

JAN 20 2023

A BILL FOR AN ACT

RELATING TO ASSISTED COMMUNITY TREATMENT.

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

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

3 "~~§~~334-121.5~~§~~ **Examination for assisted community**
4 **treatment indication.** A licensed 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 associated
8 with the licensed psychiatric facility where a person is located
9 who was committed to involuntary hospitalization, delivered for
10 emergency examination or emergency hospitalization, or
11 voluntarily admitted to inpatient treatment at a psychiatric
12 facility pursuant to part IV shall, prior to the person's
13 discharge, examine the person to determine whether an assisted
14 community treatment plan is indicated pursuant to this part. If
15 a plan is indicated, the psychiatrist or advanced practice
16 registered nurse shall prepare the certificate specified by
17 section 334-123~~§~~ or request the director to file a petition



1 under section 334-123 and assist with the certificate specified
2 by section 334-123. The psychiatric facility may notify another
3 mental health program for assistance with the coordination of
4 care in the community for the person. Nothing in this section
5 shall delay the appropriate discharge of a person from the
6 psychiatric facility after the examination for assisted
7 community treatment indication has been completed."

8 SECTION 2. Section 334-123, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§334-123 Initiation of proceeding for assisted community**
11 **treatment.** (a) Any interested party may file, or request the
12 director to file, a petition with the family court alleging that
13 another person meets the criteria for assisted community
14 treatment. The interested party shall be responsible for
15 providing information to the director to support the petition.
16 The director shall review the request as expeditiously as
17 possible upon receipt of the request and, if the request
18 satisfies the requirements of subsection (b), shall file a
19 petition to request assisted community treatment within _____ days
20 of the request. The interested party shall have the right to



1 bring a petition on their own behalf if the director has not
2 filed a petition within _____ days.

3 (b) The petition shall state:

4 (1) Each of the criteria under section 334-121 for
5 assisted community treatment;

6 (2) Petitioner's good faith belief that the subject of the
7 petition meets each of the criteria under section 334-
8 121;

9 (3) Facts that support the petitioner's good faith belief
10 that the subject of the petition meets each of the
11 criteria under section 334-121; and

12 (4) That the subject of the petition is present within the
13 county where the petition is filed.

14 The hearing on the petition need not be limited to the
15 facts stated in the petition. The petition shall be executed
16 subject to the penalties of perjury but need not be sworn to
17 before a notary public.

18 [~~(b)~~] (c) The petition may be accompanied by a certificate
19 of a licensed psychiatrist or advanced practice registered nurse
20 with prescriptive authority and who holds an accredited national
21 certification in an advanced practice registered nurse



1 psychiatric specialization who has examined the subject of the
2 petition within twenty calendar days prior to the filing of the
3 petition. For purposes of the petition, an examination shall be
4 considered valid so long as the licensed psychiatrist or
5 advanced practice registered nurse with prescriptive authority
6 and who holds an accredited national certification in an
7 advanced practice registered nurse psychiatric specialization
8 has obtained enough information from the subject of the petition
9 to reach a diagnosis of the subject of the petition, and to
10 express a professional opinion concerning the same, even if the
11 subject of the petition is not fully cooperative. If the
12 petitioner believes that further evaluation is necessary before
13 treatment, the petitioner may request further evaluation.

14 ~~(e)~~ (d) The petition shall include the name, address,
15 and telephone number of at least one of the following persons in
16 the following order of priority: the subject of the petition's
17 spouse or reciprocal beneficiary, legal parents, adult children,
18 and legal guardian, if one has been appointed. If the subject
19 of the petition has no living spouse or reciprocal beneficiary,
20 legal parent, adult children, or legal guardian, or if none can
21 be found, the petition shall include the name, address, and



1 telephone number of at least one of the subject's closest adult
2 relatives, if any can be found."

3 SECTION 3. Section 334-124, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§334-124 Hearing date.** The family court shall set a
6 hearing date on a petition, and any subsequent hearing dates for
7 the petition, as soon as possible. Unless exigent circumstances
8 exist, the court shall endeavor to file a final order on the
9 petition within thirty days of the date the petition is filed."

10 SECTION 4. Section 334-126, Hawaii Revised Statutes, is
11 amended by amending subsections (c) and (d) to read as follows:

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

20 (d) The hearing shall be closed to the public, unless the
21 subject of the petition requests otherwise. Individuals



1 entitled to notice are entitled to be present in the courtroom
2 or other approved location for the hearing and to receive a copy
3 of the hearing transcript or recording, unless the court
4 determines that the interests of justice require otherwise."

