



1 terms, conditions, and circumstances under which examinations of  
2 defendants conducted pursuant to this chapter may be  
3 administered via telehealth.

4 (2) With regard to examinations of defendants conducted  
5 via telehealth and pursuant to this chapter:

6 (a) The director of health, in the case of any facility  
7 under the jurisdiction of the director of health;

8 (b) The director of public safety, in the case of any  
9 facility under the jurisdiction of the director of  
10 public safety; and

11 (c) The chief justice, in the case of any judiciary  
12 facility under the jurisdiction of the chief justice,  
13 shall establish procedures regarding the provision and use of  
14 telehealth resources at appropriate facilities. The procedures  
15 shall comply with the rules prescribed by the director of health  
16 pursuant to subsection (1) and ensure the widest availability of  
17 telehealth resources feasible at appropriate facilities.

18 (3) For the purposes of this section, "telehealth" means  
19 health care services provided through telecommunications  
20 technology by a health care professional who is at a location  
21 other than where the defendant is located."



1 SECTION 3. Section 704-404, Hawaii Revised Statutes, is  
2 amended by amending subsection (2) to read as follows:

3 "(2) Upon suspension of further proceedings in the  
4 prosecution:

5 (a) In cases where the defendant is charged with [~~a petty~~  
6 ~~misdemeanor not involving violence or attempted~~  
7 ~~violence,~~] an offense listed under section 704-421(1),  
8 if a court-based certified examiner is available, the  
9 court shall appoint the court-based certified examiner  
10 to examine and provide an expedited report solely upon  
11 the issue of the defendant's capacity to understand  
12 the proceedings against the defendant and defendant's  
13 ability to assist in the defendant's own defense. The  
14 court-based certified examiner shall file the  
15 examiner's report with the court within two days of  
16 the appointment of the examiner, or as soon thereafter  
17 is practicable. A hearing shall be held to determine  
18 if the defendant is fit to proceed within two days of  
19 the filing of the report, or as soon thereafter as is  
20 practicable [↗]. This paragraph shall not apply to any



1 case under the jurisdiction of the family court unless  
2 the presiding judge orders otherwise;

3 (b) In ~~[all other nonfelony]~~ :

4 (i) Nonfelony cases [7] where the offense charged is  
5 not listed under section 704-421(1); and

6 (ii) Any case under paragraph (a) where a court-based  
7 certified examiner is not available [~~in cases~~  
8 ~~under paragraph (a)] ,~~

9 the court shall appoint one qualified examiner to  
10 examine and report upon the defendant's fitness to  
11 proceed. The court may appoint as the examiner either  
12 a psychiatrist, an advanced practice registered nurse  
13 who has the prescriptive authority and who holds an  
14 accredited national certification in an advanced  
15 practice registered nurse psychiatric specialization,  
16 or a licensed psychologist designated by the director  
17 of health from within the department of health; and

18 (c) In felony cases [7] where the offense charged is not  
19 listed in section 704-421(1), the court shall appoint  
20 three qualified examiners to examine and report upon  
21 the defendant's fitness to proceed. The court shall



1           appoint as examiners psychiatrists, licensed  
2           psychologists, advanced practice registered nurses  
3           with prescriptive authority and who hold an accredited  
4           national certification in an advanced practice  
5           registered nurse psychiatric specialization, or  
6           qualified physicians; provided that one of the three  
7           examiners shall be a psychiatrist or licensed  
8           psychologist designated by the director of health from  
9           within the department of health.

10 All examiners shall be appointed from a list of certified  
11 examiners as determined by the department of health. The court,  
12 in appropriate circumstances, may appoint an additional examiner  
13 or examiners. The examination may be conducted while the  
14 defendant is in custody or on release or, in the court's  
15 discretion, when necessary the court may order the defendant to  
16 be committed to a hospital or other suitable facility for the  
17 purpose of the examination for a period not exceeding thirty  
18 days, or a longer period as the court determines to be necessary  
19 for the purpose. The court may direct that one or more  
20 qualified physicians or psychologists retained by the defendant  
21 be permitted to witness the examination. As used in this



1 section, the term "licensed psychologist" includes psychologists  
2 exempted from licensure by section 465-3(a)(3) and "qualified  
3 physician" means a physician qualified by the court for the  
4 specific evaluation ordered."

