

ACT 335

S.B. NO. 1831-86

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Obviously ill” means a condition in which a person’s current behavior and previous history of mental illness, if known, indicate a disabling mental illness, and the person is incapable of understanding that there are serious and highly probable risks to health and safety involved in refusing treatment, the advantages of accepting treatment, or of understanding the advantages of accepting treatment and the alternatives to the particular treatment offered, after the advantages, risks, and alternatives have been explained to the person.”

SECTION 2. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

- (1) [A police officer may take into custody and transport to any facility designated by the director any person who he has probable cause to believe is committing an offense due to apparent mental illness or substance abuse and appears to be imminently dangerous to property, to self or to others.] If a police officer has reason to believe that a person is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that said person is obviously ill, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A police officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to some physician at the facility.
- (2) Upon written or oral application of any licensed physician, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of his employment, a judge may issue an ex parte order orally, but shall reduce [said] the order to writing by the close of the next court day following the application, stating that there is probable cause to believe a person is mentally ill or suffering from substance abuse [and], is imminently dangerous to self[, to] or others, [or to property] or is obviously ill, and in need of care and/or treatment, giving the findings on which the conclusion is based and directing that a police officer or

other suitable individual take the person into custody and deliver him to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce [said] the application to writing and shall submit same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

- (3) Any licensed physician who has examined a person and has reason to believe the person is (A) mentally ill or suffering from substance abuse, and (B) is imminently dangerous to self[, to] or others, [or to property,] or is obviously ill, and (C) is in need of care and/or treatment, may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization and may administer such treatment as is medically necessary for the person's safe transportation."

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

"(d) Emergency hospitalization. If the physician who performs the emergency examination has reason to believe that the patient is (1) mentally ill or suffering from substance abuse, and (2) is imminently dangerous to self[, to] or others, [or to property,] or is obviously ill, and (3) is in need of care and/or treatment, the physician may hospitalize him on an emergency basis and/or cause the patient to be transferred to another psychiatric facility for emergency hospitalization. The patient shall have the right immediately upon admission to telephone his guardian or a member of his family or an adult friend and his attorney. If the patient declines to exercise his right, the staff of the facility shall inform an adult patient of his right to waive notification to his family and shall make reasonable efforts to ensure that the patient's guardian or family is notified of the emergency admission but the patient's family need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with his attorney in private."

SECTION 4. Section 334-60.2, Hawaii Revised Statutes, is amended to read as follows:

"**§334-60.2 Involuntary hospitalization criteria.** A person may be committed to a psychiatric facility for involuntary hospitalization, if the court finds:

- (1) That the person is mentally ill or suffering from substance abuse;
- (2) That the person is imminently dangerous to self or others, [or] is gravely disabled or is obviously ill; and
- (3) That the person is in need of care or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1986.)