



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2025**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1322, RELATING TO MENTAL HEALTH.

**BEFORE THE:**

SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES AND ON PUBLIC SAFETY AND MILITARY AFFAIRS

**DATE:** Friday, February 7, 2025

**TIME:** 3:10 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Ian T. Tsuda, Deputy Attorney General

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Chairs San Buenaventura and Elefante and Members of the Committees:

The Department of the Attorney General (Department) supports this bill and provides the following comments. Additionally, we respectfully request that the Committee correct a typographical error on page 51, line 22, as detailed below.

This bill (1) clarifies and expands on the emergency procedures used when responding to individuals suffering from mental illness or substance abuse, (2) establishes limits on liability for professionals responding to mental health emergencies, (3) expands the notice requirements during emergency hospitalization to include a healthcare surrogate and allow for waiver of notice, (4) repeals section 334-60.5(k), Hawaii Revised Statutes (HRS), which allowed the family court to appoint a legal guardian for an individual during a proceeding for involuntary hospitalization, (5) amends section 334-60.7, HRS, to remove the requirement that psychiatric facilities await responses from interested parties to a notice of intent to discharge from involuntary hospitalization before it may discharge a patient, (6) clarifies the circumstances under which the subject of an order for assisted community treatment (ACT) can be administered medication over the subject's objection, (7) provides limits on liability for ACT providers, (8) amends sections 334-161 and 334-162, HRS, to allow a single psychiatrist decision-maker to provide administrative authorization for the administration of treatment to a patient in the custody of the Director of Health over the

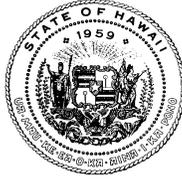
patient's objection, and (9) provide various technical, non-substantive amendments to several sections under chapter 334, HRS, for clarity and consistency.

This bill provides a comprehensive reexamination of Hawaii's mental health laws to clarify and streamline existing procedures and strengthen the legal framework for supporting individuals suffering from mental illness or substance abuse. Given the increasing number of individuals in Hawai'i impacted by these challenges, establishing a clear and effective mental health system has become an urgent priority. Achieving this goal requires a systematic review and refinement of the intricate laws outlined in chapter 334, HRS. By addressing these issues, this bill provides a workable framework to guide ongoing improvements to our mental health system. Importantly, the amendments in this bill provide clear guidance to professionals treating these individuals in need and bolster the tools available to respond and treat individuals experiencing mental health crises.

The Department requests that the amendment to section 334-162, HRS, in section 23, page 51, line 22, be revised to correct a typographical error. The correct statutory reference should be section 334-161, not section 334-162. Accordingly, the provision on page 51, line 22, should be replaced with the following:

334-161 are met;

The Department respectfully asks the Committee to pass this bill. Thank you for the opportunity to provide testimony.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
**KA 'OIHANA OLAKINO**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on SB1322**  
**RELATING TO MENTAL HEALTH**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATOR HENRY J.C. AQUINO, VICE CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATOR BRANDON J.C. ELEFANTE, CHAIR  
SENATOR GLENN WAKAI, VICE CHAIR  
SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Hearing Date and Time: February 7, 2025, 3:10 p.m. Location: Room 225 and Videoconference

1 **Fiscal Implications:** None

2 **Department Position:** The Department of Health (“Department”) offers comments on this  
3 measure.

4 **Department Testimony:** The Adult Mental Health Division (AMHD) provides the following  
5 testimony on behalf of the Department.

6 SB 1322 seeks to clarify, update, and revise Hawaii’s mental health laws in an effort to  
7 help and support individuals with mental illness or substance use. The proposed modifications  
8 to Chapter 334 in SB 1322 modify the following: procedures available for emergency  
9 transportation, examination, and hospitalization; limitations on liability for state and local  
10 governments and professionals during mental health emergency procedures; notice and waiver  
11 requirements for emergency hospitalization; the authority of the family court to appoint a legal  
12 guardian in a proceeding for involuntary hospitalization; the response requirement for  
13 psychiatric facilities on a notice of intent to discharge an involuntary hospitalization patient

1 prior to discharge; circumstances under which an order for assisted community treatment  
2 would allow medication to be administered over the patient's objection; and limitations on  
3 liability for an assisted community treatment provider; and panel requirements for Harper  
4 hearings.

5 The Department appreciates the ongoing collaborative effort to improve the system of  
6 mental health care in our islands and respectfully requests the following amendments.

7 **Offered Amendments:**

- 8 1. The Department requests an addition to allow for diversion of an individual during transport  
9 in case of emergency on page 5, line 12.

10 Section 2. Section 334-B, Hawaii Revised Statutes, is amended by amending  
11 subsection (c) to read as follows: "(c) Any individual detained under this section shall be  
12 transported directly to a psychiatric facility or other facility designated by the director,  
13 as determined by a mental health emergency worker[+], provided that should a medical  
14 emergency occur during transport the individual shall be transported to the nearest  
15 emergency department. A law enforcement officer shall make an application for the  
16 emergency examination of the individual. The application shall state in detail the  
17 circumstances under which and reasons that the individual was taken into custody. The  
18 application shall be transmitted with the individual to the psychiatric facility or other  
19 facility designated by the director and be made a part of the individual's clinical record."

