

ACT 221

S.B. NO. 310

A Bill for an Act Relating to Mental Health Treatment.

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

SECTION 1. The legislature finds that:

- (1) Hawaii has identified serious problems of high incarceration and hospitalization rates of those with severe mental illness;
- (2) Assisted community treatment provides an opportunity for people with severe mental illness to be treated in the least restrictive setting; and
- (3) Assisted community treatment reduces the trend towards criminalizing mental illness.

Individuals with severe mental illness often cycle between homelessness, emergency room treatment, incarceration, and hospitalization. This situation reflects a failure to provide needed treatment to persons who may need it most and that failure is extremely costly. However, the legislature finds that the situation can be mitigated if individuals are assisted in being treated in the community.

In several states that have implemented assisted community treatment, research shows that hospitalization rates have dropped by half, the length of hospital stays has been reduced by up to thirty days per patient, arrest rates have declined by up to two-thirds, and days spent in correctional confinement facilities have been reduced by seventy-two per cent. Moreover, patients in one state program, despite having violent histories, were found to be four times less likely to perpetrate serious violence after being in an assisted community treatment program.

The purpose of this Act is to establish an assisted community treatment program.

SECTION 2. Chapter 334, part VIII, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART VIII. ~~[INVOLUNTARY OUTPATIENT]~~ ASSISTED COMMUNITY TREATMENT”

SECTION 3. Section 334-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to read:

““Law enforcement officer” shall have the meaning provided in section 710-1000.”

2. By amending the definition of “dangerous to self” to read:

“Dangerous to self” means the person recently has ~~[threatened]~~:

(1) Threatened or attempted suicide or serious bodily harm; or ~~[the person recently has behaved]~~

(2) Behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded.”

3. By deleting the definitions of “gravely disabled” and “obviously ill”.

~~[““Gravely disabled” means a condition in which a person, as a result of a mental disorder, (1) is unable to provide for that individual’s basic personal needs for food, clothing, or shelter; (2) is unable to make or communicate rational or responsible decisions concerning the individual’s personal welfare; and (3) lacks the capacity to understand that this is so.~~

~~““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 4. Section 334-59, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

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

(1) If a ~~[police]~~ law enforcement officer 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 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]~~ law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide~~[-]~~, or may take into custody and transport to any designated mental health program, any person subject to an assisted community treatment order, issued pursuant to part VIII of this chapter, for further evaluation and possible emergency hospitalization. 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 a physician or psychologist at the facility~~[-]~~, or to a licensed psychiatrist at a designated mental health program.

- (2) Upon written or oral application of any licensed physician, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of 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 the person is mentally ill or suffering from substance abuse~~]~~ or is imminently dangerous to self or others~~]~~ ~~or is gravely disabled,~~ ~~or is obviously ill,~~ and in need of care or treatment, or both, giving the findings ~~[on]~~ upon which the conclusion is based, and directing that a ~~[police]~~ law enforcement officer or other suitable individual take the person into custody and deliver 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, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
- (A) Mentally ill or suffering from substance abuse;
 - (B) Imminently dangerous to self or others~~]~~ ~~or is gravely disabled,~~ ~~or is obviously ill]~~; and
 - (C) In need of care or treatment;

may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician or physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, ~~[or is gravely disabled, or is obviously ill,~~ and assess whether or not the patient needs to be hospitalized."

2. By amending subsection (d) to read:

"(d) Emergency hospitalization. If the physician or the psychologist who performs the emergency examination has reason to believe that the patient is:

- (1) Mentally ill or suffering from substance abuse;
- (2) Imminently dangerous to self or others~~]~~ ~~or is gravely disabled,~~ ~~or is obviously ill]~~; and
- (3) In need of care or treatment, or both;

the physician or the psychologist may direct that the patient be hospitalized on an emergency basis or cause the patient to be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform the

adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, 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 an attorney in private."

SECTION 5. 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 [~~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 6. Section 334-60.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

"(d) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested [~~person~~] party, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition."

2. By amending subsections (i) and (j) to read:

"(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, psychological, or other rehabilitative treatment or supervision, the court shall order that the individual be discharged if the individual has been hospitalized prior to the hearing.

