

ACT 86

S.B. NO. 3139

A Bill for an Act Relating to Crisis Services.

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

SECTION 1. The legislature finds that thousands of people in Hawaii are cited or arrested each year for offenses such as drinking liquor in public, loitering in public parks after hours, and camping on sidewalks, beaches, and other restricted public places. Most of these people suffer from issues relating to drugs, alcohol, or mental illness. Many of those cited do not appear in court, leading courts to issue bench warrants for their arrests. Time and resources are expended bringing people to court, and the court system, prosecutors, and police are caught in a never-ending revolving door situation. In response to this situation, mental health service providers have been working with appropriate law enforcement agencies and the criminal justice system to implement a crisis intervention program on the island of Oahu.

Accordingly, the purpose of this Act is to establish a crisis intervention and diversion services program within the department of health to expand existing crisis intervention and diversion services to divert persons in crisis from the criminal justice system to the health care system.

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

“PART . CRISIS SERVICES

§334- Crisis intervention and diversion services program. (a) There shall be established within the department a crisis intervention and diversion services program to redirect persons experiencing mental health disorders and co-occurring mental health and substance use disorders who are at risk for involvement, or currently involved, with the criminal justice system to the appropriate health care system and services. The department shall collaborate with law enforcement agencies, courts, mental health providers, and the community for the execution and implementation of these services.

(b) The department may lease or acquire a facility to operate a behavioral health crisis center to treat and refer persons experiencing behavioral health crises, including persons in the criminal justice system, to the appropriate services and providers.”

SECTION 3. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Mental health emergency worker” means a person designated by the department to provide crisis intervention and emergency stabilization services and to assist in determining whether a mentally ill person is likely to meet the criteria for emergency admission and examination.”

SECTION 4. Section 334-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall specifically:

- (1) Perform statewide assessments of the need for prevention, treatment, and rehabilitation services in the areas of mental or emotional disorders and substance abuse;
- (2) Adopt rules pursuant to chapter 91 for establishing the number and boundaries of the geographical service areas for the delivery of services in the areas of mental or emotional disorders and substance abuse. The department shall periodically review the effectiveness of the geographical service areas in promoting accessibility and continuity of appropriate care to all residents of that geographical area;
- (3) Appoint a service area administrator in each county who shall be responsible for the development, delivery, and coordination of services in that area;
- (4) Ensure statewide and community-based planning for the ongoing development and coordination of the service delivery system as guided by needs assessment data and performance related information;
- (5) Establish standards and rules for psychiatric facilities and their licensing, where applicable;
- (6) Establish standards and rules for services in the areas of mental health and substance abuse treatment, including assurances of the provision of minimum levels of accessible service to persons of all ages, ethnic groups, and geographical areas in the State;
- (7) Ensure community involvement in determining the service delivery arrangements appropriate to each community of the State;
- (8) Cooperate with public and private health, education, and human service groups, agencies, and institutions in establishing a coordi-

- nated system to meet the needs of persons with mental or emotional disorders and substance abuse difficulties;
- (9) Evaluate and monitor all services in the fields of mental health and substance abuse where ~~such~~ services are supported fully or in part by state resources;
 - (10) Promote and conduct research, demonstration projects, and studies concerned with the nature, prevention, intervention, and consequences of mental or emotional disorders and substance abuse;
 - (11) Keep records, statistical data, and other information as may be necessary in carrying out the functions of the mental health system and this chapter;
 - (12) Advocate patients' rights in all psychiatric facilities in the State and investigate any grievances submitted to the department by any patient in a psychiatric facility, except as provided in section 334E-2(d). The department shall establish rules and procedures for the purpose of this paragraph within one year after January 1, 1985, and post the rules in a conspicuous manner and accessible place;
 - (13) Promote and conduct a systematic program of accountability for all services provided, funds expended, and activities carried out under its direction or support in accordance with sound business, management, and scientific principles;
 - (14) Coordinate mental health resources in each county of the State by the development and presentation of a comprehensive integrated service area plan developed by the service area administrator in conjunction with the service area board. The service area administrator and the service area board, in collaboration with private and public agencies serving their population, shall submit recommendations for the statewide comprehensive integrated service plan, including needs assessment, program planning, resource development, priorities for funding, monitoring, and accountability activities;
 - (15) Oversee and coordinate service area programs and provide necessary administrative and technical assistance to assist service area programs in meeting their program objectives; ~~and~~
 - (16) Provide staffing to the state council and service area boards to assist in the performance of their functions~~[-]; and~~
 - (17) Establish standards and rules for the designation of mental health emergency workers."

SECTION 5. Section 334-59, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
 "(a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) If a law enforcement officer has reason to believe that a person is imminently dangerous to self or others, the officer shall call for assistance from ~~the~~ a mental health emergency ~~workers~~ worker designated by the director~~[-]; provided that if a law enforcement officer is unable to reach a mental health emergency worker telephonically or has reason to believe the situation to be unstable to a degree that a delay of greater than two minutes would result in serious harm to the individual, others, or property, the law enforcement officer may act to gain control of the individual. Once the law enforcement officer has gained control of the individual, the law enforcement officer shall call for assistance from a mental health emergency worker~~

designated by the director; provided that the law enforcement officer shall document why the situation necessitated that the law enforcement officer gain control of the individual. Upon determination by the mental health emergency [workers] worker that the person is imminently dangerous to self or others, the person shall be transported by ambulance or other suitable means[-] to a licensed psychiatric facility or other facility designated by the director for further evaluation and possible emergency hospitalization. If a crisis intervention officer has probable cause to believe that a person is imminently dangerous to self or others, the crisis intervention officer shall call a mental health emergency worker to determine if the person shall be transported by ambulance or other suitable means to a behavioral health crisis center designated by the director as determined by a mental health emergency worker. A law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The law enforcement officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor, which shall be transmitted with the person to a physician, advanced practice registered nurse, or psychologist at the facility.

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

- (2) Upon written or oral application of any licensed physician, advanced practice registered nurse, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others and in need of care or treatment, or both, giving the findings upon which the conclusion is based. The order shall direct that a law enforcement officer or other suitable individual take the person into custody and deliver the person to a designated mental health program, if subject to an assisted community treatment order issued pursuant to part VIII [~~of this chapter~~], or to the nearest facility designated by the director for emergency examination and treatment, or both. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public[-]; or
- (3) Any licensed physician, advanced practice registered nurse, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
 - (A) Mentally ill or suffering from substance abuse;
 - (B) Imminently dangerous to self or others; and
 - (C) In need of care or treatment[-];
 may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility or other facility designated by the director for further evaluation and possible emergency hospitaliza-

tion. A licensed physician, an advanced practice registered nurse, or a physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary."

2. By amending subsections (d) and (e) to read:

"(d) Emergency hospitalization. If 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 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.

(e) 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 proceedings, the facility shall be authorized to detain the patient until further order of the court."

SECTION 6. Section 353C-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Crisis intervention officer" means a law enforcement officer who has been trained and certified to recognize and communicate with an individual who is in crisis or suffering from some form of impairment, whether from dementia, Alzheimer's disease, or any physical, developmental, cognitive, psychological, or substance use disorder influencing their behavior. Training and certification standards shall be determined with the department of health."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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SECTION 8. This Act shall take effect upon its approval.
(Approved June 27, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.