ACT 219 S.B. NO. 1322

A Bill for an Act Relating to Mental Health.

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

SECTION 1. The legislature finds that the State's mental health laws provide the State with a variety of methods to help and support individuals suffering from mental illness or substance abuse. As the number of individuals in need of help increases, so has the need to enhance these laws in a manner that demystifies the complexities of existing procedures, clarifies the circumstances under which action can be taken, and bolsters available tools to best serve these individuals. Legal mechanisms, such as emergency procedures, involuntary hospitalization, assisted community treatment, and authorization for the administration of treatment, enable the State and mental health providers to provide compassionate assistance to individuals suffering from mental illness or substance abuse when they need it the most.

Accordingly, the purpose of this Act is to clarify, update, and revise Hawaii's mental health laws by:

(1) Requiring the department of health to submit annual reports to the legislature on emergency transportations and assisted community treatment petitions and orders, based on information provided by service providers and the department of the attorney general;
(2) Clarifying emergency transportation, examination, and hospitalization procedures for individuals who may be mentally ill or suffering from substance abuse and are imminently dangerous to self or others;
(3) Requiring treatment providers to provide relevant treatment information to the department of the attorney general, upon the department's request, for purposes of preparing a petition for assisted community treatment;
(4) Amending the procedures for involuntary hospitalizations and assisted community treatment petitions;
(5) Clarifying the circumstances under which a subject of an order for assisted community treatment can be administered medication over the subject's objection; and
(6) Allowing a single psychiatrist, rather than a panel of three, to provide administrative authorization for medical treatment over the objection of a patient who is in the custody of the director of health and in a psychiatric facility.

SECTION 2. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§334-A Annual report; emergency transportations; assisted community treatment. Each provider of services involved in an emergency transportation initiated by a law enforcement officer, court order, or health care provider; assisted community treatment petition; or assisted community treatment order pursuant to part IV or VIII, and the department of the attorney general, shall provide the necessary data to the department to complete the report under this section. Based on this data, the department shall submit an annual report to the legislature no later than thirty days prior to the convening of each regular session.

The report shall include, at a minimum, an evaluation of the effectiveness of the strategies employed by each provider operating pursuant to parts IV and

VIII in reducing hospitalization of persons subject to emergency transportation or assisted community treatment and in reducing involvement with local law enforcement by persons subject to assisted community treatment orders. The evaluation and report shall also include any other measures identified by the department regarding individuals subject to assisted community treatment petitions and orders and all of the following, based on information that is available:

(1) The number of individuals brought to each of the facilities operated by service providers through emergency transportation, and the number of those individuals transported due to enforcement of an order for assisted community treatment;
(2) The number of individuals involuntarily hospitalized through emergency transportation and emergency examination;
(3) The number of individuals subject to assisted community treatment orders;
(4) The petitioner's relationship to the individual subject to the assisted community treatment petition;
(5) The number of individuals under assisted community treatment orders who become involved with the criminal justice system by way of arrests, convictions, probation, incarceration, or other relevant data;
(6) The need for hospitalization and related length of stay for individuals after they become subject to an assisted community treatment order;
(7) Adherence to prescribed treatment by individuals subject to an assisted community treatment order; and
(8) Other indicators of successful engagement, if any, by individuals subject to an assisted community treatment order."

SECTION 3. Chapter 334, Hawaii Revised Statutes, is amended as follows:

1. By adding a new subpart to part IV to be designated as subpart A and to read:

"A. Emergency Procedures

§334-B Emergency procedures. The emergency procedures in this subpart shall consist of emergency transportation, emergency examination, and emergency hospitalization for individuals who may be mentally ill or suffering from substance abuse and imminently dangerous to self or others.

§334-C Emergency transportation initiated by a law enforcement officer. (a) When a law enforcement officer has a reasonable suspicion that an individual is imminently dangerous to self or others and needs to be detained for emergency examination, the law enforcement officer shall contact a mental health emergency worker; provided that the law enforcement officer may temporarily detain the individual if the law enforcement officer:

(1) Is unable to reach a mental health emergency worker telephonically after three attempts;
(2) Has reason to believe that the situation requires immediate intervention to prevent harm to the individual or others;
(3) Contacts a mental health emergency worker at the earliest time possible; and
(4) Documents the reasons why the situation necessitated that the individual be detained.

If the mental health emergency worker determines that the individual is mentally ill or suffering from substance abuse and is imminently dangerous to

self or others, the law enforcement officer shall detain the individual for transportation to a facility for an emergency examination.

