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# A BILL FOR AN ACT

RELATING TO ASSISTED COMMUNITY TREATMENT.

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

1           SECTION 1. The legislature finds that the assisted  
2 community treatment program established in 2013 provides  
3 individuals with severe mental illness who are unlikely to live  
4 safely in the community without available supervision with the  
5 necessary medical treatment and medication when it is in the  
6 individual's best interest. The legislature further finds that  
7 although assisted community treatment program presents these  
8 individuals with an opportunity to receive on-going treatment in  
9 the least restrictive setting and serves as a vital alternative  
10 to repeat emergency interventions as their primary course of  
11 treatment, many mentally ill individuals fail to participate in  
12 the program and partake of these benefits.

13           The legislature finds that existing law does not require a  
14 guardian ad litem to be appointed to represent an individual  
15 with severe mental illness during assisted community treatment  
16 program proceedings and promote their needs and interests. The  
17 legislature further finds that the mandatory appointment of a



1 guardian ad litem will improve the assisted community treatment  
2 program process.

3 The purpose of this Act is to require the court to appoint,  
4 at the time an assisted community treatment program petition is  
5 filed, a guardian ad litem to represent the best interests of  
6 the individual who is subject to the petition throughout the  
7 pendency of the judicial proceedings.

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

11 "§334- Appointment of guardian ad litem. (a) The  
12 family court, upon receipt of a petition filed under this part,  
13 shall appoint a guardian ad litem to represent the best  
14 interests of the subject of the petition throughout the pendency  
15 of the proceedings."

16 SECTION 3. Section 334-125, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§334-125 Notice.** (a) Notice of the hearing shall be:

19 (1) Served personally on the subject of the petition  
20 pursuant to family court rules;



- 1 (2) Served personally or by certified or registered mail,  
2 return receipt requested, deliverable to the addressee  
3 only, to as many as are known to the petitioner of the  
4 subject's spouse or reciprocal beneficiary, legal  
5 parents, adult children, and legal guardian, if one  
6 has been appointed. If the subject of the petition  
7 has no living spouse or reciprocal beneficiary, legal  
8 parent, adult children, or legal guardian, or if none  
9 can be found, notice of the hearing shall be served on  
10 at least one of the subject's closest adult relatives,  
11 if any can be found;
- 12 (3) Served on the public defender;
- 13 (4) Served on the guardian ad litem appointed for the  
14 subject of the petition;
- 15 (5) Served on the attorney for the subject of the  
16 petition, [~~or other court-appointed attorney as~~] if  
17 applicable; and
- 18 [~~4~~] (6) Given to other persons as the court may  
19 designate.



- 1 (b) The notice shall include the following:
- 2 (1) The date, time, place of hearing, a clear statement of
- 3 the purpose of the proceedings and possible
- 4 consequences to the subject, and a statement of the
- 5 legal standard upon which assisted community treatment
- 6 is being considered;
- 7 (2) A copy of the petition;
- 8 (3) Notice that the subject of the petition has been
- 9 assigned a guardian ad litem to represent the best
- 10 interests of the subject throughout the proceeding;
- 11 (4) The name and contact information of the guardian ad
- 12 litem appointed for the subject of the petition;
- 13 [~~3~~] (5) Notice that the subject of the petition is
- 14 entitled to the assistance of an attorney, and that
- 15 the public defender has been notified of these
- 16 proceedings; and
- 17 [~~4~~] (6) Notice that if the subject does not want to be
- 18 represented by the public defender, the subject may
- 19 contact the subject's own attorney.
- 20 (c) Notice of all subsequent hearings shall be served in
- 21 accordance with subsections (a) and (b), and in accordance with



1 all applicable family court rules relating to service of notice,  
2 including that service need not be made on parties in default  
3 for failure to appear."

4 SECTION 4. Section 334-126, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By amending subsection (e) to read:

7 "(e) The subject of the petition shall not be required to  
8 be present at the hearing [~~However, if~~]; provided that the  
9 subject has been served with the petition and [~~does not appear~~  
10 ~~at the hearing, the court may appoint a~~] the appointed guardian  
11 ad litem is present to represent the best interests of the  
12 subject through the proceedings."

13 2. By amending subsection (g) to read:

14 "(g) If the subject of the petition is represented by [~~an~~]  
15 their own attorney, the attorney shall be allowed adequate time  
16 for investigation of the matters at issue and for preparation,  
17 and shall be permitted to present the evidence that the attorney  
18 believes necessary for a proper disposition of the proceeding."

19 SECTION 5. Section 334-133, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "§334-133 Petition for additional period [{}of[{}]  
2 **treatment; hearing.** (a) Prior to the expiration of the period  
3 of assisted community treatment ordered by the family court, any  
4 interested party may file a petition with the family court for  
5 an order of continued assisted community treatment. The  
6 petition shall be filed, guardian ad litem appointed, and notice  
7 provided in the same manner as under sections 334-123  
8 and 334-125.

9       (b) The family court shall appoint a guardian ad litem,  
10 hold a hearing on the petition, and make its decision in the  
11 same manner as provided under sections 334-123 to 334-127. The  
12 family court may order the continued assisted community  
13 treatment for not more than one year after the date of the  
14 hearing pursuant to this section if the court finds that the  
15 criteria for assisted community treatment continue to exist and  
16 are likely to continue beyond one hundred eighty days.

17       (c) Nothing in this section shall preclude the subject's  
18 stipulation to the continuance [{}of[{}] an existing court order.  
19 This section shall be in addition to the provisions on the  
20 objection to discharge."



1 SECTION 6. Section 334-134, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§334-134 Hearing for discharge.** Any person may petition  
4 the family court for the discharge of an order of assisted  
5 community treatment during the period of assisted community  
6 treatment after sixty days from the most recent hearing  
7 involving the subject of the order. The petition shall be  
8 filed, guardian ad litem appointed, notice given, hearing held,  
9 and order made in the same manner as provided for the original  
10 petition alleging that the subject of the order met the criteria  
11 for assisted community treatment."

12 SECTION 7. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15 SECTION 8. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on July 1, 2060.



# H.B. NO. 345 H.D. 1

**Report Title:**

Mental Health; Assisted Community Treatment; Petition; Guardian Ad Litem; Appointment; Notice; Hearing

**Description:**

Mandates appointment of a guardian ad litem to represent the best interests of a mentally ill individual in assisted community treatment proceedings. Effective 7/1/2060. (HD1)

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

