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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 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 an  
14 existing guardian 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 will improve procedures regarding the assisted  
2 community treatment program.

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, an existing guardian 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 a guardian. The family court,  
12 upon receipt of a petition filed under this part, shall  
13 determine the existence of a guardian and if none, shall appoint  
14 the public guardian to represent the best interests of the  
15 subject of the petition throughout the pendency of the  
16 proceedings."

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

19 "(a) Notice of the hearing shall be:

20 (1) Served personally on the subject of the petition  
21 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 (3) Served on the guardian of the subject of the petition;

14 (4) Served on the attorney for the subject of the  
 15 petition, [~~or other court appointed attorney as~~ if  
 16 applicable; and

17 [~~(4)~~ (5) Given to other persons as the court may  
 18 designate.

19 (b) The notice shall include the following:

20 (1) The date, time, place of hearing, a clear statement of  
 21 the purpose of the proceedings and possible



1 consequences to the subject, and a statement of the  
2 legal standard upon which assisted community treatment  
3 is being considered;

4 (2) A copy of the petition;

5 (3) Notice that the subject of the petition has been  
6 assigned any existing guardian to represent the best  
7 interests of the subject throughout the proceeding;

8 (4) The name and contact information of any existing  
9 guardian appointed for the subject of the petition;

10 ~~[(3)]~~ (5) Notice that the subject of the petition may  
11 request the assistance of an attorney~~[\_]~~; ~~[and that~~  
12 ~~the public defender has been notified of these~~  
13 ~~proceedings,]~~ and

14 ~~[(4)]~~ (6) Notice that ~~[if the subject does not want to be~~  
15 ~~represented by the public defender,]~~ the subject may  
16 contact the subject's own attorney."

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

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

20 "(e) The subject of the petition shall not be required to  
21 be present at the hearing~~[. However, if]~~; provided that the



1 subject has been served with the petition and ~~[does not appear~~  
2 ~~at the hearing, the court may appoint a]~~ the appointed guardian  
3 ~~[ad litem]~~ is present to represent the best interests of the  
4 subject through the proceedings."

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

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

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

13 "**§334-133 Petition for additional period [{}of{}]**  
14 **treatment; hearing.** (a) ~~[Prior to]~~ Before the expiration of  
15 the period of assisted community treatment ordered by the family  
16 court, any interested party may file a petition with the family  
17 court for an order of continued assisted community treatment.  
18 The petition shall be filed, any existing guardian appointed, or  
19 if none exists, the public guardian appointed, and notice  
20 provided in the same manner as under sections 334-123  
21 and 334-125.



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

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

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

15 "**§334-134 Hearing for discharge.** Any person may petition  
 16 the family court for the discharge of an order of assisted  
 17 community treatment during the period of assisted community  
 18 treatment after sixty days from the most recent hearing  
 19 involving the subject of the order. The petition shall be  
 20 filed, any existing guardian appointed, notice given, hearing  
 21 held, and order made in the same manner as provided for the



1 original petition alleging that the subject of the order met the  
2 criteria for assisted community treatment."

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

5 "(a) When it appears to a judge that a person requesting  
6 the appointment of counsel satisfies the requirements of  
7 chapter 802 for determination of indigency, or the court in its  
8 discretion appoints counsel under chapters [5]587A[+] and 346,  
9 part X, or that a person requires appointment of a guardian [~~ad~~  
10 ~~litem~~], or appoints any existing guardian pursuant to  
11 section 334- , the judge shall appoint counsel or a guardian  
12 [~~ad litem~~] to represent the person at all stages of the  
13 proceedings, including appeal, if any. Appointed counsel and  
14 the guardian [~~ad litem~~] shall receive reasonable compensation  
15 for necessary expenses, including travel, the amount of which  
16 shall be determined by the court, and reasonable fees pursuant  
17 to subsections (b) and (c). All of these expenses and fees  
18 shall be certified by the court and paid upon vouchers approved  
19 by the 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 to represent the best  
interests of a mentally ill individual in assisted community  
treatment proceedings. Effective 7/1/2060. (SD1)

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