(b) When a crisis intervention officer has probable cause to believe that an individual is mentally ill or suffering from substance abuse and is imminently dangerous to self or others, the crisis intervention officer shall detain the individual for transportation to a facility for an emergency examination. The crisis intervention officer shall contact a mental health emergency worker to determine the type of facility where the individual shall be transported.

(c) Any individual detained under this section shall be transported directly to a psychiatric facility or other facility designated by the director, as determined by a mental health emergency worker; provided that if a medical emergency occurs during transport, the individual shall be transported to the nearest emergency department. A law enforcement officer shall make an application for the emergency examination of the individual. The application shall state in detail the circumstances under which and reasons why the individual was taken into custody. The application shall be transmitted with the individual to the psychiatric facility or other facility designated by the director and be made a part of the individual's clinical record.

(d) For the purposes of this section, "crisis intervention officer" has the same meaning as defined in section 353C-1.

§334-D Emergency transportation initiated by a court order. (a) 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 a written or oral ex parte order:

(1) Stating that there is probable cause that the individual is:
   (A) Mentally ill or suffering from substance abuse; and
   (B) Imminently dangerous to self or others;
(2) Stating the findings upon which the conclusion is based; and
(3) Directing that a law enforcement officer take the individual into custody and transport the individual directly to a psychiatric facility or other facility designated by the director for an emergency examination.

The person who made the application shall notify a mental health emergency worker of the written or oral ex parte order and, when possible, shall coordinate the transport of the individual with the emergency worker.

(b) If an application under subsection (a) was made orally, the person who made the application shall reduce the application to writing and submit it to the judge who issued the ex parte order by noon of the next court day after the order was issued. The written application shall be made under penalty of law but need not be sworn to before a notary public. If the judge issued an ex parte order orally, the judge shall reduce the oral order to writing by the close of the next court day after the order was issued. The written ex parte order shall be transmitted with the individual to the psychiatric facility or other facility designated by the director and be made a part of the individual's clinical record.

§334-E Emergency transportation initiated by a health care provider. (a) Any licensed physician, advanced practice registered nurse, physician assistant, licensed clinical social worker, or psychologist who has examined an individual and determines that the individual is mentally ill or suffering from substance abuse and is imminently dangerous to self or others may direct a law enforcement officer to detain and transport the individual by ambulance or other suitable means to a psychiatric facility or other facility designated by the director for an emergency examination, and may administer treatment, within

the examining health care provider's scope of practice, as necessary for the individual's safe transportation. The examining health care provider shall provide a written statement of circumstances and reasons necessitating the emergency examination. The written statement shall be transmitted with the individual to the psychiatric facility or other facility designated by the director and be made a part of the individual's clinical record.

(b) Any individual who is subject to an order for assisted community treatment and fails to comply with the order for assisted community treatment, despite reasonable efforts made by a designated assisted community treatment provider, as defined in section 334-122, to solicit compliance, may be transported to a psychiatric facility or other facility designated by the director for an emergency examination if it is in the clinical judgment of a licensed physician, advanced practice registered nurse, physician assistant, licensed clinical social worker, or psychologist that the individual may be in need of emergency hospitalization pursuant to section 334-G. At the direction of the examining health care provider, a law enforcement officer may detain and transport the individual by ambulance or other suitable means to a psychiatric facility or other facility designated by the director. The examining health care provider shall provide a written statement of circumstances and reasons explaining why the individual may be in need of emergency hospitalization. The written statement shall be transmitted with the individual to the psychiatric facility or other facility designated by the director and be made a part of the individual's clinical record.

(c) Those performing the emergency transport shall coordinate the transport of the individual with the mental health emergency worker.

(d) The examining health care provider shall also provide a copy of the written statement required under this section to the department within five business days.

§334-F Emergency examination. (a) A licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or advanced practice registered nurse may conduct an initial examination and screening of a patient transported under section 334-C, 334-D, or 334-E to determine whether the criteria for involuntary hospitalization listed in section 334.60.2 persists and administer treatment as indicated by good medical practice; provided that if after the examination, screening, and treatment, the licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or advanced practice registered nurse determines that the involuntary hospitalization criteria persists, then the patient shall be further examined by a qualified psychiatric examiner to diagnose the presence or absence of a mental illness or substance use disorder, further assess the risk that the patient may be dangerous to self or others, and assess whether or not the patient continues to meet the criteria for involuntary hospitalization as provided in section 334-60.2. If no initial examination and screening of the patient is conducted, a qualified psychiatric examiner shall conduct an emergency examination of a patient transported under section 334-C, 334-D, or 334-E without unnecessary delay and provide the patient with treatment as indicated by good medical practice; provided that the emergency examination shall include a determination of whether the patient meets the criteria for involuntary hospitalization as provided in section 334-60.2.

