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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH, ILLNESS AND ADDICTION.

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

1           SECTION 1. Section 334-59, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§334-59   **Emergency examination and hospitalization.** (a)  
4 Initiation of proceedings. An emergency admission may be  
5 initiated as follows:

6           (1) If a law enforcement officer has reason to believe  
7           that a person is imminently dangerous to self or  
8           others, the officer shall call for assistance from the  
9           mental health emergency workers designated by the  
10          director. Upon determination by the mental health  
11          emergency workers that the person is imminently  
12          dangerous to self or others, the person shall be  
13          transported by ambulance or other suitable means, to a  
14          licensed psychiatric facility for further evaluation  
15          and possible emergency hospitalization. A law  
16          enforcement officer may also take into custody and  
17          transport to any facility designated by the director



1 any person threatening or attempting suicide. The  
2 officer shall make application for the examination,  
3 observation, and diagnosis of the person in custody.  
4 The application shall state or shall be accompanied by  
5 a statement of the circumstances under which the  
6 person was taken into custody and the reasons therefor  
7 which shall be transmitted with the person to a  
8 physician, advanced practice registered nurse, or  
9 psychologist at the facility.

10 (2) Upon written or oral application of any licensed  
11 physician, advanced practice registered nurse,  
12 psychiatrist, psychologist, attorney, member of the  
13 clergy, health or social service professional, or any  
14 state or county employee in the course of employment,  
15 a judge may issue an ex parte order orally, but shall  
16 reduce the order to writing by the close of the next  
17 court day following the application, stating that  
18 there is probable cause to believe the person is  
19 mentally ill or suffering from substance abuse, is  
20 imminently dangerous to self or others and in need of  
21 care or treatment, or both, giving the findings upon



1           which the conclusion is based. The order shall direct  
2           that a law enforcement officer or other suitable  
3           individual take the person into custody and deliver  
4           the person to a designated mental health program, if  
5           the person is subject to an assisted community  
6           treatment order issued pursuant to part VIII of this  
7           chapter, or to the nearest facility designated by the  
8           director for emergency examination and treatment, or  
9           both. The ex parte order shall be made a part of the  
10          patient's clinical record. If the application is  
11          oral, the person making the application shall reduce  
12          the application to writing and shall submit the same  
13          by noon of the next court day to the judge who issued  
14          the oral ex parte order. The written application  
15          shall be executed subject to the penalties of perjury  
16          but need not be sworn to before a notary public.

17          (3) Any licensed physician, advanced practice registered  
18          nurse, physician assistant, psychiatrist, or  
19          psychologist who has examined a person and has reason  
20          to believe the person is:

21           (A) Mentally ill or suffering from substance abuse;



1 (B) Imminently dangerous to self or others; and  
2 (C) In need of care or treatment;  
3 may direct transportation, by ambulance or other  
4 suitable means, to a licensed psychiatric facility for  
5 further evaluation and possible emergency  
6 hospitalization. A licensed physician, an advanced  
7 practice registered nurse, or physician assistant may  
8 administer treatment as is medically necessary, for  
9 the person's safe transportation. A licensed  
10 psychiatrist or psychologist may administer treatment  
11 as is psychologically necessary.

12 (b) Emergency examination. A patient who is delivered for  
13 emergency examination and treatment to a facility designated by  
14 the director shall be examined by a licensed physician or  
15 advanced practice registered nurse without unnecessary delay,  
16 and may be given [~~sueh~~] treatment as is indicated by good  
17 medical practice. A psychiatrist, advanced practice registered  
18 nurse, or psychologist may further examine the patient to  
19 diagnose the presence or absence of a mental disorder, assess  
20 the risk that the patient may be dangerous to self or others,  
21 and assess whether or not the patient needs to be hospitalized.



1 (c) Release from emergency examination. If the physician  
2 or advanced practice registered nurse who performs the emergency  
3 examination, in consultation with a psychiatrist or psychologist  
4 if applicable, concludes that the patient need not be  
5 hospitalized, the patient shall be discharged immediately unless  
6 the patient is under criminal charges, in which case the patient  
7 shall be returned to the custody of a law enforcement officer.

8 (d) Emergency hospitalization. If the physician, advanced  
9 practice registered nurse, psychiatrist, or psychologist who  
10 performs the emergency examination has reason to believe that  
11 the patient is:

12 (1) Mentally ill or suffering from substance abuse;

13 (2) Imminently dangerous to self or others; and

14 (3) In need of care or treatment, or both;

15 the physician, advanced practice registered nurse, psychiatrist,  
16 or psychologist may direct that the patient be hospitalized on  
17 an emergency basis or cause the patient to be transferred to  
18 another psychiatric facility for emergency hospitalization, or  
19 both. The patient shall have the right immediately upon  
20 admission to telephone the patient's guardian or a family member  
21 including a reciprocal beneficiary, or an adult friend and an



1 attorney. If the patient declines to exercise that right, the  
2 staff of the facility shall inform the adult patient of the  
3 right to waive notification to the family including a reciprocal  
4 beneficiary, and shall make reasonable efforts to ensure that  
5 the patient's guardian or family including a reciprocal  
6 beneficiary, is notified of the emergency admission but the  
7 patient's family including a reciprocal beneficiary, need not be  
8 notified if the patient is an adult and requests that there be  
9 no notification. The patient shall be allowed to confer with an  
10 attorney in private.

11 (e) Release from emergency hospitalization. If at any  
12 time during the period of emergency hospitalization the  
13 responsible physician concludes that the patient no longer meets  
14 the criteria for emergency hospitalization the physician shall  
15 discharge the patient. If the patient is under criminal  
16 charges, the patient shall be returned to the custody of a law  
17 enforcement officer. In any event, the patient must be released  
18 within forty-eight hours of the patient's admission, unless the  
19 patient voluntarily agrees to further hospitalization, or a  
20 proceeding for court-ordered evaluation or hospitalization, or  
21 both, is initiated as provided in section 334-60.3. If that



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1 time expires on a Saturday, Sunday, or holiday, the time for  
 2 initiation is extended to the close of the next court day. Upon  
 3 initiation of the proceedings the facility shall be authorized  
 4 to detain the patient until further order of the court.

5 (f) If warranted, the mental health emergency workers,  
 6 physician, advanced practiced registered nurse, psychiatrist, or  
 7 psychologist shall refer the person who is not placed into  
 8 custody or discharged pursuant to this section:

- 9 (1) To a designated mental health program, if the patient  
 10 is subject to an assisted community treatment order  
 11 issued pursuant to part VIII of this chapter; or  
 12 (2) To the nearest mental health treatment facility  
 13 designated by the director for examination and  
 14 treatment."

15 SECTION 2. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

18

INTRODUCED BY:



JAN 24 2017



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**Report Title:**

Mental Health, Illness, Addiction; Emergency Examination;  
Hospitalization; Referral

**Description:**

Requires attending medical professionals to refer patients to mental health treatment programs or facilities when they are discharged from emergency examination and hospitalization and determined not to be imminently dangerous to self or others.

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