5 SECTION 4. Section 704-406, Hawaii Revised Statutes, is  
6 amended by amending subsection (1) to read as follows:

7 "(1) If the court determines that the defendant lacks  
8 fitness to proceed, the proceeding against the defendant shall  
9 be suspended, except as provided in sections 704-407 and  
10 704-421, and the court shall commit the defendant to the custody  
11 of the director of health to be placed in an appropriate  
12 institution for detention, assessment, care, and treatment;  
13 provided that[+]

14 ~~(a) When the defendant is charged with a petty misdemeanor~~  
15 ~~not involving violence or attempted violence, the~~  
16 ~~defendant]~~ eligible defendants shall be diverted from  
17 the criminal justice system pursuant to section 704-  
18 421 [~~+~~ and

19 ~~(b) When the defendant is charged with a misdemeanor not~~  
20 ~~involving violence or attempted violence, the~~  
21 ~~commitment shall be limited to no longer than one~~



1           ~~hundred twenty days from the date the court determines~~  
2           ~~the defendant lacks fitness to proceed].~~

3    If the court is satisfied that the defendant may be released on  
4    conditions without danger to the defendant or to another or risk  
5    of substantial danger to property of others, the court shall  
6    order the defendant's release, which shall continue at the  
7    discretion of the court, on conditions the court determines  
8    necessary [~~; provided that the release on conditions of a~~  
9    ~~defendant charged with a misdemeanor not involving violence or~~  
10   ~~attempted violence shall continue for no longer than one hundred~~  
11   ~~twenty days]. A copy of all reports filed pursuant to section~~  
12   704-404 shall be attached to the order of commitment or order of  
13   release on conditions that is provided to the department of  
14   health. When the defendant is committed to the custody of the  
15   director of health for detention, assessment, care, and  
16   treatment, the county police departments shall provide to the  
17   director of health and the defendant copies of all police  
18   reports from cases filed against the defendant that have been  
19   adjudicated by the acceptance of a plea of guilty or nolo  
20   contendere, a finding of guilt, acquittal, acquittal pursuant to  
21   section 704-400, or by the entry of a plea of guilty or nolo



1 contendere made pursuant to chapter 853; provided that the  
2 disclosure to the director of health and the defendant does not  
3 frustrate a legitimate function of the county police  
4 departments; provided further that expunged records, records of  
5 or pertaining to any adjudication or disposition rendered in the  
6 case of a juvenile, or records containing data from the United  
7 States National Crime Information Center shall not be provided.  
8 The county police departments shall segregate or sanitize from  
9 the police reports information that would result in the likely  
10 or actual identification of individuals who furnished  
11 information in connection with the investigation or who were of  
12 investigatory interest. No further disclosure of records shall  
13 be made except as provided by law."

14 SECTION 5. Section 704-421, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~[-] §704-421 [-] Proceedings for defendants charged with~~  
17 ~~petty misdemeanors not involving violence or attempted violence,~~  
18 ~~criminal]~~ Criminal justice diversion program~~[-]~~ for certain  
19 defendants whose fitness remains an outstanding issue. (1) In  
20 cases where the defendant is charged with [a]:





1        (a) A petty misdemeanor or misdemeanor not involving  
2                      violence or attempted violence[-]; or  
3        (b) The offense of promoting a dangerous drug in the third  
4                      degree under section 712-1243,  
5 if, at the hearing held pursuant to section 704-404(2)(a) or at  
6 a further hearing held after the appointment of an examiner  
7 pursuant to section 704-404(2)(b), the court determines that the  
8 defendant is fit to proceed, then the proceedings against the  
9 defendant shall resume. In all other cases where fitness  
10 remains an outstanding issue, the court shall continue the  
11 suspension of the proceedings and either commit the defendant to  
12 the custody of the director of health to be placed in a hospital  
13 or other suitable facility, including an outpatient facility,  
14 for further examination and assessment[-] or, in cases where the  
15 defendant was not subject to an order of commitment to the  
16 director of health for the purpose of the fitness examination  
17 under section 704-404(2), the court may order that the defendant  
18 remain released on conditions the court determines necessary for  
19 placement in a group home, residence, or other facility  
20 prescribed by the director of health for further assessment by a  
21 clinical team pursuant to subsection (3).



1           (2) ~~[Within seven days from the commitment of the~~  
2 ~~defendant to the custody of the director of health, or as soon~~  
3 ~~thereafter as is practicable, the director of health]~~ In cases  
4 where the defendant's fitness to proceed remains an outstanding  
5 issue at the hearing held pursuant to section 704-404(2)(a) or a  
6 further hearing held after the appointment of an examiner  
7 pursuant to section 704-404(2)(b), as applicable, the director  
8 of health, within fourteen days of that hearing or as soon  
9 thereafter as is practicable, shall report to the court on the  
10 following:

11           (a) The defendant's current capacity to understand the  
12           proceedings against the defendant and defendant's  
13           current ability to assist in the defendant's own  
14           defense[-];

15           (b) Whether, after assessment of the defendant pursuant to  
16           subsection (3)(a) or (b), the defendant's clinical  
17           team believes that the defendant meets the criteria  
18           for involuntary hospitalization under section 334-60.2  
19           or assisted community treatment under section 334-121;  
20           and



1        (c) The date that the director of health filed a petition  
2        for involuntary hospitalization or assisted community  
3        treatment on behalf of the defendant pursuant to  
4        subsection (3)(a) or (b), as applicable.

5 If, following the report, the court finds defendant fit to  
6 proceed, the proceedings against defendant shall resume. In all  
7 other cases, the court shall dismiss the charge with or without  
8 prejudice in the interest of justice. [~~The director of health~~  
9 ~~may at any time proceed under the provisions of section 334-60.2~~  
10 ~~or 334-121.~~]

11        (3) During the defendant's commitment to the custody of  
12 the director of health or release on conditions pursuant to  
13 subsection (1):

14        (a) If the defendant's clinical team determines that the  
15 defendant meets the criteria for involuntary  
16 hospitalization set forth in section 334-60.2, the  
17 director of health, within        days of the clinical  
18 team's determination, shall file a petition for  
19 involuntary hospitalization pursuant to section  
20 334-60.3 with the family court. If the petition is



1 granted, the defendant shall remain hospitalized for a  
2 time period as provided by section 334-60.6;

3 (b) If the defendant's clinical team determines that the  
4 defendant does not meet the criteria for involuntary  
5 hospitalization, or the court denies the petition for  
6 involuntary hospitalization, the defendant's clinical  
7 team shall determine whether an assisted community  
8 treatment plan is appropriate pursuant to part VIII of  
9 chapter 334. If the clinical team determines that an  
10 assisted community treatment plan is appropriate, the  
11 psychiatrist or advanced practice registered nurse  
12 from the clinical team shall prepare the certificate  
13 for assisted community treatment specified by section  
14 334-123, which certificate shall include a written  
15 treatment plan for the provision of mental health  
16 services to the defendant. The clinical team shall  
17 identify a community mental health outpatient program  
18 that agrees to provide mental health services to the  
19 defendant as the designated mental health program  
20 under the assisted community treatment order. The



1 clinical team shall provide the defendant with a copy  
2 of the certificate. If:

3 (i) On at least \_\_\_\_\_ separate occasions in the  
4 past \_\_\_\_\_ months, the clinical team had  
5 previously determined that an assisted community  
6 treatment plan was appropriate for the defendant,  
7 and the defendant declined to accept the  
8 treatment plan on each occasion; and

9 (ii) The defendant declines to accept the mental  
10 health services described in the certificate  
11 prepared pursuant to this paragraph,

12 then the director of health, within \_\_\_\_\_ days of the  
13 defendant's refusal of services described in the  
14 certificate, shall file the assisted community  
15 treatment petition described in section 334-123 with  
16 the family court. The defendant may be held at the  
17 appropriate institution pending the court hearing on  
18 the petition for assisted community treatment. If the  
19 petition is granted, the defendant shall be released  
20 for treatment with the designated mental health  
21 program once the assisted community treatment order is





1 much thereof as may be necessary for fiscal year 2023-2024 and  
 2 the same sum or so much thereof as may be necessary for fiscal  
 3 year 2024-2025 for the establishment of one full-time equivalent  
 4 (1.0 FTE) law clerk position for the mental health calendar  
 5 judge presiding over matters under chapter 704, Hawaii Revised  
 6 Statutes.

7 The sums appropriated shall be expended by the judiciary  
 8 for the purposes of this part.

9 SECTION 8. There is appropriated out of the general  
 10 revenues of the State of Hawaii the sum of \$ or so  
 11 much thereof as may be necessary for fiscal year 2023-2024 and  
 12 the same sum or so much thereof as may be necessary for fiscal  
 13 year 2024-2025 for the establishment of full-time  
 14 equivalent ( FTE) positions (\$ ) and for  
 15 additional resources necessary to implement this part.

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

18 SECTION 9. There is appropriated out of the general  
 19 revenues of the State of Hawaii the sum of \$ or so  
 20 much thereof as may be necessary for fiscal year 2023-2024 and  
 21 the same sum or so much thereof as may be necessary for fiscal



1 year 2024-2025 for the establishment of full-time  
 2 equivalent ( FTE) positions (\$) and for  
 3 additional resources necessary to accommodate telehealth  
 4 examinations of defendants pursuant to section 2 of this Act.

5 The sums appropriated shall be expended by the department  
 6 of health for the purposes of this part.

7 SECTION 10. There is appropriated out of the general  
 8 revenues of the State of Hawaii the sum of \$ or so  
 9 much thereof as may be necessary for fiscal year 2023-2024 and  
 10 the same sum or so much thereof as may be necessary for fiscal  
 11 year 2024-2025 for the establishment of full-time  
 12 equivalent ( FTE) positions (\$) and for  
 13 additional resources necessary to accommodate telehealth  
 14 examinations of defendants pursuant to section 2 of this Act.

15 The sums appropriated shall be expended by the department  
 16 of public safety for the purposes of this part.

17 SECTION 11. There is appropriated out of the general  
 18 revenues of the State of Hawaii the sum of \$ or so  
 19 much thereof as may be necessary for fiscal year 2023-2024 and  
 20 the same sum or so much thereof as may be necessary for fiscal  
 21 year 2024-2025 for the establishment of full-time







1 beyond a reasonable doubt and that the criteria under section  
2 334-121(2) to 334-121(4) have been met by clear and convincing  
3 evidence, the family court shall order the subject to obtain  
4 assisted community treatment for a period of no more than [~~one~~  
5 ~~year.~~] \_\_\_\_\_. The written treatment plan submitted  
6 pursuant to section 334-126(g) shall be attached to the order  
7 and made a part of the order.

8       If the family court finds by clear and convincing evidence  
9 that the beneficial mental and physical effects of recommended  
10 medication outweigh the detrimental mental and physical effects,  
11 if any, the order may authorize types or classes of medication  
12 to be included in treatment at the discretion of the treating  
13 psychiatrist or advanced practice registered nurse with  
14 prescriptive authority and who holds an accredited national  
15 certification in an advanced practice registered nurse  
16 psychiatric specialization.