(b) If, following an emergency examination of a patient under subsection (a), a qualified psychiatric examiner determines that the criteria for involuntary hospitalization do not exist, the patient shall be discharged expeditiously; provided that if the patient is not under an order for assisted community treatment, a qualified psychiatric examiner shall conduct an examination pursuant to

section 334-121.5 before the discharge. A patient under criminal charges shall be returned to the custody of a law enforcement officer.

§334-G Emergency hospitalization. (a) If, following an emergency examination pursuant to section 334-F(a), a qualified psychiatric examiner determines that the criteria for involuntary hospitalization exist, the patient shall be hospitalized on an emergency basis or transferred to another psychiatric facility or other facility designated by the director for emergency hospitalization.

(b) The patient admitted under subsection (a) shall be released within seventy-two hours of the patient's admission to a psychiatric facility or other facility designated by the director, unless:

(1) The patient voluntarily agrees to further hospitalization; or

(2) A proceeding for court-ordered evaluation or hospitalization is initiated as provided in section 334-60.3.

If the seventy-two-hour time period expires on a Saturday, Sunday, or holiday, the time for initiation shall be extended to the close of the next court day. Upon initiation of the proceeding, the facility may detain the patient until further order of the court.

(c) If at any time during the period of emergency hospitalization a qualified psychiatric examiner determines that a patient no longer meets the criteria for emergency hospitalization, the patient shall be discharged expeditiously; provided that if the patient is not under an order for assisted community treatment, a qualified psychiatric examiner shall conduct an examination pursuant to section 334-121.5 before the discharge. A patient under criminal charges shall be returned to the custody of a law enforcement officer.

(d) The patient shall have the right, immediately upon emergency hospitalization, to telephone an attorney and the patient's surrogate, guardian, family member including a reciprocal beneficiary, or adult friend. The patient shall be allowed to confer with an attorney in private.

§334-H Notice of emergency transportation, examination, and hospitalization. Notice of an individual's emergency transportation, examination, and hospitalization under this subpart may be given to at least one of the following persons in the following order of priority: the individual's spouse or reciprocal beneficiary, legal parents, adult children, surrogate, legal guardian, or if none can be found, the closest adult relative, as long as the individual:

(1) Has capacity to make health care decisions and consents that notice may be given to at least one of the persons listed in this section;

(2) Is given the opportunity to object and does not object, or the health care provider can reasonably infer from the circumstances based on the exercise of professional judgment that the individual does not object; or

(3) Is incapacitated or an emergency circumstance exists, and the health care provider determines, based on the exercise of professional judgment, that giving notification is in the best interest of the individual.

The staff of the facility shall make reasonable efforts to ensure that the patient's family, including a reciprocal beneficiary, is notified of the emergency hospitalization, unless the patient is an adult and waives notification."

2. By designating section 334-60.1 as subpart B and inserting a title before section 334-60.1 to read:

"B. Voluntary Admission"

3. By designating sections 334-60.2 through 334-60.7 as subpart C and inserting a title before section 334-60.2 to read:

"C. Involuntary Hospitalization"

4. By designating sections 334-61 and 334-62 as subpart D and inserting a title before section 334-61 to read:

"D. General Provisions"

SECTION 4. Chapter 334, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

"§334-I Records and disclosure of information. (a) A treatment provider who provided or is providing medical, psychiatric, therapeutic, or social services treatment to an individual shall provide relevant treatment information, if available, to the department of the attorney general upon the department's request for the purpose of preparing a petition for assisted community treatment. The treatment information may include a certificate issued pursuant to section 334-123(c), a treatment plan prepared pursuant to section 334-126(g), records related to actions or proceedings pursuant to part IV, records relating to the individual's treatment history, and other records deemed relevant by the individual's treatment provider.

(b) The petitioner of an assisted community treatment order, department of the attorney general, and family court shall disclose an assisted community treatment order to state and county law enforcement agencies, an assisted community treatment provider, or any other entity necessary to carry out the terms of the assisted community treatment order."

SECTION 5. Section 334-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

""Qualified psychiatric examiner" means a licensed psychiatrist or advanced practice registered nurse with prescriptive authority who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization.

"Surrogate" means a person appointed under:

(1) A power of attorney for health care to make a health care decision for the individual who made the appointment; or

(2) Law or court order to make health care decisions for an individual."

2. By amending the definition of "patient" to read:

""Patient" means [~~a person~~] an individual under observation, care, or treatment at a psychiatric facility[~~,~~] or other facility designated by the director."

