

ACT 232

S.B. NO. 44

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:  
““Law enforcement officer” has the same meaning as in section 710-1000.”

SECTION 2. Section 334-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department may operate or contract for a secure psychiatric rehabilitation program for individuals who require intensive therapeutic treatment and rehabilitation in a secure setting. The services authorized by this section shall be for persons:

- (1) Involuntarily hospitalized under this chapter for whom the services cannot be reimbursed, covered, or provided by an insurer, plan, or other person;
- (2) Committed to the custody of the director under chapter 704; and
- (3) Appropriately hospitalized under chapter 704 or 706.

The director shall be responsible for the appropriate placement of all persons placed in facilities or services contracted for or operated by the director under paragraphs (1) through (3).

Any such person placed in a facility or services contracted for or operated by the director who leaves or remains away from the facility or services, without permission, may be apprehended and returned to the facility or services by any employee of the department or by any ~~[police]~~ law enforcement officer without any warrant or further proceeding.”

SECTION 3. 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) 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. 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.
- (2) Upon written or oral application of any licensed physician, advanced practice registered nurse, 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, 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 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, advanced practice registered nurse, 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, an advanced practice registered nurse, 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.”

SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(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. 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. 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.”

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 Statutory material to be repealed is bracketed and stricken.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

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

(Approved June 27, 2013.)