(j) If the court finds that the criteria for involuntary hospitalization under section 334-60.2(1) has been met beyond a reasonable doubt and that the criteria under sections 334-60.2(2) and 334-60.2(3) have been met by clear and convincing evidence, the court may issue an order to any [~~police~~] law enforcement officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. The court may also authorize the involuntary administration of medication, where the subject has an existing order for assisted community treatment, issued pursuant to part VIII of this chapter, relating to assisted community treatment, and in accordance with the treatment prescribed by that prior order. An order of commitment shall specify which of those persons served with notice pursuant to section 334-60.4, together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.

(j) (k) The court may find that the subject of the petition is an incapacitated or protected person, or both, under article V of chapter 560, and may appoint a guardian or conservator, or both, for the subject under the terms and conditions as the court shall determine."

SECTION 7. Section 334-121, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) The person is ~~[suffering from a severe mental disorder or]~~ mentally ill or suffering from substance abuse; and
- (2) The person is ~~[capable of surviving]~~ unlikely to live safely in the community [with] without available supervision ~~[from family, friends, or others;]~~ based on the professional opinion of a psychiatrist; and
- (3) The person, at some time in the past: (A) has received inpatient hospital treatment for ~~[a severe]~~ mental ~~[disorder]~~ illness or substance abuse~~[-]~~; or (B) has been found to be imminently dangerous to self or others, ~~[or is gravely disabled;]~~ as a result of ~~[a severe]~~ mental ~~[disorder]~~ illness or substance abuse; and
- (4) The person, based on the person’s treatment history and current ~~[be-~~ havior;] condition, 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 has a history of a lack of adherence to treatment for mental illness or substance abuse, and 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]~~ The assisted community treatment [ordered will be beneficial to the person-] is medically appropriate, and in the person’s medical interests; and
- (7) Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person.”

SECTION 8. Section 334-122, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§334-122]]~~ Definitions. For the purposes of this part:

~~“Outpatient”~~ “Assisted community treatment” includes medication specifically authorized by court order; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; supervision of living arrangements; and any other services prescribed to either alleviate the person’s disorder or disability, ~~[to]~~ maintain or maximize semi-independent functioning, or ~~[to]~~ prevent further deterioration that may reasonably be predicted to result in the need for hospitalization[-] or more intensive or restrictive levels of care in the community or incarceration for criminal behavior.

“Designated mental health program” includes a state-operated or private provider who is authorized to provide mental health services, including but not limited to inpatient treatment, outpatient treatment, case management, day treatment, or crisis services.

“Interested party” means a parent, grandparent, spouse, sibling, adult child, reciprocal beneficiary, service provider, case manager, outreach worker, or mental health professional.

~~“Outpatient treatment psychiatrist”~~ means the psychiatrist who is responsible for the management and supervision of a person’s outpatient treatment under order of the court.]

“Subject of the order” means a person who has been ordered by the court to obtain ~~[outpatient]~~ assisted community treatment.

“Subject of the petition” means the person who, under a petition filed under section 334-123, is alleged to meet the criteria for ~~[involuntary-outpatient]~~ assisted community treatment.

“Treating psychiatrist” means the psychiatrist who is responsible for the management and supervision of a person’s treatment under order of the court.”

SECTION 9. Section 334-123, Hawaii Revised Statutes, is amended to read as follows:

“§334-123 [Petition.] Initiation of proceeding for assisted community treatment. (a) Any ~~[person]~~ interested party may file a petition with the family court alleging that another person meets the criteria for ~~[involuntary-outpatient]~~ assisted community treatment. The petition shall state:

- (1) Each of the criteria numbered (1) through ~~[(6)]~~ (7) for ~~[involuntary-outpatient]~~ assisted community treatment, as set out in section 334-121;
- (2) Petitioner’s good faith belief that the subject of the petition meets each of the¹ criteria numbered (1) through ~~[(4)]~~ (7) set forth in section 334-121;
- (3) Facts which support petitioner’s good faith belief that the subject of the petition meets each of the criteria numbered (1) through ~~[(4)]~~ (7) set forth in section 334-121~~[-, provided that the hearing on the petition need not be limited to the stated facts];~~ and
- (4) ²The subject of the petition is present within the county where the petition is filed.