3. By amending the definition of "treatment" to read:

""Treatment" means the broad range of emergency, out-patient, intermediate, domiciliary, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, psychosocial rehabilitation, career counseling, and other special services [~~which~~] that may be extended to [~~handicapped persons.~~] an individual with a disability."

SECTION 6. Section 334-60.2, Hawaii Revised Statutes, is amended to read as follows:

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

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

SECTION 7. Section 334-60.3, Hawaii Revised Statutes, is amended to read as follows:

"**§334-60.3 Initiation of proceeding for involuntary hospitalization.** (a) Any person may file a petition alleging that [~~a person located in the county~~] an individual meets the criteria for commitment to a psychiatric facility[~~.~~] as provided in section 334-60.2. The petition shall be filed in the county where the individual resides and executed subject to [~~the~~] penalties [~~of perjury~~] provided by law but need not be sworn to before a notary public. The [~~attorney general, the attorney general's deputy, special deputy, or appointee designated to present the case~~] department of the attorney general shall assist the petitioner [~~to state~~] in stating the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of the [~~licensed physician, advanced practice registered nurse,~~] qualified psychiatric examiner or psychologist who has examined the [~~person~~] individual within two days before [~~submission of~~] the petition[~~,~~] is filed, unless the [~~person~~] individual whose commitment is sought has refused to submit to medical or psychological examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the [~~physician, advanced practice registered nurse,~~] qualified psychiatric examiner or psychologist to determine the [~~person~~] individual is in need of [~~care or~~] treatment[~~, or both,~~] and whether the [~~person~~] individual is capable of realizing and making a rational decision with respect to the [~~person's~~] individual's need for treatment. If the petitioner believes that further [~~evaluation~~] examination is necessary before commitment, the petitioner may request [~~such~~] further [~~evaluation.~~] examination.

(b) In the event the subject of the petition has been given an examination, evaluation, or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition may be accompanied by the administrator's certificate in lieu of a [~~physician's~~] qualified psychiatric examiner's or psychologist's certificate.

(c) The petition shall include the name, address, and telephone number of at least one of the following persons in the following order of priority: the subject of the petition's spouse or reciprocal beneficiary, legal parents, adult children, surrogate, and legal guardian [~~, if one has been appointed~~]. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult [~~children,~~] child, surrogate, or legal guardian, or if none can be found, notice shall be served on at least one of the subject's closest adult relatives, if any can be found."

SECTION 8. Section 334-60.4, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

"(a) The court shall set a hearing on the petition and notice of the time and place of the hearing shall be served in accordance with, and to those persons specified in, a current order of commitment. If there is no current order of commitment, notice of the hearing shall be served personally on the subject of the petition and served personally or by certified or registered mail, return receipt

requested, deliverable to the addressee only, on the subject's spouse or reciprocal beneficiary, legal parents, adult children, surrogate, and legal guardian[~~, if one has been appointed~~]. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult [~~children,~~] child, surrogate, or legal guardian, or if none can be found, notice of the hearing shall be served on at least one of the subject's closest adult relatives, if any can be found. Notice of the hearing to the subject's spouse or reciprocal beneficiary, legal parents, adult children, or closest adult relative may be waived if the subject of the petition is an adult and requests that these persons not be notified. Notice of the hearing shall also be served on the public defender, attorney for the subject of the petition, or other court-appointed attorney [~~as the case may be~~]. If the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition, if that person can be found within the State. Notice shall also be given to other persons as the court may designate.

(b) The notice shall include the following:

(1) The date, time, and place of the hearing[~~,~~]; a clear statement of the purpose of the proceedings and of possible consequences to the subject[~~;~~] of the petition; and a statement of the legal standard upon which commitment is authorized;

(2) A copy of the petition;

(3) A [~~written notice,~~] statement, in plain and simple language, that the subject may waive the hearing by voluntarily agreeing to hospitalization[~~,~~] or, with the approval of the court, to some other form of treatment;

(4) A filled-out form indicating [~~such~~] the waiver;

(5) A [~~written notice,~~] statement, in plain and simple language, that the subject or the subject's surrogate, guardian, or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if the subject has previously waived such a hearing;

(6) [~~Notice~~] A statement that the subject is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings; and

(7) [~~Notice~~] A statement that if the subject does not want to be represented by the public defender, the subject may contact the subject's own attorney[~~; and~~

~~(8) If applicable, notice that the petitioner intends to adduce evidence to show that the subject of the petition is an incapacitated or protected person, or both, under article V of chapter 560, and whether appointment of a guardian is sought at the hearing. If appointment of a guardian is to be recommended, and a nominee is known at the time the petition is filed, the identity of the nominee shall be disclosed~~].

