

ACT 114

H.B. NO. 2559

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:

“‘Imminently dangerous to self or others’ means that, without intervention, the person will likely become dangerous to self or dangerous to others within the next forty-five days.”

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) If a law enforcement officer has reason to believe that a person is imminently dangerous to self or others, 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, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A 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, advanced practice registered nurse, 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, advanced practice registered nurse, psychologist, attorney, member of the clergy, health or social service professional, or any state or coun-

ty 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 and in need of care or treatment, or both, giving the findings upon which the conclusion is ~~based, and directing~~. The order shall direct that a law enforcement officer or other suitable individual take the person into custody and deliver the person to a designated mental health program, if subject to an assisted community treatment order issued pursuant to part VIII of this chapter, or to the nearest facility designated by the director for emergency examination and treatment[-], or both. 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; 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 3. Section 334-127, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If after hearing all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the criteria for assisted community treatment under section 334-121(1) ~~[[have]]~~ been met beyond a reasonable doubt and that the criteria under ~~[[section]]~~ 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 assisted community treatment for a period of not more than ~~[one hundred eighty days.]~~ one year. 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 outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication to be included in treatment at the discretion of the treating psychiatrist.

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

SECTION 4. Section 334-129, Hawaii Revised Statutes, is amended by amending subsections (b) to (d) to read as follows:

“(b) No subject of the order shall be physically forced to take medication under a family court order for assisted community treatment~~[-, except in accordance with section 334-60.5, relating to admission to a psychiatric facility,]~~ unless the subject is within an emergency department or admitted to a hospital, subsequent to the date of the current assisted community treatment order.

(c) A subject may be transported to a designated mental health program, or a hospital emergency department, 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.

(d) The designated mental health program’s 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 treating psychiatrist shall assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV of this chapter, and proceed with the admission~~[;]~~ pursuant to section 334-59(a)(2) or (3); provided that the refusal of treatment shall not, by itself, constitute a basis for involuntary hospitalization.”

SECTION 5. Section 334-130, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

SECTION 6. Act 221, Session Laws of Hawaii 2013, is amended by amending section 24 to read as follows:

“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; and
- (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.]”~~

SECTION 7. Act 27, Session Laws of Hawaii 2015, is amended by amending section 6 to read as follows:

~~“SECTION 6. This Act shall take effect upon its approval; provided that the amendments made to section 334-59, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 334-59, Hawaii Revised Statutes, is reenacted on July 1, 2020, pursuant to section 24 of Act 221, Session Laws of Hawaii 2013].”~~

SECTION 8. Act 231, Session Laws of Hawaii 2015, is amended by amending section 9 to read as follows:

~~“SECTION 9. This Act shall take effect upon its approval; provided that the amendments made to sections 334-123, 334-125, and 334-126, Hawaii Revised Statutes, by this Act shall not be repealed when those sections are reenacted on July 1, 2020, pursuant to section 24, Act 221, Session Laws of Hawaii 2013].”~~

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. This Act shall take effect on July 1, 2016.

(Approved June 22, 2016.)