

JAN 25 2023

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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1           SECTION 1. The legislature finds that the State has  
2 several key tools and programs to assist individuals with  
3 untreated severe mental illness. These include court-ordered  
4 plans of treatment, known in Hawaii as "assisted community  
5 treatment" or "ACT" orders; involuntary commitments to the state  
6 hospital or similar facility; court-ordered medication; and  
7 department of health crises programs, among others. The  
8 legislature further finds that there are areas for improvement,  
9 especially as available resources and needs change over time.

10           Accordingly, the purpose of this Act is to improve the  
11 State's mental health resources by requiring:

12           (1) The department of health to respond to reports about  
13 persons with severe mental illness who need assistance  
14 and assess whether those persons may fulfill the  
15 criteria for assisted community treatment and, if a  
16 person meets that criteria, initiate the process for  
17 an assisted community treatment order;



- 1           (2) The department of health to track and publicly report  
2           data relating to crises reports, emergency mental  
3           health transports, and court-ordered treatments, and  
4           appropriating moneys to support technology needs for  
5           data collection and reporting;
- 6           (3) The court, when dismissing an involuntary  
7           hospitalization petition for a person, to assess  
8           whether the person meets the criteria for assisted  
9           community treatment and authorizing the court to order  
10          the person to obtain assisted community treatment,  
11          which may include medication; and
- 12          (4) The department of the attorney general to assist with  
13          the preparation and filing of assisted community  
14          treatment petitions and related court proceedings for  
15          private petitioners unless the petitioner declines the  
16          assistance.

17          SECTION 2. Chapter 334, Hawaii Revised Statutes, is  
18          amended as follows:

- 19           1. By adding a new section to part I to be appropriately  
20          designated and to read:



1           "§334-       Data concerning persons experiencing a mental  
2 health crisis.   The department shall track and publish data  
3 regarding reports of and responses to mental health crises.  
4 Reports required under this section shall be updated at least  
5 monthly, shall be reported on the department's website, and  
6 shall include:

- 7           (1) The number of reports, by county, made to a department  
8                 hotline, crisis line, or other means for the public to  
9                 contact the department, including through  
10                department-contracted services and providers, and the  
11                disposition of those reports;
- 12           (2) The number of persons transported for emergency  
13                 examination pursuant to section 334-59 by type of  
14                 transport, length of time in the emergency room,  
15                 disposition of the matter, and county in which the  
16                 facility where the person was transported is located;
- 17           (3) The number of assisted community treatment evaluations  
18                 performed prior to discharge pursuant to section  
19                 334-121.5 and the disposition of the evaluations;
- 20           (4) The number of assisted community treatment petitions  
21                 filed pursuant to section 334-123, category of the



1           petitioner, whether the attorney general assisted with  
2           the petition, disposition of the petition, length of  
3           time to disposition, and number of persons currently  
4           under an assisted community treatment order;

5           (5) The number of:

6           (A) Court orders for treatment over the patient's  
7           objection sought pursuant to section 334-161,  
8           disposition of those orders sought, and number of  
9           patients currently under a court order for  
10           treatment; and

11           (B) Administrative orders for treatment over the  
12           patient's objection sought pursuant to section  
13           334-162, disposition of those orders sought, and  
14           number of patients currently under an  
15           administrative order for treatment; and

16           (6) The number of involuntary hospitalization petitions  
17           filed pursuant to section 334-60.3, disposition of  
18           those petitions, length of time to disposition, and  
19           the number of patients currently under an involuntary  
20           hospitalization petition."



1           2. By adding a new section to part VIII to be

2 appropriately designated and to read:

3           "§334- Department response to crisis reports. (a)

4 When the department receives credible information that a person  
5 who has severe mental illness requires assistance, the  
6 department shall dispatch staff or a service provider to assist  
7 the person and may coordinate the response with other agencies  
8 as necessary. This requirement shall apply to communications  
9 received by any means by which the public may contact the  
10 department, including through a department hotline, crisis line,  
11 or other means, and shall apply to communications received  
12 through department-contracted services and providers.

13           (b) While assisting a person pursuant to section (a), the  
14 department staff or service provider shall assess whether the  
15 person meets the criteria for assisted community treatment  
16 pursuant to section 334-121.

17           (c) If, upon assessment of a person pursuant to subsection  
18 (b), the department reasonably believes that the person meets  
19 the criteria for assisted community treatment, the department,  
20 with assistance from the department of the attorney general,



1 shall file a petition for an assisted community treatment  
2 order."

3 SECTION 3. Section 334-60.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (i) to read as follows:

5 "(i) If, after hearing all relevant evidence, including  
6 the result of any diagnostic examination ordered by the court,  
7 the court finds that an individual is not a person requiring  
8 medical, psychiatric, psychological, or other rehabilitative  
9 treatment or supervision, the court shall order that the  
10 individual be discharged if the individual has been hospitalized  
11 prior to the hearing. Prior to the dismissal of the petition,  
12 the court shall first assess whether the person meets the  
13 criteria for assisted community treatment under section 334-121  
14 and may order the person to obtain assisted community treatment,  
15 which may include medication; provided that a mental health  
16 facility or program is designated to take responsibility for  
17 coordination of the person's care and which has voluntarily  
18 accepted the designation; provided further that the designation  
19 includes a treating psychiatrist or an advanced practice  
20 registered nurse who has prescriptive authority and holds an  
21 accredited national certification in an advanced practice



1 registered nurse psychiatric specialization, who shall be  
2 responsible for the management and supervision of the treatment  
3 and who has voluntarily accepted the designation. Within ten  
4 days after the issuance of the order for assisted community  
5 treatment, the designated mental health facility or program  
6 shall submit to the court a treatment plan, which may include  
7 medication; provided that the plan describes the type or class  
8 of medication to be authorized and the physical, mental,  
9 beneficial, and detrimental effects of the medication. The  
10 treatment plan shall be attached to the order."