(c) If the subject of the petition executes and files a waiver of the hearing, upon acceptance by the court following a court determination that the [~~person~~] subject understands the [~~person's~~] subject's rights and is competent to waive them, the court shall order the subject to be committed to a facility that has agreed to admit the subject as an involuntary patient or, if the subject is at such a facility, that the subject be retained there."

SECTION 9. Section 334-60.5, Hawaii Revised Statutes, is amended to read as follows:

"§334-60.5 Hearing on petition. (a) The court shall adjourn or continue a hearing for failure to timely notify the subject of the petition's spouse or

reciprocal beneficiary, legal [~~parents,~~] parent, adult [~~children,~~] child, surrogate, guardian, or relative, or other person determined by the court to be entitled to notice, or for failure by the subject to contact an attorney as provided in section 334-60.4(b)(7) unless the subject waived notice pursuant to section 334-60.4(a) or the court determines that the interests of justice require that the hearing continue without adjournment or continuance.

(b) The time and form of the procedure incident to hearing the issues in the petition shall be provided by court rule. Unless the hearing is waived, the judge shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by the subject of the petition, the subject's attorney, or those persons entitled to receive notice of the hearing under section 334-60.4.

(c) The subject of the petition shall be present at all hearings unless the subject waives the right to be present, is unable to attend, or creates conditions that make it impossible to conduct [~~the~~] a hearing in a reasonable manner as determined by the judge. A waiver is valid only upon acceptance by the court following a judicial determination that the subject understands the subject's rights and is competent to waive them, or is unable to participate. If the subject is unable to participate, the judge shall appoint a guardian ad litem or a temporary guardian as provided in article V of chapter 560, to represent the subject throughout the proceedings.

(d) Hearings may be held at any convenient place within the circuit. Hearings may be conducted by video conferencing unless the court determines personal appearance is necessary. The subject of the petition, any interested 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~~] subject's mental or physical condition.

(e) The [~~attorney general, the attorney general's deputy, special deputy, or appointee~~] department of the attorney general shall present the case for a petitioner for hearings convened under this chapter, [~~except that the attorney general, the attorney general's deputy, special deputy, or appointee need not participate in or be present at a hearing whenever~~] unless a petitioner [~~or some other appropriate person~~] has retained private counsel who will be present in court and will present to the court the case for involuntary hospitalization.

(f) Counsel for the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation[~~,~~] and shall be permitted to present the evidence that the counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to inpatient hospitalization.

(g) No individual may be found to require treatment in a psychiatric facility unless at least one [~~physician, advanced practice registered nurse,~~] qualified psychiatric examiner or psychologist who has personally examined the individual testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition [~~has refused~~] refuses to be examined by a [~~licensed physician, advanced practice registered nurse,~~] qualified psychiatric examiner or psychologist, the subject may be examined by a court-appointed [~~licensed physician, advanced practice registered nurse,~~] qualified psychiatric examiner or psychologist. If the subject refuses to be examined and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing the subject to a psychiatric facility for a period of no more than five days for the purpose of a diagnostic examination

[~~and evaluation~~]. The subject's refusal to be examined shall be treated as a denial that the subject is mentally ill or suffering from substance abuse. Nothing in this section shall limit the [~~individual's~~] subject's privilege against self-incrimination.

(h) The subject of the petition in a hearing under this section has the right to secure an independent [~~medical or psychological evaluation~~] examination and present evidence thereon.

(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that [~~an individual~~] a subject of a petition is not a person requiring medical, psychiatric, psychological, or other rehabilitative treatment or supervision, the court shall order that the [~~individual~~] subject be discharged if the [~~individual~~] subject has been hospitalized [~~prior to~~] before 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~~] section 334-60.2(2) and [~~334-60.2(3)~~] (3) have been met by clear and convincing evidence, the court may issue an order to any law enforcement officer to [~~deliver~~] transport the subject of the order 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~~] existing order. Notice of the subject's commitment and the facility name and location where the subject will be committed shall be provided to those persons entitled to notice pursuant to section 334-60.4. 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. The court shall forward to the Hawaii criminal justice data center all orders of involuntary civil commitment or information from all orders of involuntary civil commitment, as requested by the Hawaii criminal justice data center, which in turn shall forward the information to the Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant Criminal Background Check System database. The orders or information shall also be maintained by the Hawaii criminal justice data center for disclosure to and use by law enforcement officials for the purpose of firearms permitting, licensing, or registration pursuant to chapter 134. This subsection shall apply to all involuntary civil commitments without regard to the date of the involuntary civil commitment.