The hearing on the petition need not be limited to the facts stated in the petition. The petition shall be executed subject to the penalties of perjury. ~~[The petition need not express any belief, or state any supporting facts, with reference to the criteria set forth in section 334-121(5) and (6), but all six criteria will be addressed at the hearing.]~~

(b) The petition may~~[-, but need not,]~~ be accompanied by ~~[any statement]~~ a certificate of a licensed psychiatrist ~~[or other mental health professional]~~ who has examined the subject of the petition at any time prior to the submission of the petition.

(c) If the subject of the petition has refused to submit to examination by a licensed psychiatrist, the fact of the refusal shall be alleged in the petition.”

SECTION 10. Section 334-124, Hawaii Revised Statutes, is amended to read as follows:

“[§334-124] Hearing date. The family court shall set a hearing date on a petition as soon as possible, but within ten days after filing of the petition.”

SECTION 11. Section 334-125, Hawaii Revised Statutes, is amended to read as follows:

“§334-125 Notice. (a) Notice of the hearing shall be:

- (1) Served personally on the subject of the petition pursuant to family court rules; and
- (2) ~~[Delivered]~~ Served personally or ~~[mailed]~~ by certified or registered mail, return receipt requested, deliverable to the addressee only, to as many as are known to the petitioner of the subject’s spouse or

reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed~~[- Petitioner shall certify that such notices have been mailed, and to whom, but proof of receipt of such notices is not required. Notice shall also be served on any other person that the court designates.];~~

(3) Served on the public defender, attorney for the subject of the petition, or other court appointed attorney as applicable; and

(4) Given to such other persons as the court may designate.

(b) The notice shall include the following:

(1) The date, time, place of hearing, a clear statement of the purpose of the ~~[hearing]~~ proceedings and possible consequences to the subject, and a statement of the legal standard upon which ~~[involuntary outpatient]~~ assisted community treatment is [authorized;] being considered;

(2) A copy of the petition; ~~[and]~~

(3) Notice that the subject of the petition is entitled to ~~[be represented by]~~ the assistance of an attorney, and that the ~~[court will appoint a public defender or other attorney for the subject if the subject desires one and is indigent.]~~ public defender has been notified of these proceedings; and

(4) Notice that if the subject does not want to be represented by the public defender, the subject may contact the subject's own attorney.

~~[(e) The family court may continue a hearing for failure to timely notify or a person entitled to be noticed.]”~~

SECTION 12. Section 334-126, Hawaii Revised Statutes, is amended to read as follows:

“[H§334-126] Hearing[-] on petition. (a) The court may adjourn or continue a hearing for failure to timely notify a person entitled to be notified.

~~[(a)]~~ (b) The time and form of the procedure incident to hearing the issues in the petition shall be provided by family court rule and consistent with this part.

~~[(b) The hearing]~~ (c) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested ~~[person;]~~ party, or the family court upon its own motion may request a hearing in another court because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition.

~~[(e)]~~ (d) The hearing shall be closed to the public, unless the subject of the petition requests otherwise.

~~[(d)]~~ (e) The subject of the petition shall be present at the hearing. However, if the subject has been served with the petition and does not appear at the hearing, the court, in its discretion, may go forward with the hearing.

~~[(e)]~~ (f) The subject of the petition need not, but may, be represented by an attorney. If the subject desires an attorney and is indigent, or if the family court determines that the legal or factual issues raised are of such complexity that the assistance of an attorney is necessary for an adequate presentation of the merits or that the subject of the petition is unable to speak for the subject's self, the family court shall order the appointment of a public defender or other attorney to represent the subject and continue the hearing for not more than ~~[five]~~ seven days.

~~[(f)]~~ (g) If the subject of the petition is represented by an attorney, the attorney shall be allowed adequate time for investigation of the matters at issue and for preparation[- The attorney], and shall be permitted to present the

evidence ~~[believed]~~ that the attorney believes necessary for a proper disposition of the proceeding.