11 SECTION 4. Section 334-123, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§334-123 Initiation of proceeding for assisted community**  
14 **treatment.** (a) Any interested party may file a petition with  
15 the family court alleging that another person meets the criteria  
16 for assisted community treatment. The petition shall state:

17 (1) Each of the criteria under section 334-121 for  
18 assisted community treatment;

19 (2) Petitioner's good faith belief that the subject of the  
20 petition meets each of the criteria under section  
21 334-121;



1 (3) Facts that support the petitioner's good faith belief  
2 that the subject of the petition meets each of the  
3 criteria under section 334-121; and

4 (4) That the subject of the petition is present within the  
5 county where the petition is filed.

6 The hearing on the petition need not be limited to the  
7 facts stated in the petition. The petition shall be executed  
8 subject to the penalties of perjury but need not be sworn to  
9 before a notary public.

10 (b) The department of the attorney general shall assist  
11 with the preparation and filing of any petition brought pursuant  
12 to this section and any related court proceedings; provided that  
13 if the petitioner is a private provider or other private  
14 individual, the petitioner may decline the assistance.

15 [~~b~~] (c) The petition may be accompanied by a certificate  
16 of a licensed psychiatrist or advanced practice registered nurse  
17 with prescriptive authority and who holds an accredited national  
18 certification in an advanced practice registered nurse  
19 psychiatric specialization who has examined the subject of the  
20 petition within twenty calendar days prior to the filing of the  
21 petition. For purposes of the petition, an examination shall be



1 considered valid so long as the licensed psychiatrist or  
2 advanced practice registered nurse with prescriptive authority  
3 and who holds an accredited national certification in an  
4 advanced practice registered nurse psychiatric specialization  
5 has obtained enough information from the subject of the petition  
6 to reach a diagnosis of the subject of the petition, and to  
7 express a professional opinion concerning the same, even if the  
8 subject of the petition is not fully cooperative. If the  
9 petitioner believes that further evaluation is necessary before  
10 treatment, the petitioner may request further evaluation.

11       [~~(e)~~] (d) The petition shall include the name, address,  
12 and telephone number of at least one of the following persons in  
13 the following order of priority: the subject of the petition's  
14 spouse or reciprocal beneficiary, legal parents, adult children,  
15 and legal guardian, if one has been appointed. If the subject  
16 of the petition has no living spouse or reciprocal beneficiary,  
17 legal parent, adult children, or legal guardian, or if none can  
18 be found, the petition shall include the name, address, and  
19 telephone number of at least one of the subject's closest adult  
20 relatives, if any can be found."



1 SECTION 5. Act 221, Session Laws of Hawaii 2013, as  
2 amended by Act 114, Session Laws of Hawaii 2016, is amended by  
3 amending section 24 to read as follows:

4 "SECTION 24. This Act shall take effect on January 1,  
5 2014; provided that:

6 (1) Petitions filed pursuant to section 334-123, Hawaii  
7 Revised Statutes, for assisted community treatment  
8 involving a designated mental health program that is a  
9 state-operated provider shall not be filed until after  
10 July 1, 2015;

11 (2) Any private provider wishing to file a petition  
12 pursuant to section 334-123, Hawaii Revised Statutes,  
13 for assisted community treatment may do so after  
14 January 1, 2014, [~~using its own resources,~~] if the  
15 petitioner is to be the designated mental health  
16 program; [~~and~~]

17 (3) Any interested party wishing to file a petition  
18 pursuant to section 334-123, Hawaii Revised Statutes,  
19 for assisted community treatment may do so after  
20 January 1, 2014, [~~using the party's own resources,~~] if



1           the designated mental health program is a private  
2           provider[-]; and

3           (4) The department of the attorney general shall assist  
4           with the preparation and filing of any petition  
5           brought pursuant to section 334-123, Hawaii Revised  
6           Statutes, and the related court proceedings; provided  
7           that if the petitioner is a private provider or any  
8           other private individual, the interested party may  
9           decline the assistance."

10           SECTION 6. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$100,000 or so much  
12 thereof as may be necessary for fiscal year 2023-2024 for the  
13 department of health to procure software and prepare the  
14 department's website for data collection and publication of data  
15 regarding reports of and responses to mental health crises.

16           The sum appropriated shall be expended by the department of  
17 health for the purposes of this Act.

18           SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: *Karl Rhoad*



# S.B. NO. 1492

**Report Title:**

Mental Health; DOH; Judiciary; Attorney General; Assisted Community Treatment; Reports; Appropriation

**Description:**

Requires the Department of Health to respond to reports about persons having severe mental illness and in need of assistance and to assess whether those persons may fulfill the criteria for assisted community treatment. Requires the Department of Health to track and publicly report certain data relating to crisis reports, emergency mental health transports, and court-ordered treatments. Appropriates moneys to the Department of Health for software and data collection and publication. Requires courts, when dismissing an involuntary hospitalization petition for a person, to assess whether the person meets the criteria for assisted community treatment. Requires the Department of the Attorney General to assist in the preparation and filing of certain assisted community treatment petitions and related court proceedings.

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