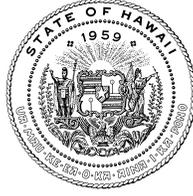
- 20 2. The Department requests the deletion of the proposed section 334-D Emergency  
21 transportation initiated by a health care provider beginning on page 7, line 9, and ending on  
22 page 8, line 3 in its entirety and all references removed. Existing pathways to an emergency  
23 examination, including through a crisis intervention officer, mental health emergency  
24 worker (MHEW), and MH-2 process involving petition review and approval by a Family  
25 Court judge, are sufficient and offer safeguards for detaining individuals without violating

1 their civil rights. The types of professionals identified in the proposed section 334-D already  
2 have the ability to use existing processes to effect an emergency evaluation. When the  
3 proposed section 334-D is considered with the section limiting liability risk for providers in  
4 emergency situations, providers may feel emboldened for aggressive detainment of  
5 homeless individuals, especially when providers are not experienced and comprehensively  
6 committed to helping this traumatized population.

- 7 3. The Department requests the addition of clarifying language to ensure examinations occur  
8 in person on page 37, lines 14 and 21.

9 Section 14. Section 334-123, Hawaii Revised Statutes, is amended by amending  
10 subsection (c) and (d) to read as follows: "(c) The petition may be accompanied by a  
11 certificate of a [~~licensed psychiatrist or advanced practice registered nurse with~~  
12 ~~prescriptive authority and who holds an accredited national certification in an advanced~~  
13 ~~practice registered nurse psychiatric specialization]~~ qualified psychiatric examiner who  
14 has examined the subject of the petition in person within twenty calendar days before  
15 the filing of the petition. For purposes of the petition, an examination shall be  
16 considered valid so long as the [~~licensed psychiatrist or advanced practice registered~~  
17 ~~nurse with prescriptive authority and who holds an accredited national certification in~~  
18 ~~an advanced practice registered nurse psychiatric specialization]~~ qualified psychiatric  
19 examiner has obtained enough information from the subject of the petition and has had  
20 face-to-face contact to reach a diagnosis of the subject of the petition, and to express a  
21 professional opinion concerning the same, even if the subject of the petition is not fully  
22 cooperative. If the petitioner believes that further [~~evaluation]~~ examination is necessary  
23 before treatment, the petitioner may request further [~~evaluation.~~] examination."

24 Thank you for the opportunity to testify on this measure.



EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

Testimony of  
**Michael K. Champion, MD**  
Senior Advisor for Mental Health and the Justice System

Before the  
**Senate Committees on Health and Human Services  
and Public Safety and Military Affairs**  
Friday February 7, 2025, at 3:10 PM  
State Capitol, Conference Room 225 and Videoconference

In consideration of  
**Senate Bill No. 1322, Relating to Mental Health**

Chairs San Buenaventura and Elefante, Vice Chairs Aquino and Wakai, and members of the Committees:

I am writing in **SUPPORT** of Senate Bill 1322, which includes revisions of the mental health code that are intended to improve access to services for individuals experiencing needs related to mental health conditions and substance use disorders.

Behavioral health conditions are widespread, impacting people across socioeconomic levels. Behavioral health crises can lead to great personal, social, and economic impact and consequences. There is a clear pressing need for interventions that impact key social determinants of health including housing stability and access to healthcare services, particularly substance use disorders and untreated serious mental health conditions which are root causes of chronic unsheltered homelessness. Those with serious mental health conditions and chronic substance use comprise a significant proportion of Hawai'i's homeless population.

Revisions outlined in this measure include clarification and enhancement of procedures related to emergency transport, emergency examination, and emergency hospitalization and mechanisms to engage individuals in treatment over their objection including Assisted Community Treatment. The revisions support lowering barriers to accessing care and consistent implementation of methods to engage individuals who are experiencing a behavioral health crisis to support their stabilization and recovery.

Thank you for the opportunity to provide testimony on this measure.



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-Third State Legislature, 2025 Regular Session**

**Senate Committee on Public Safety and Military Affairs**

Senator Brandon J.C. Elefante, Chair  
Senator Glenn Wakai, Vice Chair

**Senate Committee on Health and Human Services**

Senator Joy A. San Buenaventura, Chair  
Senator Henry J.C. Aquino, Vice Chair

Friday, February 7, 2025 at 3:10 p.m.  
Hawai'i State Capitol, Conference Room 225

by

Dyan M. Medeiros  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 1322, Relating to Mental Health.