~~[(g)]~~ (h) No subject of the petition shall be ordered to receive ~~[involuntary outpatient]~~ assisted community treatment unless at least one psychiatrist testifies in person at the hearing who has personally ~~[examined]~~ assessed the subject within the time period commencing ~~[five]~~ ten calendar days before the filing of the petition and ending at the time of the psychiatrist's testimony. The psychiatrist's testimony shall state the facts which support the allegation that the subject meets all the criteria for ~~[involuntary outpatient]~~ assisted community treatment, ~~[the recommended outpatient]~~ provide a written treatment[- and] plan, which shall include non-mental health treatment if appropriate, provide the rationale for the recommended [outpatient] treatment[-], and identify the designated mental health program responsible for the coordination of care.

If the recommended ~~[outpatient]~~ assisted community treatment includes medication, the psychiatrist's testimony shall describe the types or classes of ~~[medication(s)]~~ medication which should be authorized, and describe the physical and mental beneficial and detrimental effects of such ~~[medication(s)-]~~ medication.

If the subject of the petition has refused to be examined by a licensed psychiatrist, the family court may request the subject to consent to examination by a psychiatrist appointed by the court or employed at a community mental health center. If the subject of the petition does not consent and the family court finds sufficient evidence to believe that the allegations in the petition are true, the family court may order the commitment of the subject to a psychiatric facility for examination. The commitment shall not be for more than ~~[twenty-four]~~ forty-eight hours. The examining psychiatrist shall submit the findings and recommendations to the family court~~[-]~~ in the form of a written treatment plan.

The subject of the petition's refusal to submit voluntarily to examination shall be treated as a denial that the subject is ~~[suffering from a severe mental disorder or]~~ mentally ill or suffering from substance abuse, and a denial that the subject otherwise fits within the criteria for a court order of ~~[involuntary outpatient]~~ assisted community treatment.

Nothing herein shall be construed in a way that limits the subject of the petition's privilege against self-incrimination.

~~[(h)]~~ (i) The subject of the petition may secure ~~[one or more]~~ a psychiatric ~~[examinations]~~ examination and present the findings as evidence at the hearing. The subject shall be entitled to a psychiatric examination at a community mental health center if the subject so desires, and if an examination has not already been conducted at a community mental health center which will lead to psychiatric testimony at the hearing."

SECTION 13. Section 334-127, Hawaii Revised Statutes, is amended to read as follows:

"[H]§334-127[H] Disposition. (a) If after hearing all relevant evidence, including the results of ~~[an]~~ any diagnostic examination ordered by the family court, the family court finds that the subject of the petition does not meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment, the family court shall dismiss the petition.

(b) If after hearing all relevant evidence, including the results of ~~[an]~~ any diagnostic examination ordered by the family court, the family court finds ~~[by clear and convincing evidence that the subject of the petition meets the criteria for involuntary outpatient treatment,]~~ that the criteria for assisted community treatment under section 334-121(1) has been met beyond a reasonable doubt

and that the criteria under sections 334-121(2) to 334-121(7) have been met by clear and convincing evidence, the family court shall order the subject to obtain [outpatient] assisted community treatment for a period of not more than [180] one hundred eighty days. [The order shall also state the outpatient treatment which the subject is to obtain.] The written treatment plan submitted pursuant to section 334-126(h) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended [medication(s)] medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of [medication(s)] medication to be included in [outpatient] treatment [in] at the discretion of the [outpatient treatment] treating psychiatrist.

The court order shall also state who should receive notice of intent to [early] discharge early in the event that the [outpatient treatment] treating psychiatrist determines, prior to the end of the court ordered period of treatment, that the subject should be [early] discharged early from [outpatient involuntary] assisted community treatment.

(c) The family court shall also designate on the order the [outpatient treatment] treating psychiatrist who is to be responsible for the management and supervision of the subject's [outpatient] treatment, or shall [designate] assign an administrator of a [community] designated mental health [center] program to, in turn, designate [such an outpatient treatment] the treating psychiatrist during the treatment period without court approval, and may designate either a publicly employed psychiatrist, or a private psychiatrist, provided that the private psychiatrist shall agree to the designation. The order for assisted community treatment shall be subject to the Health Care Privacy Harmonization Act, codified as chapter 323B.

