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# A BILL FOR AN ACT

RELATING TO GUARDIANSHIP.

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

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PART I

SECTION 1. Section 560:5-312, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the court finds that compliance with the procedures of this part will likely result in substantial harm to the respondent's health, safety, or welfare, or where the respondent resides in a psychiatric facility, hospital, or homeless shelter, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare, may appoint an emergency guardian whose authority may not exceed [~~ninety~~] one hundred twenty days and who may exercise only the powers specified in the order. Immediately upon appointment of an emergency guardian, the court may appoint a lawyer to represent the respondent throughout the emergency guardianship. Except as otherwise provided in subsection (b), reasonable notice of the time and place of a hearing on the



1 petition shall be given to the respondent and any other persons  
2 as the court directs."

3 SECTION 2. Section 560:5-315, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as otherwise limited by the court, a guardian  
6 may:

- 7 (1) Apply for and receive money payable to the ward or the  
8 ward's guardian or custodian for the support of the  
9 ward under the terms of any statutory system of  
10 benefits or insurance or any private contract, devise,  
11 trust, conservatorship, or custodianship;
- 12 (2) If otherwise consistent with the terms of any order by  
13 a court of competent jurisdiction relating to custody  
14 of the ward, take custody of the ward and establish  
15 the ward's place of custodial dwelling; provided that  
16 a guardian may only establish or move the ward's place  
17 of dwelling outside this State upon express  
18 authorization of the court;
- 19 (3) If a conservator for the estate of the ward has not  
20 been appointed with existing authority, commence a  
21 proceeding, including an administrative proceeding, or



- 1 take other appropriate action to compel a person to
- 2 support the ward or to pay money for the benefit of
- 3 the ward;
- 4 (4) Consent to medical or other care, treatment, or
- 5 service for the ward[~~+~~], including medical or other
- 6 care, treatment, or service over the objection of the
- 7 ward;
- 8 (5) Consent to the marriage or divorce of the ward; and
- 9 (6) If reasonable under all of the circumstances, delegate
- 10 to the ward certain responsibilities for decisions
- 11 affecting the ward's [~~well-being.~~] well-being."

PART II

13 SECTION 3. Section 334-59, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) Emergency hospitalization. If the psychiatrist or  
16 advanced practice registered nurse with prescriptive authority  
17 and who holds an accredited national certification in an  
18 advanced practice registered nurse psychiatric specialization  
19 who performs the emergency examination has reason to believe  
20 that the patient is:

- 21 (1) Mentally ill or suffering from substance abuse;



1           (2) Imminently dangerous to self or others; and  
2           (3) In need of care or treatment, or both;  
3 the psychiatrist or advanced practice registered nurse with  
4 prescriptive authority and who holds an accredited national  
5 certification in an advanced practice registered nurse  
6 psychiatric specialization shall direct that the patient be  
7 hospitalized on an emergency basis or cause the patient to be  
8 transferred to another psychiatric facility for emergency  
9 hospitalization, or both. ~~[The]~~ Immediately upon admission, the  
10 patient shall have the right ~~[immediately upon admission]~~ to  
11 telephone the patient's guardian or a family member including a  
12 reciprocal beneficiary, or an adult friend and an attorney. If  
13 the patient declines to exercise that right, the staff of the  
14 facility shall inform the adult patient of the right to waive  
15 notification to the family, including a reciprocal beneficiary,  
16 and shall make reasonable efforts to ensure that the patient's  
17 guardian or family, including a reciprocal beneficiary, is  
18 notified of the emergency admission ~~[but]~~; provided that the  
19 patient's family, including a reciprocal beneficiary, need not  
20 be notified if the patient is an adult and requests that there  
21 be no notification. The patient shall be allowed to confer with



1 an attorney in private.

2 A patient who is examined in an emergency department or  
3 hospitalized on an emergency basis pursuant to this subsection,  
4 diagnosed with a mental illness or substance use disorder  
5 pursuant to subsection (b), and found to be lacking decisional  
6 capacity by a psychiatrist or advanced practice registered nurse  
7 with prescriptive authority and who holds an accredited national  
8 certification in an advanced practice registered nurse  
9 psychiatric specialization, shall be assessed to determine  
10 whether a surrogate under section 327E-5 or a guardian under  
11 article V of chapter 560 is needed to make appropriate health  
12 care decisions for the patient."

13 PART III

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on June 30, 3000;  
17 provided that on January 1, 2028, part I of this Act shall be  
18 repealed and sections 560:5-312 and 560:5-315, Hawaii Revised  
19 Statutes, shall be reenacted in the form in which they read on  
20 the day prior to the effective date of this Act.



**Report Title:**

Emergency Hospitalizations; Mental Illness; Substance Use Disorders; Assessments; Surrogates; Uniform Probate Code; Guardians; Appointment; Powers

**Description:**

Part I: Amends the uniform probate code to allow courts to appoint emergency guardians for respondents who reside in psychiatric facilities, hospitals, and homeless shelters. Extends the appointment period. Clarifies that guardians may consent to care, treatment, or service over the objection of wards. Sunsets 1/1/2028. Part II: Requires certain patients subject to emergency hospitalization to be assessed to determine whether a surrogate or guardian is needed to make appropriate health care decisions for the patient. Effective 6/30/3000. (HD1)

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