**Purpose:** Clarifies and expands the circumstances and procedures available for emergency transportation, examination, and hospitalization under chapter 334. Provides limits on liability for state and local governments and professionals during mental health emergency procedures while performing their duties in the course of employment. Expands the notice requirements for an emergency hospitalization to include an individual's health-care surrogate and clarifies when notice to family members can be waived. Removes the authority of the family court to appoint a legal guardian in a proceeding for involuntary hospitalization. Removes the requirement that psychiatric facilities wait for a response on a notice of intent to discharge an involuntary hospitalization patient prior to discharge. Clarifies the circumstances under which a subject of an order for assisted community treatment can be administered medication over the subject's objection. Provides limits on liability for an assisted community treatment provider. Modifies



Senate Bill No. 1322, Relating to Mental Health.  
Senate Committee on Public Safety and Military Affairs  
Senate Committee on Health and Human Services.  
Friday, February 7, 2025 at 3:10p.m.  
Page 2

the administrative authorization of medical treatment over the patient's objection to be reviewed by a single decision-maker who is a psychiatrist.

### **Judiciary's Position:**

The Judiciary takes no position on this bill but supports the intent to clarify the mental health code and defers to the Department of the Attorney General. At the request of the Department of the Attorney General, the Judiciary provided feedback on this bill prior to the start of this legislative session.

We thank you for the opportunity to offer testimony on this bill.

**JON N. IKENAGA**  
STATE PUBLIC DEFENDER

**DEFENDER COUNCIL**  
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**STATE OF HAWAII**  
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**HAYLEY CHENG**  
ASSISTANT PUBLIC  
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February 5, 2025

Committee on Public Safety & Military Affairs  
Sen. Brandon J.C. Elefante, Chair  
Committee on Health and Human Services  
Sen. Joy. A. San Buenaventura, Chair  
415 South Beretania Street, Conf. Rm. 325  
State Capital  
Honolulu, HI 96813

Re: Testimony in Support of S.B. 1322  
Hearing: February 7, 2025, 3:10 PM

Dear Chairs Elefante and San Buenaventura and Committee Members:

This letter is in support of, in opposition to and also expresses concerns about the proposed amendments in S.B. 1322, an overhaul of Hawaii's mental health laws mainly related to involuntary civil commitment and assisted community treatment proceedings.

The OPD is in support of the amendments which include establishing liability limits; removing the requirement that psychiatric facilities wait for responses from interested parties to a notice of intent to discharge a patient under involuntary hospitalization prior to discharging the patient; and waiving the notice of hearing requirement to the subject's spouse, or reciprocal beneficiary, legal parents, adult children, or closest adult relative *so long as the court makes requisite findings that the subject has the capacity to make the waiver*. The foregoing amendments will potentially move the proceedings along smoother and without unnecessary delays.

On the other hand, the OPD has concerns about and objects to other proposed amendments. First, the OPD objects to changing the administrative authorization process from a panel of three members with relevant clinical training and experience to a single psychiatrist in HRS § 334-162(a) (2). The potential for neglect and "rubber stamping" medical treatment recommendations that the patient objects to is significantly increased based on decreasing the decision makers from three to one. A panel of three examiners ensures that there are multiple perspectives and approaches to the recommended medical protocol in a case. There is a greater chance that at least one of the three panel members would seriously consider the patient perspective. With an individual, there is only one viewpoint. Moreover, having meaningful review and due process in medical treatment decisions is extremely important because it is unlikely that the patient will have legal representation and there is a miniscule chance of judicial or any other review. The three panel approval process should be preserved in HRS § 334-162(a) (2).

Next, the OPD also has concerns with and objects to the unspecified time periods in both HRS §§ 334-124 and -125(17)(g). In HRS § 334-124, the proposed amendment permits a continuance pending further examination of the subject of the petition, however, it fails to specify a time period. A time limit can and should be designated starting from after the completion of the examination of the subject or starting after the court files the appointment of a guardian ad litem or designated time period based on the reason that qualified as good cause. The OPD's concern is that without a designated time period, the case will drag on and given the nature of the petition – that the subject is suffering from mental distress and is in need of assistance – the information should be timely.

Similarly, HRS §334-125(17)(g) requires that a qualified psychiatric examiner personally examine the subject of the petition within “a reasonable time” prior to filing the petition. For the same reasons stated above, the information obtained from the examination is time sensitive. The OPD recommends 14-30 days for filing of the petition after the completion of the examination. Fourteen days provides the petitioner sufficient time to file the petition and ensures that the information in the petition will be timely and relevant so that the court is basing its decision on the most updated information.

Thank you for taking these comments into consideration.

Sincerely,  
/s/ Taryn Tomasa  
Deputy Public Defender



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To: The Honorable Joy San Buenaventura, Chair  
The Honorable Henry Aquino, Vice Chair  
Members, Senate Committee on Health & Human Services

The Honorable Brandon J.C. Elefante, Chair  
The Honorable Glenn Wakai, Vice Chair  
Member, Senate Committee on Public Safety & Military Affairs

From: Sondra Leiggi Brandon, VP of Behavioral Health and Patient Care, The Queen's Health Systems.