17       The court order shall also state who should receive notice  
18 of intent to discharge early in the event that the treating  
19 psychiatrist or advanced practice registered nurse with  
20 prescriptive authority and who holds an accredited national  
21 certification in an advanced practice registered nurse



1 psychiatric specialization determines, [~~prior to~~] before the end  
2 of the court ordered period of treatment, that the subject  
3 should be discharged early from assisted community treatment.

4 Notice of the order shall be provided to those persons  
5 entitled to notice pursuant to section 334-125."

6 SECTION 14. Section 334-130, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) A subject of assisted community treatment is  
9 automatically and fully discharged at the end of the family  
10 court ordered period of treatment, a period of [~~not~~] no more  
11 than [~~one year,~~] \_\_\_\_\_, unless a new family court order has  
12 been obtained as provided hereinbelow."

13 SECTION 15. Section 334-133, Hawaii Revised Statutes, is  
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) Before the expiration of the period of assisted  
16 community treatment ordered by the family court, any interested  
17 party may file a petition with the family court for an order of  
18 continued assisted community treatment. The petition shall be  
19 filed, and unless the court determines the existence of a  
20 guardian, a guardian ad litem appointed, and notice provided in  
21 the same manner as under sections 334-123 and 334-125[-] i



1 provided that the petition shall be accompanied by a declaration  
2 of the treating psychiatrist or advanced practice registered  
3 nurse specifying which of the criteria set forth in section  
4 334-121 are unchanged from the date of the existing order for  
5 assisted community treatment.

6 (b) The family court shall appoint a guardian ad litem,  
7 unless there is an existing guardian, hold a hearing on the  
8 petition, and make its decision in the same manner as provided  
9 under sections 334-123 to 334-127[-]; provided that at the  
10 hearing and in rendering its decision, the court need not  
11 consider or make any finding as to any unchanged factor that has  
12 been previously established in the existing order for assisted  
13 community treatment. The family court may order the continued  
14 assisted community treatment for no more than [~~one~~  
15 ~~year~~] \_\_\_\_\_ after the date of the hearing pursuant to this  
16 section if the court finds that the criteria for assisted  
17 community treatment continue to exist and are likely to continue  
18 beyond one hundred eighty days."

19 PART III

20 SECTION 16. The purpose of this part is to authorize  
21 courts to:



1           (1) Enter into an agreement with a nonviolent petty  
2           misdemeanant or misdemeanor at any stage of the  
3           criminal proceeding to divert the case into an  
4           evaluation, treatment, or any other course or  
5           procedure to address a physical or mental disease,  
6           disorder, or defect that will or has become an issue  
7           in the case; and

8           (2) Dismiss the charge in the interest of justice upon the  
9           defendant's successful completion of all terms and  
10          conditions of the diversion.

11          In cases involving all other offenses, this part authorizes  
12          courts to divert the case for evaluation or treatment with the  
13          defendant's consent only, without the need for an agreement by  
14          all of the case parties as required by existing law.

15          SECTION 17. Section 704-407.5, Hawaii Revised Statutes, is  
16          amended by amending subsection (1) to read as follows:

17          "(1) Whenever the defendant has filed a notice of  
18          intention to rely on the defense of physical or mental disease,  
19          disorder, or defect excluding penal responsibility, or there is  
20          reason to believe that the physical or mental disease, disorder,  
21          or defect of the defendant will or has become an issue in the



1 case, the court may order an examination as to the defendant's  
2 physical or mental disease, disorder, or defect at the time of  
3 the conduct alleged.