[~~(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.~~

~~(l)~~] (k) Persons entitled to notice [~~are~~] pursuant to this section shall also be entitled to be present in the courtroom for the hearing and to receive a copy of the hearing transcript or recording, unless the court determines that the interests of justice require otherwise."

SECTION 10. Section 334-60.7, Hawaii Revised Statutes, is amended to read as follows:

"**§334-60.7 Notice of intent to discharge.** (a) When the administrator, the administrator's deputy, or the attending physician of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334-60.2, the administrator, the administrator's deputy, or the attending physician shall provide notice of intent to discharge, or if the patient voluntarily agrees to further hospitalization, the administrator, the administrator's deputy, or the attending physician shall provide notice of the patient's admission to voluntary inpatient treatment. The following requirements and procedures shall apply:

(1) The notice and a certificate of service shall be filed with the family court and served on those persons whom the order of commitment specifies as entitled to receive notice, by mail at the person's last known address. [~~Notice~~] If the commitment resulted directly from legal proceedings under chapter 704 or 706, notice shall also be sent to the prosecuting attorney of the county from which the person was originally committed, by facsimile or electronically, for the sole purpose of victim notification; and

(2) Any person specified as entitled to receive notice may waive this right in writing with the psychiatric facility[~~;~~

~~(3) If no objection is filed within five calendar days of mailing the notice, the administrator or attending physician of the psychiatric facility shall discharge the patient or accept the patient for voluntary inpatient treatment;~~

~~(4) If any person specified as entitled to receive notice files a written objection, with a certificate of service, to the discharge or to the patient's admission to voluntary inpatient treatment on the grounds that the patient is a proper subject for commitment, the family court shall conduct a hearing as soon as possible, prior to the termination of the current commitment order, to determine if the patient still meets the criteria for involuntary hospitalization in section 334-60.2. The person filing the objection shall also notify the psychiatric facility by telephone on the date the objection is filed;~~

~~(5) If the family court finds that the patient does not meet the criteria for involuntary hospitalization in section 334-60.2, the court shall issue an order of discharge from the commitment; and~~

~~(6) If the family court finds that the patient does meet the criteria for involuntary hospitalization in section 334-60.2, the court shall issue an order denying discharge from the commitment~~].

(b) For civil commitments that do not result directly from legal proceedings under [~~chapters~~] chapter 704 [~~and~~] or 706, when the administrator, the administrator's deputy, or the attending physician of a psychiatric facility contemplates discharge of an involuntary patient, the administrator, the administrator's deputy, or the attending physician [~~may~~] shall assess whether an assisted community treatment plan is indicated pursuant to section 334-123 and, if so indicated, may communicate with an aftercare provider as part of discharge planning, as appropriate."

SECTION 11. Section 334-76, Hawaii Revised Statutes, is amended to read as follows:

"**§334-76 Discharge from custody.** (a) Subject to any special requirements of law as provided in sections 704-406, 704-411, and 706-607 or elsewhere, with respect to patients committed on court order from a criminal proceeding, the administrator of a psychiatric facility, the administrator's deputy, or the attending physician, pursuant to section 334-60.7, shall:

(1) Send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to those persons specified in the order of commitment as entitled to receive notice of intent to discharge, by mail at their last known address; and

(2) [~~Send~~] In cases where the commitment directly resulted from legal proceedings under chapter 704 or 706, send a notice of intent to discharge or notice of the patient's admission to voluntary inpatient treatment to the prosecuting attorney of the county from which the person was originally committed, by facsimile or electronically.

(b) The administrator [~~or~~], the administrator's deputy, or the physician assuming medical responsibility for the patient shall discharge an involuntary patient when the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334-60.2.

(c) Nothing in this section shall preclude a psychiatric facility from accepting for voluntary inpatient treatment, in accordance with the procedures in section 334-60.1, a patient for whom the facility contemplates discharge pursuant to section 334-60.7 and who voluntarily agrees to further hospitalization after the period of commitment has expired or where the patient is no longer a proper subject for commitment."