Jacce Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: February 7, 2025

Re: SB1322 – Relating to Mental Health

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The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on of SB1322, which among other things clarifies and expands the circumstances and procedures available for emergency transportation, examination, and hospitalization under Hawaii Revised Statutes chapter 334. We appreciate the introducer's intent in this measure but urge the Committee to fully review the impact of the bill's proposed changes to the existing mental health statute and associated processes— especially related to acute care settings.

Queen's Manamana campus and emergency department experience some of the highest acuity mental and behavioral health patients in our state and, as such, reiterate the critical importance the role mental health emergency workers (MHEW) play in determining appropriate crisis intervention and emergency stabilization care. We urge stakeholders to carefully examine existing crisis intervention services that Queen's and others are employing, in particular with regard to MH1's, to ensure that those experiencing mental health crisis are not reflexively sent to acute care/emergency department settings which are already operating at high capacities. We, again, underscore that any transport of a person experiencing crisis as referenced within this bill

*The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

(and impacted statute) be coordinated with the MHEW to determine appropriate setting to which a detained individual be transported.

We would also draw the Committee's attention to Page 7, subsection 334-D, regarding emergency transportation initiated by a health care provider. We would ask the Committee to consider the broad authority given these individuals to initiate an emergency transport to a facility for emergency examination and the unintended consequence that could have for our emergency room(s). We would also want to be sure that the designated "psychiatric facility or other facility" be clarified to include state and county facilities.

Furthermore, we would question the rationale and impact of the proposed language on Page 9, subsection 334-F, regarding emergency hospitalization. Current statute directs that a patient's admission not to exceed forty-eight hours; language proposed in this measure would expand to seventy-two hours. This would have serious implications for patients for acute facilities if there are no appropriate spaces to discharge an individual to after stabilization.

Finally, we implore this Committee and the Legislature to meaningfully address the underlying conditions impacting our state's stressed mental/behavioral health system. Please keep in mind the impact this bill and others will have with regard to the overall continuum of care; there still exists a profound need to investment in residential and community treatment programs, expanding mobile crisis teams, incentivizing and expanding the mental/behavioral health workforce, and investing in the public/private mental health infrastructure generally (including behavioral health crisis centers) if we are to see meaningful improvements in the quality of care for those most in need.



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Quality Healthcare For All"*

**COMMITTEE ON HEALTH & HUMAN SERVICES**

**Senator Joy A. San Buenaventura, Chair**  
**Senator Henry J.C. Aquino, Vice-Chair**

**COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS**

**Senator Brandon J.C. Elefante, Chair**  
**Senator Glenn Wakai, Vice-Chair**

February 7, 2025

3:10 PM

Hawaii State Capitol

Room 225 & Via Videoconference

**Testimony with Concerns on S.B. 1322**  
**RELATING TO MENTAL HEALTH**

Edward N. Chu

President & Chief Executive Officer  
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **with concerns on S.B. 1322, Relating to Mental Health**

HHSC's emergency rooms are small, over-filled, and under-staffed. We urge the legislature to recognize that maintaining the functionality of HHSC facilities, especially our emergency rooms, is critically important to the overall support of each rural community served.

The mental health emergency worker (MHEW) contract with The Queen's Health System has been invaluable for critical coordination efforts for limited resources and the professionalism of their staff has been above and beyond. The MHEWs have fulfilled their promises to work closely with our facilities, generally resulting in a flow of identified patients in need of emergency psychiatric care into our ERs that are manageable for staff and, thus, not impacting other necessary patient care in untenable ways.

We appreciate the constant efforts to simultaneously strengthen and refine Hawaii's mental health statutes to guide patient access to needed treatment. Respectfully, we ask that now and throughout the conversation this legislative session on this measure, that all parties involved support the inclusion of language that will ensure that only the

MHEW will determine when and where a law enforcement or a crisis intervention officer will transport a patient to. This may mean that if a law enforcement or crisis intervention officer cannot reach a MHEW, the officer may need to detain the individual in cellblock until the MHEW is coordinated with. HHSC's facilities simply do not have the capacity for multiple points of determinations for such transports. We respectfully ask that we collectively agree that we rely on the MHEWs as this point of coordination.

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

Thank you for the opportunity to provide testimony on this matter.

DATE: February 5, 2025

TO: Honorable Senator Brandon J.C. Elefante, Chair, Senate Committee on Public Safety and Military Affairs  
Honorable Senator Joy A. San Buenaventura, Chair, Senate Committee on Health and Human Services

FROM: Christopher D. Thomas, Attorney at Law, and on Behalf of IHS, Institute for Human Services, Inc.

RE: SB 1322- RELATING TO MENTAL HEALTH

POSITION: Support the passing of SB 1322 with amendment

My name is Christopher Thomas; I am an attorney in Honolulu, and I work to obtain Assisted Community Treatment (ACT) Orders for the Institute of Human Services (IHS). Via IHS, a team of Psychiatrists, Outreach Workers, and legal professionals represent the highest utilizers of our ACT Statute within Hawai'i. IHS's Outreach Navigation Program (ONP) has treated, and continues to treat, a substantial percentage of O'ahu's seriously mentally ill and substance addicted homeless population. Our ACT statute, housed in HRS Chapter 334, is one of the most useful laws ONP utilizes to ensure the most vulnerable of our citizens are awarded the treatment they have the right to receive.

