Approved June 29, 2023.)