

JAN 27 2021

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



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



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;



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



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



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~~



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.



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.

18

INTRODUCED BY:


 A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be the name of the bill's sponsor.


S.B. NO. 1375

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.

