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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Section 334-59, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Initiation of proceedings. An emergency admission  
4 may be initiated as follows:

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



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

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



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

- 20          (3) Any licensed physician, advanced practice registered  
21          nurse, physician assistant, or psychologist who has



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1           examined a person and has reason to believe the person  
2           is:

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

4           (B) Imminently dangerous to self or others; and

5           (C) In need of care or treatment;

6           may direct transportation, by ambulance or other  
7           suitable means, to a licensed psychiatric facility for  
8           further evaluation and possible emergency  
9           hospitalization. A licensed physician, an advanced  
10          practice registered nurse, or physician assistant may  
11          administer treatment as is medically necessary, for  
12          the person's safe transportation. A licensed  
13          psychologist may administer treatment as is  
14          psychologically necessary."

15          SECTION 2. Section 334-60.2, Hawaii Revised Statutes, is  
16          amended to read as follows:

17          "**§334-60.2 Involuntary hospitalization criteria.** (a) A  
18          person may be committed to a psychiatric facility for  
19          involuntary hospitalization, if the court finds:

20          (1) That the person is mentally ill or suffering from  
21          substance abuse;

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1 (2) That the person is imminently dangerous to self or  
2 others; and

3 (3) That the person is in need of care or treatment, or  
4 both, and there is no suitable alternative available  
5 through existing facilities and programs which would  
6 be less restrictive than hospitalization.

7 (b) In making a finding whether the person is imminently  
8 dangerous to self or others under paragraph (a)(2), the court  
9 shall consider statements submitted by the parents of the  
10 person, regardless of the age of the person; provided that this  
11 requirement shall not apply if the person is a criminal  
12 defendant or correctional facility resident who is the subject  
13 of processes described in section 334-74, section 334-76,  
14 section 704-406, or section 704-421."

15 SECTION 3. Section 334-121, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§334-121 Criteria for assisted community treatment. (a)**  
18 A person may be ordered to obtain assisted community treatment  
19 if the family court finds, based on the professional opinion of  
20 a psychiatrist or advanced practice registered nurse with  
21 prescriptive authority and who holds an accredited national



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1 certification in an advanced practice registered nurse  
2 psychiatric specialization, that:

3 (1) The person is mentally ill or suffering from substance  
4 abuse;

5 (2) The person is unlikely to live safely in the community  
6 without available supervision, is now in need of  
7 treatment in order to prevent a relapse or  
8 deterioration that would predictably result in the  
9 person becoming imminently dangerous to self or  
10 others, and the person's current mental status or the  
11 nature of the person's disorder limits or negates the  
12 person's ability to make an informed decision to  
13 voluntarily seek or comply with recommended treatment;

14 (3) The person has a:

15 (A) Mental illness that has caused that person to  
16 refuse needed and appropriate mental health  
17 services in the community; or

18 (B) History of lack of adherence to treatment for  
19 mental illness or substance abuse that resulted  
20 in the person becoming dangerous to self or  
21 others and that now would predictably result in



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1                   the person becoming imminently dangerous to self  
2                   or others; and

3           (4)   Considering less intrusive alternatives, assisted  
4           community treatment is essential to prevent the danger  
5           posed by the person, is medically appropriate, and is  
6           in the person's medical interests.

7           (b) In making a finding on whether the person is  
8           imminently dangerous to self or others pursuant to paragraph  
9           (a) (3) (B), the court shall consider statements submitted by the  
10          parents of the person, regardless of the age of the person;  
11          provided that this requirement shall not apply if the person is  
12          a criminal defendant who is the subject of processes described  
13          in section 704-406 or section 704-421."

14           SECTION 4. Section 334-141, Hawaii Revised Statutes, is  
15          amended by amending the definition of "family member" to read as  
16          follows:

17            "Family member" means any individual who is a member of  
18          the immediate family of the [~~person who is the subject of the~~  
19          ~~petition,~~] respondent, including a spouse, child, [~~parent,~~]  
20          grandparent, or any related individual who resides in the same  
21          household as the [~~individual who is the subject of the~~



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1 ~~petition.]~~ respondent. "Family member" includes a parent of the  
2 respondent, regardless of whether the parent resides in the same  
3 household as the respondent."

4 SECTION 5. Section 334-161, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 " ~~[+]§334-161[+]~~ **Criteria for issuance of court or**  
7 **administrative order for treatment over the patient's objection.**

8 (a) A patient who has been committed to a psychiatric facility  
9 for involuntary hospitalization or who is in the custody of the  
10 director and residing in a psychiatric facility may be ordered  
11 to receive treatment over the patient's objection, including the  
12 taking or application of medication, if the court, or  
13 administrative panel through the administrative authorization  
14 process established pursuant to section 334-162, finds that:

- 15 (1) The patient suffers from a physical or mental disease,  
16 disorder, or defect;
- 17 (2) The patient is imminently dangerous to self or others;
- 18 (3) The proposed treatment is medically appropriate; and
- 19 (4) After considering less intrusive alternatives,  
20 treatment is necessary to forestall the danger posed  
21 by the patient.



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1        (b) In making a finding on whether the person is  
 2 imminently dangerous to self or others pursuant to paragraph  
 3 (a)(2), the court or administrative panel shall consider  
 4 statements submitted by the parents of the person, regardless of  
 5 the age of the person; provided that this requirement shall not  
 6 apply if the person is a criminal defendant undergoing  
 7 proceedings described in section 704-406 or section 704-421.

8        [~~b~~] (c) For the purposes of this section, "imminently  
 9 dangerous to self or others" means that, without intervention,  
 10 the person will likely become dangerous to self or dangerous to  
 11 others within the next forty-five days."

12        SECTION 6. 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 7. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17        SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY: *Lyn DeCote*  
 JAN 25 2021



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**Report Title:**

Mental Health; Dangerous to Self or Others; Parents

**Description:**

Requires courts and administrative panels, in certain proceedings regarding whether a person is dangerous to self or others, to consider the statements of the person's parents. Clarifies that a parent who does not reside with a respondent is still a "family member" who may petition for the respondent's entrance into an outpatient treatment program for substance abuse.

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