I support SB 1322 and the comprehensive amendments contained therein, overall, as a practical and common-sense update and clarification of our ACT law. Having practiced under former iterations of the law, I see SB 1322 as another comprehensive attempt to make the law more "user-friendly" and effective to treating professionals.

However, it is imperative that passage is subject to amendments regarding the transport of ACT Respondents, specifically by law enforcement, to a medical care facility to receive treatment. Please know that any individual that is subject to an ACT Order has already been determined, by clear and convincing evidence by a Court of Law of this State, to be imminently dangerous to either themselves or others. Furthermore, the ACT Court has already determined that mandatory medication is required, not contingent upon a subsequent mental health evaluation by a law enforcement officer or psychiatric provider. The portion of SB 1322 (page 48, 6-10) requiring an independent MH-1 or MH-2 evaluative process prior to transporting an ACT Respondent to receive medication is redundant and obfuscates the purpose of the current law. Failing to transport an ACT Respondent based upon the ACT Order alone is tantamount to ignoring a prior Court Order that has found an ACT Respondent to be dangerous and who must be given medication. Please consider amending the Bill to require mandatory transport for ACT treatment at the request of the ACT treating psychiatric provider. An ACT Order must be enforceable to be effective in treating a patient.

I respectfully request that SB 1322, via the amendment cited above, be given your full support through the legislative process.

Respectfully submitted,  
Christopher D. Thomas, (808) 261-7710, cthomas@hawaiianfamilylaw.com



The Institute for Human Services, Inc.  
Ending the Cycle of Homelessness

**TO:** Honorable Senator Brandon J.C. Elefante,  
Chair, Senate Committee on Public Safety and Military Affairs  
  
Honorable Senator Joy A. San Buenaventura,  
Chair, Senate Committee on Health and Human Services

**FROM:** Angie Knight, Community Relations Manager  
IHS, Institute for Human Services, Inc.

**RE:** SB 1322 - RELATING TO MENTAL HEALTH

**DATE:** February 4, 2025

**POSITION:** IHS supports the passing of SB 1322

As a homeless service provider with broad experience outreaching chronically homeless individuals, including filing petitions for Assisted Community Treatment (ACT) in the State of Hawai'i, IHS, The Institute for Human Services supports the passing SB1322 with the amendments to make the revised HRS chapter more beneficial to those needing intervention and treatment.

In our years of outreaching, motivating, sheltering, and treating mentally ill homeless individuals, IHS has encountered barriers within our mental health and legal systems precipitated by statutes that leave room for interpretation and prevent effective execution of court orders that are meant to insure access to treatment for persons so mentally ill and substance addicted, that they pose danger to the community and refuse treatment for their conditions.

We support amendments to the statute that would ensure courtesy transport by police when it is needed to initiate treatment in a hospital or emergency department under a court order for Assisted Community Treatment. At times, police have been unwilling to transport for initiation of treatment unless the individual being transported to treatment met criteria for MH1 or MH2 despite an ACT order issued by a Judge who had already determined that the individual poses an imminent danger to self or others. Please make explicit that police are allowed to provide courtesy transport to execute treatment of the subject of an ACT order to ensure he/she is safely transported to treatment without delay.

We strongly support requiring individuals displaying symptoms of mental illness that result in emergency transport by police to be provided an emergency evaluation that includes determination of appropriateness for ACT. If these assessments could be completed and made available to the AG's office and community case managers, there would likely be more impetus for mental health teams to petition for ACT orders, and our community would be in a better position to stabilize many more people with untreated mental illness and getting them off the street and into housing.

Mahalo for the opportunity to testify.

**SB-1322**

Submitted on: 2/3/2025 11:16:59 PM

Testimony for HHS on 2/7/2025 3:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ilima DeCosta	Testifying for Hui Malama Pono Hawaii	Oppose	In Person

Comments:

Mahalo for the opportunity to testify in opposition of SB1322, which appears to seek to undermine an individual's right to decline medical treatment when they are not deemed to be an immediate risk of harm to themselves or others. SB1322 presupposes that one medical provider - a psychiatrist- would have the power to force medical care and pharmaceutical treatment onto a person experiencing a mental health crisis without the input of their family or the protections of a legal guardian.

SB1322 also seeks to limit the liability of state agents - including third party, non profit entities - which may or may not be engaged in best practices. I oppose any law(s) that would limit a persons right to decide their own medical care or any law that would protect bad actors engaged in negligent care.

Please protect individual civil liberties and do not empower the state to force medical care or treatment onto persons who are not in an immediate risk of harm to themselves or others without their full knowledge or ability to consent. Please do not pass SB1322 out of committee. Mahalo.