(d) Nothing in this section shall preclude the subject's stipulation to the continuance an existing court order."

SECTION 14. Section 334-128, Hawaii Revised Statutes, is amended to read as follows:

"[§334-128] Treatment costs and fees. Private treatment pursuant to the court order shall be at the expense of the subject of the petition, except to the extent such charges are covered by other laws or programs. Treatment through a [community] designated mental health [center] program shall be pursuant to its fee schedules; however, the subject of the order shall not be denied treatment by a [community] designated mental health [center] program for failure to pay [such] the fees."

SECTION 15. Section 334-129, Hawaii Revised Statutes, is amended to read as follows:

"[§334-129] Failure to comply with [outpatient] assisted community treatment. (a) ~~[An outpatient treatment]~~ A treating psychiatrist may prescribe or administer to the subject of the order reasonable and appropriate medication[,] or medications, if specifically authorized by the court order, and treatment which is consistent with accepted medical standards and the family court order[.], including the written treatment plan submitted pursuant to section 334-126(h).

(b) No subject of the order shall be physically forced to take medication ~~[or forcibly detained for treatment]~~ under a family court order for ~~[involuntary outpatient treatment.]~~ assisted community treatment, except in accordance with

section 334-60.5, relating to admission to a psychiatric facility, subsequent to the date of the current assisted community treatment order.

(c) A subject may be transported to a designated mental health program for failure to comply with an order for assisted community treatment via the following methods:

(1) By an interested party with the consent of the subject of the order;
or

(2) In accordance with section 334-59.

[(e)] (d) The [outpatient treatment] treating psychiatrist or psychiatrist's designee shall make all reasonable efforts to solicit the subject's compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the [outpatient treatment] treating psychiatrist shall [so notify the court and may submit a petition under] assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV [for the involuntary hospitalization of the subject,] of this chapter, and proceed with the admission; provided that the refusal of treatment shall not, by itself, constitute [evidence toward any of the criteria] a basis for involuntary hospitalization."

SECTION 16. Section 334-130, Hawaii Revised Statutes, is amended to read as follows:

"[H§334-130] [Discharge-] Period of assisted community treatment. (a) The assisted community treatment order shall continue to apply to the subject, for the duration specified in the order, regardless of whether the treatment setting changes.

[An outpatient] (b) A subject of assisted community treatment is automatically and fully discharged at the end of the family court ordered period of [outpatient] treatment, a period of not more than [180] one hundred eighty days, unless a new family court order has been obtained as provided hereinbelow.

(c) Nothing in this section shall preclude the subject's stipulation to the continuance an existing court order."

SECTION 17. Section 334-131, Hawaii Revised Statutes, is amended to read as follows:

"[H§334-131] [Early] Notice of intent to discharge. [(a)] [An outpatient treatment] When the treating psychiatrist [shall commence the early] contemplates discharge [procedure] for a subject of the order [if the outpatient treatment psychiatrist finds that the subject no longer meets the criteria for involuntary outpatient treatment,] because of expiration of the court order or because the subject of the order is no longer a proper subject for assisted community treatment, as determined by the criteria in section 334-121, the treating psychiatrist shall provide notice of intent to discharge.

(b) [The outpatient treatment psychiatrist shall send to the clerk of the] The notice shall be filed with the¹ family court which issued the order for [involuntary outpatient] assisted community treatment, [notification that in the psychiatrist's opinion the subject of the order should be discharged prior to the end of the period specified in the court order,] and served by personal service or by certified mail on those persons whom the order for assisted community treatment specifies as entitled to receive notice.

(c) [The clerk of the court shall then prepare and mail to the persons whom the family court order specified are entitled thereto, a notice of intent of early discharge.] The notice of intent [of]³ to discharge shall be mailed at least [five] ten days prior to the intended date of discharge.