SECTION 12. Section 334-121, Hawaii Revised Statutes, is amended to read as follows:

"**§334-121 Criteria for assisted community treatment.** [~~A person~~] An individual may be ordered to obtain assisted community treatment if the family court finds, based on the professional opinion of a [~~psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization,~~] qualified psychiatric examiner, that:

(1) The [~~person~~] individual is mentally ill or suffering from substance abuse;

(2) The [~~person~~] individual is unlikely to live safely in the community without available supervision, is now in need of treatment in order to prevent a relapse or deterioration that would predictably result in the [~~person~~] individual becoming imminently dangerous to self or others, and the [~~person's~~] individual's current mental status or the nature of the [~~person's~~] individual's disorder limits or negates the [~~person's~~] individual's ability to make an informed decision to voluntarily seek or comply with recommended treatment;

(3) The [~~person~~] individual has a:

(A) Mental illness that has caused that [~~person~~] individual to refuse needed and appropriate mental health services in the community; or

(B) History of lack of adherence to treatment for mental illness or substance abuse that resulted in the [~~person~~] individual becoming dangerous to self or others and that now would predictably result in the [~~person~~] individual becoming imminently dangerous to self or others; and

(4) Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the [~~person,~~] individual, is medically appropriate, and is in the [~~person's~~] individual's medical interests."

SECTION 13. Section 334-121.5, Hawaii Revised Statutes, is amended to read as follows:

"§334-121.5 Examination for assisted community treatment indication. A [~~licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner associated with the [~~licensed~~] psychiatric facility where a [~~person~~] patient is located who was committed to involuntary hospitalization, delivered for emergency examination or emergency hospitalization, or voluntarily admitted to inpatient treatment at a psychiatric facility pursuant to part IV shall, before the [~~person's~~] patient's discharge, examine the [~~person~~] patient to determine whether an assisted community treatment plan is indicated pursuant to this part. If a plan is indicated, the [~~psychiatrist or advanced practice registered nurse~~] qualified psychiatric examiner shall prepare the certificate specified by section 334-123. The department of the attorney general shall assist with the preparation and filing of any petition brought pursuant to section 334-123 and with the presentation of the case at any related court proceedings; provided that, if the petitioner is a private provider or other private individual, the petitioner may decline the assistance. The psychiatric facility may notify another mental health program for assistance with the coordination of care in the community for the person. Nothing in this section shall delay the appropriate discharge of a [~~person~~] patient from the psychiatric facility after the examination for assisted community treatment indication has been completed."

SECTION 14. Section 334-122, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

""Assisted community treatment provider" means a mental health provider, which may include a qualified psychiatric examiner or a mental health program, that is or will be responsible, in accordance with an assisted community treatment order, for the coordination, management, or administration of a subject of the order's treatment.

"Mental health program" means a hospital, psychiatric facility, clinic, or other facility providing mental health treatment to individuals suffering from mental illness or substance abuse."

2. By amending the definition of "assisted community treatment" to read:

""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~~] subject of the order's disorder or disability, maintain or maximize semi-independent functioning, or 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."

3. By amending the definitions of "subject of the order" and "subject of the petition" to read:

""Subject of the order" means [~~a person~~] an individual who has been ordered by the court to obtain assisted community treatment.

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

4. By deleting the definition of "advanced practice registered nurse".

[~~""Advanced practice registered nurse" means a registered nurse licensed to practice in this State who:~~

~~(1) Has met the qualifications set forth in chapter 457 and this part;~~

~~(2) Because of advanced education and specialized clinical training, is authorized to assess, screen, diagnose, order, utilize, or perform medical, therapeutic, preventive, or corrective measures;~~

~~(3) Holds an accredited national certification in an advanced practice registered nurse psychiatric specialization; and~~

~~(4) Holds prescriptive authority pursuant to section 457-8.6.~~"]

5. By deleting the definition of "treating psychiatrist".

[~~""Treating psychiatrist" means the psychiatrist who is responsible for the management and supervision of a person's treatment under order of the court.~~"]

SECTION 15. Section 334-123, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) The petition may be accompanied by a certificate of a [~~licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner who has examined the subject of the petition in person within twenty calendar days before the filing of the petition. For purposes of the petition, an examination shall be considered valid so long as the [~~licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner has obtained enough information from the subject of the petition and has had face-to-face contact to reach a diagnosis of the subject of the petition, and to express a professional opinion concerning the same, even if the subject of the petition is not fully cooperative. If the petitioner believes that further [~~evaluation~~] examination is necessary before treatment, the petitioner may request further [~~evaluation.~~] examination.

(d) The petition shall include the name of a proposed assisted community treatment provider and the name, address, and telephone number of at least one of the following persons in the following order of priority: the subject of the petition's spouse or reciprocal beneficiary, legal parents, adult children, [~~and~~] surrogate, or legal guardian[~~, if one has been appointed~~]. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult [~~children,~~] child, surrogate, or legal guardian, or if none can be found, the petition shall include the name, address, and telephone number of at least one of the subject's closest adult relatives, if any can be found."