**SB-1322**

Submitted on: 2/5/2025 8:37:39 PM

Testimony for HHS on 2/7/2025 3:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	In Person

Comments:

One of the stated purposes is to clarify how an individual subject to an ACT order can be involuntarily and forcibly medicated. We always understood that to be the case. However, this does drive home the point that while ACT may be a beneficial program in some ways in terms of providing treatment, it is also potentially a serious invasion of a person’s liberty and as such the proceedings should provide as much due process protections as possible.

There are two provisions we definitely do not like. On page 11 and 48 the bill eliminates liability for basic negligence committed by various entities . There is no basis in law or experience for a provision such as that. There is certainly no reason to lower the standard of care required or provide any safe harbor for negligent actions they commit.

On page 51 the bill reduces the number of decision makers who preside at a hearing at an Order to Treat at the Hawaii State Hospital from three to one. The Order to Treat is a very unusual proceeding to begin with. Typically, in order to forcibly medicate an individual in a non emergency situation an order must be obtained from a Judge after a Hearing before a Court. Some years ago the Legislature authorized an Administrative Hearing to be had at the Hawaii State Hospital for persons who were committed there. The Department has never handled this well First, they were supposed to promulgate Administrative Regulations before they could begin the process. They never did. We were promised that there would be stakeholder engagement before rules were promulgated. Needless to say, that never occurred. Instead, they developed internal policy guidelines which were finally shared with us only after repeated requests. We pointed out that there were severe due process deficiencies and to our knowledge while some of those may have been addressed, the process in general is not designed to provide a lot of traditional safeguards.

The current bill reduces the decision to one individual vs the current provision for a “hearing” before a three panel Board. While that may be more convenient for the personal at the State Hospital it is a further erosion of what meager protections are presently provided. We believe the better approach would be the elimination of the Order To Treat process and a return to the more traditional method of requiring a Judicial proceeding.





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**LATE**

February 7, 2025  
3:10 PM  
Conference Room 225 & Videoconference

To: The Honorable Chair Brandon J.C. Elefante  
The Honorable Vice Chair Glenn Wakai  
Senate Committee on Public Safety and Military Affairs

The Honorable Chair Joy A. San Buenaventura  
The Honorable Vice Chair Henry J.C. Aquino  
Senate Committee on Health and Human Services

From: 'Ohana Health Plan  
Rachel Wilkinson, Manager, Government Relations, Marketing &  
Communications

Re: SB1322, Relating to Mental Health; **In Support Offering Comments**

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'Ohana Health Plan provides government-sponsored managed care services to families—from keiki to kupuna—and individuals with complex medical needs primarily through QUEST (Medicaid), Medicare Advantage and Medicare Prescription Drug Plans across the state. 'Ohana Health Plan is a Centene Corporation company, a leading healthcare enterprise committed to helping people live healthier lives.

'Ohana Health Plan offers our **support** of SB1322 and offers comments on Section 3, which clarifies the circumstances under which a subject of an order for assisted community treatment can be administered medication over the subject's objection and limits on liability for an assisted community treatment provider.

Since 2013, 'Ohana Health Plan has also served adults diagnosed with a qualifying serious mental illness (SMI) and/or a serious and persistent mental illness (SPMI) through the state's Community Care Services (CCS) program.

Our 'Ohana CCS members are some of Hawaii's most vulnerable individuals who have been diagnosed with schizophrenia, Post Traumatic Stress Disorder, substance induced psychosis, bipolar disorder, and major depression. They have significant impairment in their social or functional behavior, unable to achieve optimal health outcomes without the support of persons to help navigate their care.

The CCS program has additional benefits and resources to help those in our community dealing with behavioral health and substance use disorders, including a specialized intensive case management program for our most severely mentally ill.

An ACT petition is frequently initiated for chronically homeless individuals who are found to be dangerous to themselves or others, are suffering from severe, untreated mental illness and/or substance use disorder (SUD) and are incapable of making informed decisions about their own care and well-being. Many of these individuals are in the CCS program and we support the use of the ACT petition as a way to provide these individuals with the care that they need. The assistance of the Department of the Attorney General significantly enhances the ability of an individual's treatment team to prepare an effective ACT petition.

However, if 'Ohana were to initiate an ACT petition as the interested party, as a covered entity and a provider, 'Ohana is subject to both federal and state privacy laws. In order to make the initial disclosure of the member's name and information to share Protected Health Information (PHI) with the AG's office, it must be either through a Release of Information or under an exception to the privacy laws. The exception to the privacy laws under this statute are currently untested.

Thank you for the opportunity to submit testimony on this measure.



**SB1322 Fitness to Proceed**  
COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS  
Senator Brandon J.C. Elefante, Chair  
Senator Glenn Wakai, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES  
Senator Joy A. San Buenaventura, Chair  
Senator Henry J.C. Aquino, Vice Chair  
Friday, Feb 7, 2025: 3:10: Room 225 Videoconference

**Hawaii Substance Abuse Coalition Supports SB1322:**

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery-oriented services.*

**HSAC supports the expansion of processes to easier provide behavioral health care to people in need, especially during emergency situations for transpiration, examination, and hospitalization.**

**Policy & Regulatory Reforms**

- [\*Fast-Track Funding & Simplify Approvals\*](#) for mental health and substance use.
- [\*Reduce bureaucratic barriers\*](#) for mobile crisis units and crisis-response teams.
- [\*Remove Emergency Barriers.\*](#)

**Administrative Simplifications**

- [\*Reducing redundant paperwork.\*](#)
- [\*Zoning & Licensing Reform:\*](#) Ease zoning restrictions for opening mental health and addiction treatment centers in underserved neighborhoods.
- [\*Telehealth\*](#) Expansion.
- [\*Mobile Apps & Crisis Hotlines:\*](#) Connect them directly to emergency response teams.

