
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 the assisted community treatment program presents these
8 individuals with an opportunity to receive ongoing 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. The family
12 court, upon receipt of a petition filed under this part, shall
13 appoint a guardian ad litem to represent the best interests of
14 the subject of the petition throughout the pendency of the
15 proceedings."

16 SECTION 3. Section 334-125, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(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 SECTION 4. Section 334-126, Hawaii Revised Statutes, is

21 amended as follows:



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

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

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

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

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

16 "**§334-133 Petition for additional period [†]of[†]**
17 **treatment; hearing.** (a) ~~[Prior to]~~ Before the expiration of
18 the period of assisted community treatment ordered by the family
19 court, any interested party may file a petition with the family
20 court for an order of continued assisted community treatment.
21 The petition shall be filed, guardian ad litem appointed, and



1 notice provided in the same manner as under sections 334-123
2 and 334-125.

3 (b) The family court shall appoint a guardian ad litem,
4 hold a hearing on the petition, and make its decision in the
5 same manner as provided under sections 334-123 to 334-127. The
6 family court may order the continued assisted community
7 treatment for [~~not~~] no more than one year after the date of the
8 hearing pursuant to this section if the court finds that the
9 criteria for assisted community treatment continue to exist and
10 are likely to continue beyond one hundred eighty days.

11 (c) Nothing in this section shall preclude the subject's
12 stipulation to the continuance [+]of[+] an existing court order.
13 This section shall be in addition to the provisions on the
14 objection to discharge."

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

17 "**§334-134 Hearing for discharge.** Any person may petition
18 the family court for the discharge of an order of assisted
19 community treatment during the period of assisted community
20 treatment after sixty days from the most recent hearing
21 involving the subject of the order. The petition shall be



1 filed, guardian ad litem appointed, notice given, hearing held,
2 and order made in the same manner as provided for the original
3 petition alleging that the subject of the order met the criteria
4 for assisted community treatment."

5 SECTION 7. Section 571-87, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) When it appears to a judge that a person requesting
8 the appointment of counsel satisfies the requirements of
9 chapter 802 for determination of indigency, or the court in its
10 discretion appoints counsel under chapters [†]587A[†] and 346,
11 part X, or that a person requires appointment of a guardian ad
12 litem, or is appointed a guardian ad litem pursuant to
13 section 334- , the judge shall appoint counsel or a guardian
14 ad litem to represent the person at all stages of the
15 proceedings, including appeal, if any. Appointed counsel and
16 the guardian ad litem shall receive reasonable compensation for
17 necessary expenses, including travel, the amount of which shall
18 be determined by the court, and reasonable fees pursuant to
19 subsections (b) and (c). All of these expenses and fees shall
20 be certified by the court and paid upon vouchers approved by the
21 judiciary and warrants drawn by the comptroller."



1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on July 1, 2060.



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. (HD2)

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