4 Whenever there is reason to believe that the physical or  
5 mental disease, disorder, or defect of the defendant will or has  
6 become an issue in the case[~~7~~]:

7 (a) If the defendant is charged with an offense not  
8 described in paragraph (b), the court [~~may enter into~~  
9 ~~an agreement with the parties]~~, at any stage of the  
10 proceeding [~~to~~] and with the consent of the defendant,  
11 may divert the case into an evaluation of the  
12 defendant[~~7~~]; treatment of the defendant, including  
13 residential or rehabilitation treatment; or any other  
14 course or procedure, including diversion into  
15 specialized courts. [~~Such agreements]~~ The diversion  
16 may include in-court clinical evaluations[~~7~~]; and

17 (b) If the defendant is charged with a petty misdemeanor  
18 or misdemeanor not involving violence or attempted  
19 violence, the court, at any stage of the proceeding  
20 and with the consent of the defendant, may divert the  
21 case into any evaluation, treatment, course, or



1 procedure authorized under paragraph (a). If the  
2 prosecution objects, the defense shall have an  
3 opportunity to be heard before diversion is ordered.  
4 Upon the defendant's successful completion of all  
5 terms and conditions ordered by the court, the court  
6 shall dismiss the charge in the interest of justice."

7 PART IV

8 SECTION 18. The purpose of this part is to authorize  
9 courts to require a probation violator to undergo a mental  
10 health evaluation and treatment program as a condition of  
11 continued probation whenever there is reason to believe that the  
12 probation violation is associated with a mental disease,  
13 disorder, or defect of the defendant.

14 SECTION 19. Section 706-625, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§706-625 Revocation, modification of probation**  
17 **conditions.** (1) The court, on application of a probation  
18 officer, the prosecuting attorney, the defendant, or on its own  
19 motion, after a hearing, may revoke probation except as provided  
20 in [~~subsection~~] subsections (6) and (7), reduce or enlarge the  
21 conditions of a sentence of probation, pursuant to the



1 provisions applicable to the initial setting of the conditions  
2 and the provisions of section 706-627.

3 (2) The prosecuting attorney, the defendant's probation  
4 officer, and the defendant shall be notified by the movant in  
5 writing of the time, place, and date of any such hearing, and of  
6 the grounds upon which action under this section is proposed.  
7 The prosecuting attorney, the defendant's probation officer, and  
8 the defendant may appear in the hearing to oppose or support the  
9 application, and may submit evidence for the court's  
10 consideration. The defendant shall have the right to be  
11 represented by counsel. For purposes of this ~~[section]~~  
12 subsection, the court shall not be bound by the Hawaii rules of  
13 evidence, except for the rules pertaining to privileges.

14 (3) The court shall revoke probation if the defendant has  
15 inexcusably failed to comply with a substantial requirement  
16 imposed as a condition of the order or has been convicted of a  
17 felony. The court may revoke the suspension of sentence or  
18 probation if the defendant has been convicted of another crime  
19 other than a felony.





1           (4) The court may modify the requirements imposed on the  
2 defendant or impose further requirements, if it finds that such  
3 action will assist the defendant in leading a law-abiding life.

4           (5) When the court revokes probation, it may impose on the  
5 defendant any sentence that might have been imposed originally  
6 for the crime of which the defendant was convicted.

7           ~~[(6) As used in this section, "conviction" means that a  
8 judgment has been pronounced upon the verdict.~~

9           +7)] (6) The court may require a defendant to undergo and  
10 complete a substance abuse treatment program when the defendant  
11 has committed a violation of the terms and conditions of  
12 probation involving possession or use, not including to  
13 distribute or manufacture as defined in section 712-1240, of any  
14 dangerous drug, detrimental drug, harmful drug, intoxicating  
15 compound, marijuana, or marijuana concentrate, as defined in  
16 section 712-1240, unlawful methamphetamine trafficking as  
17 provided in section 712-1240.6, or involving possession or use  
18 of drug paraphernalia under section 329-43.5. If the defendant  
19 fails to complete the substance abuse treatment program or the  
20 court determines that the defendant cannot benefit from any  
21 other suitable substance abuse treatment program, the defendant



1 shall be subject to revocation of probation and incarceration.