**Public-Private Partnerships**

- [\*Community-Based Solutions:\*](#) Fund local organizations with partnerships that can provide faster, more culturally competent care than traditional government-run programs.
- [\*Simplifying grant\*](#) applications and approval processes.
- [\*Shift from rigid, categorical funding\*](#) (specific-use only) block grants that allow funds based on real-time community needs.

*Streamlining government processes to address mental health and substance abuse crises more efficiently requires a mix of policy reforms, administrative simplifications, and evidenced-driven solutions.*

## **Expand Peer Support & Culturally Competent Care**

- [\*Develop Mobile Crisis Teams.\*](#)
- [\*Community Detox & Recovery Centers:\*](#) Increase walk-in, no-barrier treatment centers that provide immediate detox, medication-assisted treatment (MAT), and social services.
- [\*Youth & School-Based Initiatives:\*](#) Integrate mental health services in schools, making early intervention and counseling easily accessible.
- [\*Decriminalization & Diversion Programs.\*](#)
- [\*Workforce Development:\*](#) Create pathways for community members, especially those in recovery, to become certified mental health professionals.
- [\*Follow-Up & Case Tracking\*](#) when a patient has accessed treatment or needs further outreach.

*The best systems involve hospitals, law enforcement, social workers, non-profit agencies and community organizations working together.*

We appreciate the opportunity to provide testimony and are available for questions.



## **SB1322 ER Transportation, Exam and Hospitalization**

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Brandon J.C. Elefante, Chair

Sen. Glenn Wakai, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES

Sen. Joy A. San Buenaventura, Chair

Sen. Henry J.C. Aquino, Vice Chair

Friday, Feb 7, 2025: 3:10pm: Room 225 Videoconference

### **Hina Mauka *Supports* SB1322:**

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS.  
My name is Brian Baker. I am the Chief Operating Officer for Hina Mauka, a mental health and substance use disorder treatment and prevention agency for thousands of adults and adolescents on Oahu and Kauai, including recovery-oriented services and housing transitional living programs.*

**Hina Mauka supports that Hawaii's laws must evolve so that innovative approaches such as crisis services, transportation, examination and care for people with mental health and substance abuse can access the care they need when they need it and with the most efficient and cost-effective means.**

Crisis services often need legal changes related to transportation because current laws can create barriers to getting people the help they need quickly and safely:

1. **Involuntary Transport Limitations** – Hawaii has strict laws about when and how a person in crisis can be transported against their will, often requiring law enforcement involvement. This can escalate situations rather than de-escalating them when trying to access the immediate care the person needs.
2. **Lack of Non-Law Enforcement Options** – In many places, the only available transport for people in mental health crises is through police or EMS. Changing laws could allow for more appropriate crisis transport teams (like trained behavioral health responders) to handle these situations with care.
3. **Insurance and Funding Barriers** – Some laws limit insurance coverage or Medicaid reimbursement for crisis transportation, leaving individuals and crisis response teams without financial support for safe, non-police transport options.

Legal changes in these areas could help crisis response teams provide more effective, humane, and timely transportation and examination for people experiencing mental health and substance abuse crisis.

We appreciate the opportunity to provide testimony and are available for further questions.

**SB-1322**

Submitted on: 1/31/2025 7:57:09 PM

Testimony for HHS on 2/7/2025 3:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mary Kawasaki	Individual	Support	Written Testimony Only

Comments:

Persons suffering from behavioral mental illness or substance abuse cannot and many time will not submit to treatment. There are situations when these individuals are a threat to others people or themselves. They walk into the middle of streets, walk in crosswalks against the traffic signal, and assault innocent people who cross their paths or honk at them to get out of the way. Involuntary treatment is the only way to keep the public at large safe.

Committee: Public Safety and Military Affairs and Health and Human Services  
Hearing Date/Time: Friday, February 7, 2025, at 3:10am  
Place: Conference Room 225 & Via Videoconference  
Re: **Testimony of the ACLU of Hawai'i in Opposition to S.B. 1322**

Dear Chairs Elefante and San Buenaventura, Vice Chairs and Members of the Committees:

The ACLU of Hawai'i supports the intent of **S.B. 1322** to help and support individuals experiencing mental illness or substance abuse. However, given our mandate to safeguard civil rights and liberties enshrined in our federal and Hawai'i Constitutions, **we oppose several provisions within S.B. 1322 Relating to Mental Health.**

First and foremost, we seek to protect a person's fundamental right to bodily integrity and to make our own health care decisions. This is the essence of liberty and we note the following constitutional concerns.