5 SECTION 5. Section 334-127, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§334-127 Disposition.** (a) If after hearing all relevant
8 evidence, including the results of any diagnostic examination
9 ordered by the family court, the family court finds that the
10 subject of the petition does not meet the criteria for assisted
11 community treatment, the family court shall dismiss the
12 petition. Notice of the dismissal shall be provided to those
13 persons entitled to notice pursuant to section 334-125.

14 (b) If after hearing all relevant evidence, including the
15 results of any diagnostic examination ordered by the family
16 court, the family court finds that the criteria for assisted
17 community treatment under section 334-121(1) have been met
18 beyond a reasonable doubt and that the criteria under section
19 334-121(2) to 334-121(4) have been met by clear and convincing
20 evidence, the family court shall order the subject to obtain
21 assisted community treatment for a period of no more than one



1 year. The written treatment plan submitted pursuant to section
2 334-126(g) shall be attached to the order and made a part of the
3 order.

4 If the family court finds by clear and convincing evidence
5 that the beneficial mental and physical effects of recommended
6 medication outweigh the detrimental mental and physical effects,
7 if any, the order may authorize types or classes of medication
8 to be included in treatment at the discretion of the treating
9 psychiatrist or advanced practice registered nurse with
10 prescriptive authority and who holds an accredited national
11 certification in an advanced practice registered nurse
12 psychiatric specialization.

13 The court order shall also state who should receive notice
14 of intent to discharge early in the event that the treating
15 psychiatrist or advanced practice registered nurse with
16 prescriptive authority and who holds an accredited national
17 certification in an advanced practice registered nurse
18 psychiatric specialization determines, prior to the end of the
19 court ordered period of treatment, that the subject should be
20 discharged early from assisted community treatment.



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

4 (c) The family court shall also designate on the order the
5 treating psychiatrist or advanced practice registered nurse with
6 prescriptive authority and who holds an accredited national
7 certification in an advanced practice registered nurse
8 psychiatric specialization who is to be responsible for the
9 management and supervision of the subject's treatment, or shall
10 assign an administrator of a designated mental health program
11 to, in turn, designate the treating psychiatrist or advanced
12 practice registered nurse with prescriptive authority and who
13 holds an accredited national certification in an advanced
14 practice registered nurse psychiatric specialization during the
15 treatment period without court approval, and may designate
16 either a publicly employed psychiatrist or advanced practice
17 registered nurse with prescriptive authority and who holds an
18 accredited national certification in an advanced practice
19 registered nurse psychiatric specialization, or a private
20 psychiatrist or advanced practice registered nurse with
21 prescriptive authority and who holds an accredited national



1 certification in an advanced practice registered nurse
2 psychiatric specialization; provided that the private
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 shall agree to the designation. The
7 order for assisted community treatment shall be subject to the
8 Health Care Privacy Harmonization Act, chapter 323B.

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

11 (e) The subject may stipulate to a petition for assisted
12 community treatment if the subject is provided a proposed order
13 for community assisted treatment, including the proposed
14 treatment plan, either at the time the petition is filed or
15 prior to entry of the court's order on the petition. If the
16 subject stipulates to the proposed order, including the proposed
17 treatment plan, by signing the proposed order, then the court
18 may enter the stipulated order without undergoing an evidentiary
19 hearing, unless the guardian ad litem objects to entry of an
20 order without an evidentiary hearing."



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

3 "(b) The notice shall be filed with the family court which
4 issued the order for assisted community treatment, and served by
5 personal service or by certified mail on the interested party
6 who filed or requested the petition and those persons whom the
7 order for assisted community treatment specifies as entitled to
8 receive notice."

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

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

12 " (a) Before the expiration of the period of assisted
13 community treatment ordered by the family court, any interested
14 party may file, or may request the director to file, a petition
15 with the family court for an order of continued assisted
16 community treatment. The petition shall be filed, and unless
17 the court determines the existence of a guardian, a guardian ad
18 litem appointed, and notice provided in the same manner as under
19 sections 334-123 and 334-125."

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



S.B. NO. 982

Report Title:

Assisted Community Treatment; Petition; Interested Parties;
Director of Health

Description:

Permits interested parties to request the director of health to file an assisted community treatment petition on behalf of the interested party. Requires final orders for a petition to be filed within thirty days of the date an assisted community treatment petition is filed. Permits the family court to use online hearings for assisted community treatment petitions. Permits the subject of a petition to stipulate to the proposed order and for the court to enter the stipulated order without an evidentiary hearing. Requires the department of health to report to the legislature on the number of requests for petitions submitted to the director of health.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

