

S.B. NO. 3101

JAN 24 2024

A BILL FOR AN ACT

RELATING TO BEHAVIORAL HEALTH.

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

1 SECTION 1. The legislature finds that thousands of people
2 in Hawaii are cited or arrested each year for offenses such as
3 drinking liquor in public, loitering in public parks after
4 hours, and camping on sidewalks, beaches, and other restricted
5 places. Many of these individuals suffer from issues relating
6 to drugs, alcohol, or mental illness. Many of those cited do
7 not appear in court, leading to the issuance of bench warrants
8 for their arrests. The legislature further finds that time and
9 resources are expended bringing people to court, and the court
10 system, prosecutors, and police are caught in a revolving-door
11 situation. In response to this situation, mental health service
12 providers have been working with appropriate law enforcement
13 agencies and the criminal justice system to implement a crisis
14 intervention program on the island of Oahu.

15 The purposes of this Act are to:

16 (1) Authorize the department of health to redirect persons
17 experiencing a mental health crisis who are involved
18 with, or at risk for involvement with, the criminal

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1 justice system, to the appropriate health care system
2 and services, including behavioral health crisis
3 centers; and

4 (2) Appropriate funds for purposes related to crisis
5 intervention.

6 SECTION 2. Section 334-59, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

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

11 (1) If a law enforcement officer has reason to believe
12 that a person is imminently dangerous to self or
13 others, the officer shall call for assistance from
14 [~~the~~] a mental health emergency [~~workers~~] worker
15 designated by the director. Upon determination by the
16 mental health emergency [~~workers~~] worker that the
17 person is imminently dangerous to self or others, the
18 person shall be transported by ambulance or other
19 suitable means, to a licensed psychiatric facility or
20 behavioral health crisis center for further evaluation
21 and possible emergency hospitalization. A law
22 enforcement officer may also take into custody and

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

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

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

- 17 (3) Any licensed physician, advanced practice registered
18 nurse, physician assistant, or psychologist who has
19 examined a person and has reason to believe the person
20 is:
- 21 (A) Mentally ill or suffering from substance abuse;
 - 22 (B) Imminently dangerous to self or others; and

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1 (C) In need of care or treatment[+],
2 may direct transportation, by ambulance or other
3 suitable means, to a licensed psychiatric facility or
4 behavioral health crisis center for further evaluation
5 and possible emergency hospitalization. A licensed
6 physician, an advanced practice registered nurse, or
7 physician assistant may administer treatment as is
8 medically necessary, for the person's safe
9 transportation. A licensed psychologist may
10 administer treatment as is psychologically necessary."

11 2. By amending subsection (d) to read:

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

18 (1) Mentally ill or suffering from substance abuse;

19 (2) Imminently dangerous to self or others; and

20 (3) In need of care or treatment, or both[+],

21 the psychiatrist or advanced practice registered nurse with
22 prescriptive authority and who holds an accredited national

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1 certification in an advanced practice registered nurse
2 psychiatric specialization shall direct that the patient be
3 hospitalized on an emergency basis, or cause the patient to be
4 transferred to another psychiatric facility or behavioral health
5 crisis center for emergency hospitalization[7]; or both. The
6 patient shall have the right immediately upon admission to
7 telephone the patient's guardian or a family member including a
8 reciprocal beneficiary, or an adult friend and an attorney. If
9 the patient declines to exercise that right, the staff of the
10 facility shall inform the adult patient of the right to waive
11 notification to the family, including a reciprocal beneficiary,
12 and shall make reasonable efforts to ensure that the patient's
13 guardian or family, including a reciprocal beneficiary, is
14 notified of the emergency admission but the patient's family,
15 including a reciprocal beneficiary, need not be notified if the
16 patient is an adult and requests that there be no notification.
17 The patient shall be allowed to confer with an attorney in
18 private."

19 3. By amending subsection (e) to read:

20 "(e) Release from emergency hospitalization. If at any
21 time during the period of emergency hospitalization the treating
22 physician determines that the patient no longer meets the

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1 criteria for emergency hospitalization and the examination
2 pursuant to section 334-121.5 has been completed, the physician
3 shall expediently discharge the patient. If the patient is
4 under criminal charges, the patient shall be returned to the
5 custody of a law enforcement officer. In any event, the patient
6 shall be released within forty-eight hours of the patient's
7 admission to a psychiatric facility[~~7~~] or behavioral health
8 crisis center, unless the patient voluntarily agrees to further
9 hospitalization, or a proceeding for court-ordered evaluation or
10 hospitalization, or both, is initiated as provided in section
11 334-60.3. If that time expires on a Saturday, Sunday, or
12 holiday, the time for initiation is extended to the close of the
13 next court day. Upon initiation of the proceedings, the
14 facility shall be authorized to detain the patient until further
15 order of the court."

16 SECTION 3. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$6,000,000 or so much
18 thereof as may be necessary for fiscal year 2024-2025 to carry
19 out the purposes of this Act.

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

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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval;
4 provided that, upon its approval, section 3 shall take effect on
5 July 1, 2024.

6

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INTRODUCED BY: *Wm. H. ...*

8

BY REQUEST

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Report Title:

DOH; Behavioral Health; Emergency Examination and Hospitalization; Crisis Centers; Appropriation

Description:

Authorizes the Department of Health to redirect persons experiencing a mental health crisis who are involved with, or at risk for involvement with, the criminal justice system to the appropriate health care system and services, including behavioral health crisis centers. Appropriates funds.

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

JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO BEHAVIORAL HEALTH.

PURPOSE: To authorize the Department of Health to redirect persons experiencing a mental health crisis who are involved with, or at risk for involvement with, the criminal justice system to the appropriate health care system and services, including behavioral health crisis centers. Appropriates funds.

MEANS: Amends section 334-59(a), (d) and (e), Hawaii Revised Statutes. Appropriates funds.

JUSTIFICATION: Thousands of people in Hawaii are cited or arrested each year for offenses such as loitering, trespassing, and disturbing the peace. A large proportion of these individuals suffer from issues relating to drugs, alcohol, or mental illness and revolve through the criminal justice system without appropriate care to address their mental health.

Access to mental health care and the ability to find care are critical to getting individuals in our communities the help they need. For individuals experiencing mental health crises, behavioral health crisis services are integral to providing access to care. This measure strengthens access to care by redirecting persons experiencing a mental health crisis who are involved with, or at risk for involvement with, the criminal justice system to the appropriate health care system and services. The appropriation of funds for behavioral health crisis services will provide individuals experiencing mental health crises with the care they need.

Impact on the public: Behavioral health crisis centers will provide individuals in a crisis with greater and immediate access to care.

Impact on the department and other agencies: None.

GENERAL FUND: \$6,000,000

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH 495

OTHER AFFECTED AGENCIES: The Judiciary, Department of Health, Department of Law Enforcement, Department of Corrections and Rehabilitation, county law enforcement agencies.

EFFECTIVE DATE: Upon approval, except for section 3, which takes effect on July 1, 2024.