2 The court may require the defendant to:

3 (a) Be assessed by a certified substance abuse counselor  
4 for substance abuse dependency or abuse under the  
5 applicable Diagnostic and Statistical Manual and  
6 Addiction Severity Index;

7 (b) Present a proposal to receive substance abuse  
8 treatment in accordance with the treatment plan  
9 prepared by a certified substance abuse counselor  
10 through a substance abuse treatment program that  
11 includes an identified source of payment for the  
12 treatment program;

13 (c) Contribute to the cost of the substance abuse  
14 treatment program; and

15 (d) Comply with any other terms and conditions of  
16 probation.

17 ~~[As used in this subsection, "substance abuse treatment~~  
18 ~~program" means drug or substance abuse treatment services~~  
19 ~~provided outside a correctional facility by a public, private,~~  
20 ~~or nonprofit entity that specializes in treating persons who are~~  
21 ~~diagnosed with substance abuse or dependency and preferably~~



1 ~~employs licensed professionals or certified substance abuse~~  
2 ~~counselors.~~

3 ~~Nothing in this subsection shall be construed to give rise~~  
4 ~~to a cause of action against the State, a state employee, or a~~  
5 ~~treatment provider.]~~

6 (7) As a condition of continued probation, the court may  
7 require a defendant to undergo a mental health evaluation and  
8 treatment program when the defendant has committed a violation  
9 of the terms and conditions of probation and there is reason to  
10 believe that the violation is associated with a mental disease,  
11 disorder, or defect of the defendant. The court may require the  
12 defendant to:

13 (a) Be assessed for a mental disease, disorder, or defect  
14 by a psychiatrist or psychologist, who shall prepare  
15 an appropriate treatment plan;

16 (b) Present a proposal to receive treatment in accordance  
17 with the plan prepared pursuant to paragraph (a)  
18 through a mental health treatment program that  
19 includes an identified source of payment for the  
20 treatment program, as applicable;



- 1        (c) Contribute to the cost of the treatment program, as
- 2                applicable; and
- 3        (d) Comply with any other terms and conditions of
- 4                probation.

5        If the defendant fails to complete the treatment program or  
6 the court determines that the defendant cannot benefit from any  
7 other suitable treatment program, the defendant shall be subject  
8 to revocation of probation and incarceration.

9        (8) For the purposes of this section:

10        "Mental health treatment program" means treatment services  
11 addressing a mental disease, disorder, or defect of the  
12 defendant, including residential or rehabilitation treatment or  
13 any other course or procedure, including diversion into  
14 specialized courts.

15        "Substance abuse treatment program" means drug or substance  
16 abuse treatment services provided outside a correctional  
17 facility by a public, private, or nonprofit entity that  
18 specializes in treating persons who are diagnosed with substance  
19 abuse or dependency and preferably employs licensed  
20 professionals or certified substance abuse counselors.



1           (9) Nothing in subsection (6) or (7) shall be construed to  
2 give rise to a cause of action against the State, a state  
3 employee, or a treatment provider."

4                           PART V

5           SECTION 20. The purpose of this part is to require the  
6 department of health to contract with behavioral health crisis  
7 centers to provide intervention and stabilization services in  
8 each county for persons experiencing a mental illness or  
9 substance use disorder crisis, including a dedicated first  
10 responder drop-off area for potential clients.

11          SECTION 21. Chapter 334, Hawaii Revised Statutes, is  
12 amended by adding a new section to part I to be appropriately  
13 designated and to read as follows:

14          "§334-   Behavioral health crisis centers.   (a) Pursuant  
15 to the authority and functions established under sections  
16 334-2.5(a)(3)(B) and 334-3(a)(5), the director shall establish  
17 or contract with behavioral health crisis centers in each county  
18 of the State to provide care, diagnosis, or treatment for  
19 persons experiencing a mental illness or substance use disorder  
20 crisis.