~~[(b)] (d)~~ If no objection is filed under section 334-132 ~~[within five days of the mailing of notice,]~~ prior to the intended date of discharge, the ~~[family court shall enter an order of discharge, and]~~ subject of the order is thereupon fully discharged from ~~[involuntary outpatient]~~ assisted community treatment ~~[and the clerk of the family court shall promptly so notify the subject of the order].~~”

SECTION 18. Section 334-132, Hawaii Revised Statutes, is amended to read as follows:

~~“[§334-132]~~ **Objection to discharge.** ~~[Any]~~ (a) If any person ~~[who has received a]~~ specified as entitled to receive notice ~~[of intent to early discharge a subject of the order may file an]~~ files a written objection with the family court~~[. Upon receipt of an objection,]~~ on the grounds that the subject of the order is a proper subject for assisted community treatment, the family court shall ~~[hold]~~ conduct a hearing ~~[on the discharge.]~~ to determine if the subject of the order still meets the criteria for assisted community treatment in section 334-121. The hearing shall be conducted as provided under section 334-134.

(b) If the family court finds ~~[by clear and convincing evidence]~~ that the subject of the order continues to meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment~~;~~ in section 334-121, the family court shall order the subject to continue the ~~[outpatient]~~ treatment for the unexpired period of its earlier order.

(c) If the family court finds that the subject of the order does not meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment~~;~~ in section 334-121, the ~~[family]~~ court shall dismiss the objection and order the early discharge of the subject.”

SECTION 19. Section 334-133, Hawaii Revised Statutes, is amended to read as follows:

~~“[§334-133]~~ **Petition for additional period treatment; hearing.** (a) Prior to the expiration of the period of ~~[involuntary outpatient]~~ assisted community treatment ordered by the family court, any ~~[person, including an outpatient treatment psychiatrist,]~~ interested party may file a petition with the family court for an order of continued ~~[involuntary outpatient]~~ assisted community treatment. The petition shall be filed and notice provided in the same manner as under sections 334-123 and 334-125.

(b) The family court shall hold a hearing on the petition and make its decision in the same manner as provided under sections 334-123 to 334-127. The family court may order the continued ~~[involuntary outpatient]~~ assisted community treatment for not more than ~~[180 days]~~ one year after the date of the hearing pursuant to this section~~;~~ if the court finds that the criteria for assisted community treatment continue to exist and are likely to continue beyond one hundred eighty days.

(c) Nothing in this section shall preclude the subject’s stipulation to the continuance an existing court order. This section shall be in addition to the provisions on the objection to discharge.”

SECTION 20. Section 334-134, Hawaii Revised Statutes, is amended to read as follows:

~~“[§334-134]~~ **Hearing for discharge.** Any person may petition the family court for the discharge of an order of ~~[involuntary outpatient]~~ assisted community treatment during the period of ~~[outpatient]~~ assisted community treatment

~~[if more than]~~ after sixty days ~~[after]~~ from the most recent hearing involving the subject of the order. The petition shall be filed, notice given, hearing held, and order made in the same manner as provided for the original petition alleging that the subject of the order met the criteria for ~~[involuntary outpatient]~~ assisted community treatment."

SECTION 21. (a) Any treating provider wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment shall:

- (1) Obtain historical information related to MH-1s and hospitalization of persons who are under an order to treat; and
- (2) Track further episodes of MH-1s and hospitalization while the persons are under the order.

(b) An entity designated by the department of health shall gather information from treating providers related to MH-1s and hospitalization of persons who are under an order to treat and submit an annual report of its findings and recommendations to the legislature no later than twenty days prior to the convening of every regular session beginning with the regular session of 2015.

SECTION 22. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 23. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 24. This Act shall take effect on January 1, 2014, and shall be repealed on July 1, 2020; provided that:

- (1) Petitions filed pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment involving a designated mental health program that is a state-operated provider shall not be filed until after July 1, 2015;
- (2) Any private provider wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using its own resources, if the petitioner is to be the designated mental health program;
- (3) Any interested party wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using the party's own resources, if the designated mental health program is a private provider; and
- (4) The title of chapter 334, part VIII, and sections 334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through 334-134, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved June 27, 2013.)

Notes

1. Should be underscored.
2. Prior to amendment "That" appeared here.
3. Prior to amendment "early" appeared here.