

JAN 27 2016

S.B. NO. 2982

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. Section 334-60.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§334-60.3 Initiation of proceeding for involuntary
4 hospitalization. (a) Any person may file a petition in the
5 family court alleging that a person located in the county meets
6 the criteria for commitment to a psychiatric facility. The
7 petitioner shall request for the alternative relief of assisted
8 community treatment pursuant to part VIII of this chapter and
9 request that the family court order the appropriate treatment
10 alternative. The petition shall be executed subject to the
11 penalties of perjury but need not be sworn to before a notary
12 public. The attorney general, the attorney general's deputy,
13 special deputy, or appointee designated to present the case
14 shall assist the petitioner to state the substance of the
15 petition in plain and simple language. The petition may be
16 accompanied by a certificate of the licensed physician, advanced
17 practice registered nurse, or psychologist who has examined the



1 person within two days before submission of the petition, unless
2 the person whose commitment is sought has refused to submit to
3 medical or psychological examination, in which case the fact of
4 refusal shall be alleged in the petition. The certificate shall
5 set forth the signs and symptoms relied upon by the physician,
6 advanced practice registered nurse, or psychologist to determine
7 the person is in need of care or treatment, or both, and whether
8 or not the person is capable of realizing and making a rational
9 decision with respect to the person's need for treatment. If
10 the petitioner believes that further evaluation is necessary
11 before commitment, the petitioner may request ~~such~~ further
12 evaluation.

13 (b) In the event the subject of the petition has been
14 given an examination, evaluation, or treatment in a psychiatric
15 facility within five days before submission of the petition, and
16 hospitalization or assisted community treatment pursuant to part
17 VIII of this chapter is recommended by the staff of the
18 facility, the petition may be accompanied by the administrator's
19 certificate in lieu of a physician's or psychologist's
20 certificate."



SECTION 2. Section 334-60.4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The notice shall include the following:

(1) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the subject; and a statement of the legal standard upon which commitment is authorized;

(2) A copy of the petition;

(3) A written notice, in plain and simple language, that the subject may waive ~~[such a]~~ the hearing by voluntarily agreeing to hospitalization, or with the approval of the court, to some other form of treatment;

(4) A filled-out form indicating ~~[such]~~ the waiver;

(5) A written notice, in plain and simple language, that the subject or the subject's guardian or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if the subject has previously waived ~~[such]~~ a hearing;



1 (6) Notice that the subject is entitled to the assistance
2 of an attorney and that the public defender has been
3 notified of these proceedings;

4 (7) Notice that if the subject does not want to be
5 represented by the public defender the subject may
6 contact the subject's own attorney;

7 (8) Notice, if [~~such be the case,~~] applicable, that the
8 petitioner intends to adduce evidence to show that the
9 subject of the petition is an incapacitated or
10 protected person, or both, under article V of chapter
11 560, and whether or not appointment of a guardian is
12 sought at the hearing. If appointment of a guardian
13 is to be recommended, and a nominee is known at the
14 time the petition is filed, the identity of the
15 nominee shall be disclosed[-]; and

16 (9) Notice that the court may order the subject who meets
17 the criteria established by section 334-121 to submit
18 to assisted community treatment pursuant to part VIII
19 of this chapter, if the court finds pursuant to
20 section 334-60.5(i) that the individual does not
21 require hospitalization for medical, psychiatric,



1 psychological, or other rehabilitative treatment or
2 supervision."

3 SECTION 3. Section 334-60.5, Hawaii Revised Statutes, is
4 amended by amending subsection (i) to read as follows:

5 "(i) If after hearing all relevant evidence, including the
6 result of any diagnostic examination ordered by the court, the
7 court finds that an individual [~~is not a person requiring~~] does
8 not require hospitalization for medical, psychiatric,
9 psychological, or other rehabilitative treatment or supervision,
10 the court shall [~~order~~]:

11 (1) Order that the individual be discharged if the
12 individual has been hospitalized prior to the
13 hearing[~~-~~];

14 (2) Determine whether the individual meets the criteria
15 for assisted community treatment pursuant to section
16 334-121; and

17 (3) Order the commencement of assisted community treatment
18 as soon as practicable for an individual meeting the
19 criteria."

20 SECTION 4. Section 334-123, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Any interested party may file a petition with the
2 family court alleging that another person meets the criteria for
3 assisted community treatment. This petition may be initiated
4 independently or as a request for alternative relief in a
5 petition for involuntary hospitalization that is initiated
6 pursuant to section 334-60.3. The petition shall state:

7 (1) Each of the criteria numbered (1) through (7) for
8 assisted community treatment, as set out in section
9 334-121;

10 (2) Petitioner's good faith belief that the subject of the
11 petition meets each of the criteria numbered (1)
12 through (7) set forth in section 334-121;

13 (3) Facts which support petitioner's good faith belief
14 that the subject of the petition meets each of the
15 criteria numbered (1) through (7) set forth in section
16 334-121; and

17 (4) That the subject of the petition is present within the
18 county where the petition is filed.

19 The hearing on the petition need not be limited to the
20 facts stated in the petition. The petition shall be executed
21 subject to the penalties of perjury."



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1 SECTION 5. Act 221, Session Laws of Hawaii 2013, is
2 amended by amending section 24 to read as follows:

3 "SECTION 24. This Act shall take effect on January 1,
4 2014 [~~, and shall be repealed on July 1, 2020~~]; provided that:

5 (1) Petitions filed pursuant to section 334-123, Hawaii
6 Revised Statutes, for assisted community treatment
7 involving a designated mental health program that is a
8 state-operated provider shall not be filed until after
9 July 1, 2015;

10 (2) Any private provider wishing to file a petition
11 pursuant to section 334-123, Hawaii Revised Statutes,
12 for assisted community treatment may do so after
13 January 1, 2014, using its own resources, if the
14 petitioner is to be the designated mental health
15 program; and

16 (3) Any interested party wishing to file a petition
17 pursuant to section 334-123, Hawaii Revised Statutes,
18 for assisted community treatment may do so after
19 January 1, 2014, using the party's own resources, if
20 the designated mental health program is a private
21 provider [~~, and~~



~~(4) The title of chapter 334, part VIII, and sections
334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through
334-134, Hawaii Revised Statutes, shall be reenacted
in the form in which they read on the day prior to the
effective date of this Act]."~~

SECTION 6. Act 27, Session Laws of Hawaii 2015, is amended
by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon its approval[
~~provided that the amendments made to section 334-59, Hawaii
Revised Statutes, by section 2 of this Act shall not be repealed
when section 334-59, Hawaii Revised Statutes, is reenacted on
July 1, 2020, pursuant to section 24 of Act 221, Session Laws of
Hawaii 2013]."~~

SECTION 7. Act 231, Session Laws of Hawaii 2015, is
amended by amending section 9 to read as follows:

"SECTION 9. This Act shall take effect upon its approval[
~~provided that the amendments made to sections 334-123, 334-125,
and 334-126, Hawaii Revised Statutes, by this Act shall not be
repealed when these sections are reenacted on July 1, 2020,
pursuant to section 24, Act 221, Session Laws of Hawaii 2013]."~~



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1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 12. This Act shall take effect upon its approval.
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S.B. NO. 2982

Report Title:
Mental Health

Description:

Requires the family court to consider assisted community treatment as an alternative to commitment to a psychiatric facility for a person subject to a petition for involuntary hospitalization.

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