1        (b) Each behavioral health crisis center established or  
2 contracted with pursuant to this section shall:

3        (1) Be designed to:

4            (A) Address mental health and substance use crisis  
5            issues; and

6            (B) Screen, assess, admit for stabilization, and  
7            redirect a client to ongoing care in the most  
8            appropriate and least restrictive community  
9            setting available, consistent with the client's  
10           needs;

11        (2) Provide services twenty-four hours a day, seven days a  
12        week;

13        (3) Accept all walk-ins and referrals and provide services  
14        regardless of the client's ability to pay, subject to  
15        subsection (c);

16        (4) Offer a dedicated first responder drop-off area;

17        (5) Not require medical clearance before admission of the  
18        client but rather provide assessment and support for  
19        the client's medical stability while at the crisis  
20        center;



1       (6) Have the capacity to assess physical health needs and  
2       deliver care for most minor physical health  
3       challenges;

4       (7) Be staffed at all times with a multidisciplinary team  
5       capable of meeting the needs of clients experiencing  
6       all levels of mental health or substance use crisis,  
7       including:

8       (A) Psychiatrists or psychiatric nurse practitioners;

9       (B) Nurses;

10       (C) Licensed or credentialed clinicians capable of  
11       completing assessments of the client; and

12       (D) Peers with lived experience similar to the  
13       experience of the client; and

14       (8) Screen clients for suicide or violence risk and  
15       complete more comprehensive risk assessments and  
16       planning when clinically indicated.

17       (c) No person shall be denied services or receive delayed  
18       services at a behavioral health crisis center operating under  
19       this section because of inability to pay; provided that, subject  
20       to section 334-6, crisis centers shall make every reasonable  
21       effort to collect appropriate reimbursement for the cost of



1 providing services to persons able to pay for services,  
2 including insurance or third-party payments.

3 (d) The director shall adopt rules pursuant to section  
4 334-9 to implement this section, including rules specifying  
5 standards for behavioral health crisis center eligibility  
6 criteria, clinical procedures, staffing requirements, and  
7 operational, administrative, and financing requirements."

8 SECTION 22. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so  
10 much thereof as may be necessary for fiscal year 2023-2024 and  
11 the same sum or so much thereof as may be necessary for fiscal  
12 year 2024-2025 for the director of health to establish or  
13 contract with behavioral health crisis centers pursuant to this  
14 part.

15 The sums appropriated shall be expended by the department  
16 of health for the purposes of this part.

17 PART VI

18 SECTION 23. The purpose of this part is to restore funding  
19 for probation officer services for the mental health court.

20 SECTION 24. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$ or so





1 much thereof as may be necessary for fiscal year 2023-2024 and  
2 the same sum or so much thereof as may be necessary for fiscal  
3 year 2024-2025 to restore funding for probation officer services  
4 for the mental health court.

5 The sums appropriated shall be expended by the judiciary  
6 for the purposes of this part.

7 PART VII

8 SECTION 25. Act , Session Laws of Hawaii 2023, is  
9 amended as follows:

10 (1) By substituting the phrase "director of corrections  
11 and rehabilitation", or similar term, wherever the  
12 phrase "director of public safety", or similar term,  
13 appears; and

14 (2) By substituting the phrase "department of corrections  
15 and rehabilitation", or similar term, wherever the  
16 phrase "department of public safety", or similar term,  
17 appears.

18 SECTION 26. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 27. This Act shall take effect on March 22, 2075.



**Report Title:**

Mental Health Treatment Diversion; Probation Violators;  
Behavioral Health Crisis Centers; Appropriations

**Description:**

Expands the Criminal Justice Diversion Program. Amends the allowable period of court-ordered assisted community treatment and considerations for extensions. Allows courts to require certain probation violators to undergo mental health evaluation and treatment as a condition of continued probation. Requires DOH to contract with behavioral health crisis centers. Appropriates funds. Takes effect 03/22/2075. (SD1)

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