### **1. Legal Representation**

- ACLU of Hawai'i continues to object to the removal of statutory language guaranteeing the right of legal counsel to indigent persons subject to ACT proceedings in Family Court. (Concurrence by the Director of ACLU National's Disability Rights Program that this is a constitutional violation).
- ACLU-HI has objected to past measures that removed the guaranteed right to legal counsel in ACT proceedings in Family Court.
- As you are aware, under the current law, the Family Court now has discretion to appoint legal counsel in ACT proceedings "in the interest of justice." Unless the Court is appointing legal counsel in all ACT proceedings, we believe that this new proposed statute would continue to violate due process rights of individuals subject to ACT petitions.

### **2. Expand Voluntary Community-Based Treatment**

- We agree with the preamble that individuals experiencing mental illness and/or substance abuse need support.
- Research shows that voluntary treatment is more effective than involuntary treatment.
- The State must increase investments in more voluntary community based mental health and substance abuse treatment options and supportive housing to the scale required to meet the needs of vulnerable community members.

### 3. Termination of Order

- This reads like it's not possible for the family court to terminate an order requiring community assisted treatment, even if the provider is recommending termination, unless all the parties agree, since it says the Court can only revoke the order if there is no objection.
- The AG's office (which would be representing the petitioner at these hearings) shouldn't be allowed to override the recommendation of the provider.
- Where the provider and the petitioner agree that the ACT order should be discontinued, the family court should be required to revoke the order. (I.e., the court should not be able to override a unanimous recommendation of the provider and petitioner.
- The stated interests or preferences of the petitioner can be entirely disregarded here, unless the petitioner agrees with the provider (and all other parties, as discussed above). Where the petitioner seeks to terminate or modify an order, there should be a hearing and an opportunity for the petitioner to explain why they no longer meet the criteria for ACT.
- If there's a disagreement, there should be a hearing and the family court should make findings one way or another with legal counsel on record for the indigent person subject to the ACT order.

### 4. Involuntary Medical Treatment Panel

- This reduces the number of decision makers for involuntary medical treatment from a panel of 3 clinicians to a single psychiatrist.
- The U.S. Supreme Court has held, "The right of each person to determine his or her medical treatment is one of the most valued liberties in a democratic society."
- We categorically oppose the reduction in the number of decision makers for involuntary medical treatment from a panel of 3 clinicians to a single psychiatrist. Given the fact that involuntary medical treatment is so invasive and involves individual personal liberty, it is critically important to have three qualified clinicians to have to agree it's necessary.

### 5. Immunity from Liability

- Sec. 334-129 (f) "Except in cases of willful misconduct, gross negligence, or recklessness, the assisted community treatment provider shall not be

held civilly liable, either personally or in the assisted community treatment provider's official capacity, for the death of or injury to the subject of the order, claim for damage to or loss of property, or other civil liability as the result of any act or omission in the course of the employment or duties under this part.”

- This provision is highly suspect and is reminiscent of [Senate Bill 3047](#) (2022) as highlighted in <https://www.civilbeat.org/2022/02/state-says-it-shouldnt-be-held-liable-for-pandemic-harm-including-inmate-deaths/>. The bill originated in the state Attorney General's Office, and would change state law to prevent the state from being held liable for “any claim arising out of an act or omission that caused or contributed to” a person becoming ill from Covid-19 or its variants. This bill was drafted during the COVID outbreak when COVID rapidly spread in our jails and prisons and a number of people died.

## **6. Violation of Privacy and Protected Health Information**

- We have strong concerns about the proposed new section 334 that requires any existing doctors, therapists, and social workers to furnish information, including treatment records, to the Attorney General if an ACT order is being pursued. This is problematic and may violate the right to privacy under our Hawai'i Constitution.
- Authorizing the state to demand a therapists/clinicians' notes about a person's treatment if someone petitions for ACT for that person is troubling and likely violates privacy interests.

## **7. Separate ACT Proceeding from Guardianship Proceeding**

- It's preferable to separate the involuntary treatment proceeding from the guardianship proceeding given that guardianships deprive the individual of personal autonomy, often permanently.
- Assisted Community Treatment should not be a back-door way to implement a permanent guardianship. We support the removal of this joint ACT/guardianship proceeding formerly in section 334-60.4(b)(8).

In closing, ACLU of Hawai'i strongly supports increasing investments in the diversion infrastructure and delivery of community based health care and treatment to persons experiencing mental health and co-occurring disorders in Hawai'i. This robust infrastructure will divert people from our jails and prisons who do not belong there, and divert people from the Hawai'i State Hospital who do not meet the level of acuity required for that placement – and providing step down levels of supportive housing. In

ligh of the number of provisions that violates rights to liberty, due process, and privacy under our Constitution, we oppose S.B. 1322.

Sincerely,

Carrie Ann Shirota  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. Since 1965, the ACLU of Hawai'i has been serving Hawai'i .*

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