

ACT 138

H.B. NO. 3770

A Bill for an Act Relating to Involuntary Hospitalization.

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

SECTION 1. Section 334-59, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

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

- (1) If a police officer¹ has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or 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] the person is imminently dangerous to self or others, or is gravely disabled, or 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 officer¹ 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 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, is imminently dangerous to self or others, or² is gravely disabled, 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 officer¹ or other suitable individual take the person in³ custody and deliver [him] the person 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 the application to writing and shall submit the 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 or others, or is gravely disabled, 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."

2. By amending subsection (d) to read:

"(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 or others, or is gravely disabled, or is obviously ill, and (3) is in need of care and/or treatment, the physician may hospitalize [him] the patient 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] the patient's guardian or a [member of his family] family member or an adult friend and [his] an attorney. If the patient declines to exercise [his] that right, the staff of the facility shall inform an adult patient of [his] the right to waive notification to [his] the 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] an attorney in private."

SECTION 2. Section 334-121, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§334-121]]~~ **Criteria for involuntary outpatient treatment.** A person may be ordered to obtain involuntary outpatient treatment if the family court finds that:

- (1) The person is suffering from a severe mental disorder or from substance abuse; and
- (2) The person is capable of surviving safely in the community with available supervision from family, friends, or others; and
- (3) The person, at some time in the past: (A) has received inpatient hospital treatment for a severe mental disorder or substance abuse, or (B) has been imminently dangerous to self or others, or is gravely disabled, as a result of a severe mental disorder or substance abuse; and
- (4) The person, based on the person's treatment history and current behavior, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; and
- (5) The person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
- (6) There is a reasonable prospect that the outpatient treatment ordered will be beneficial to the person.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1992.)

Notes

1. “Office” changed to “officer”.
2. Should be underscored.
3. Prior to amendment “into” appeared here.