SECTION 16. 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, and any subsequent hearing dates for the petition, as soon as possible[~~.~~] but no later than ten days after the filing of the petition. A hearing on the petition may be continued pending further examination of the subject of the petition, for the appointment of a guardian ad litem, or for good cause."

SECTION 17. Section 334-125, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Notice of the hearing under this part shall be:

(1) Served personally on the subject of the petition pursuant to family court rules;

(2) Served personally or 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,~~] parent, adult [~~children,~~] child, surrogate, and legal guardian[~~, if one has been appointed~~]. If the subject of the petition has no living spouse or reciprocal beneficiary, legal parent, adult [~~children,~~] child, surrogate, or legal guardian, or if none can be found, notice of the hearing shall be served on at least one of the subject's closest adult relatives, if any can be found;

(3) Served on the guardian ad litem appointed for the subject of the petition [~~or the subject's existing guardian, if the court determines the existence of one;~~] as provided in section 334-123.5;

(4) Served on the attorney for the subject of the petition, if applicable; [~~and~~]

(5) Served on the assisted community treatment provider proposed in the petition, unless the petitioner is also the proposed assisted community treatment provider; and

[~~(5)~~] (6) Given to other persons as the court may designate."

2. By amending subsection (c) to read:

"(c) Notice [~~of all subsequent hearings shall be served in accordance with subsections (a) and (b), and in accordance with all applicable family court rules relating to service of notice, including that service need not be made on parties in default for failure to appear.~~] to the subject of the petition's spouse or reciprocal beneficiary, legal parent, adult child, or closest adult relative may be waived if the subject is an adult and requests that these persons not be notified."

SECTION 18. Section 334-126, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) No subject of the petition shall be ordered to receive assisted community treatment unless at least one [~~psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization testifies in person at the hearing~~] qualified psychiatric examiner who has personally [~~assessed~~] examined the subject[~~,~~] within a reasonable time before the filing of the petition [~~up to the time when the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] provides oral testimony at [~~court.~~] the hearing. The [~~testimony of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner shall [~~state~~] provide the facts [~~which~~] that support the allegation that the subject meets all the criteria for assisted community treatment, provide a written treatment plan, which shall include non-mental health treatment if appropriate, provide the rationale for the recommended treatment, and identify the [~~designated mental health program responsible for the coordination of care.~~] assisted community treatment provider.

If the recommended assisted community treatment includes medication, the testimony [~~of~~] provided by the [~~psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner shall describe the types or classes of medication [~~which~~] that should be authorized, and describe the physical and mental beneficial and detrimental effects of [~~such~~] the medication."

SECTION 19. Section 334-127, Hawaii Revised Statutes, is amended to read as follows:

"**§334-127 Disposition.** (a) If, after [~~hearing~~] considering all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the subject of the petition does not meet the criteria for assisted community treatment, the family court shall dismiss the petition. Notice of the dismissal shall be provided to those persons entitled to notice pursuant to section 334-125.

(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 334-121(2) to (4) have been met by clear and convincing evidence, the family court shall order the subject to obtain assisted community treatment for a period of no more than two years. The written treatment plan submitted pursuant to section 334-126(g) 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 or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization.~~] assisted community treatment provider.

The court order shall [~~also~~] state who should receive notice of intent to discharge early in the event that the [~~treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] assisted community treatment provider determines, before the end of the court ordered period of treatment, that the subject should be discharged early from assisted community treatment.

Notice of the order shall be provided to the director, the [~~interested party who filed the petition,~~] petitioner, and those persons entitled to notice pursuant to section 334-125.

(c) The family court shall also designate on the order the [~~treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization who is to be responsible for the management and supervision of the subject's treatment, or shall assign an administrator of a designated mental health program to, in turn, designate the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization during the treatment period without court approval, and may designate either a publicly employed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, or a private psychiatrist or advanced practice registered nurse with prescriptive~~

~~authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization; provided that the private psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall agree to the designation. The order for assisted community treatment shall be subject to the Health Care Privacy Harmonization Act, chapter 323B.~~] assisted community treatment provider.

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

SECTION 20. Section 334-129, Hawaii Revised Statutes, is amended to read as follows:

"§334-129 Failure to comply with assisted community treatment. (a) A [~~treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] qualified psychiatric examiner may prescribe or administer to the subject of the order reasonable and appropriate medication or medications, if specifically authorized by [~~the~~] a court order, and treatment that is consistent with accepted medical standards and the [~~family~~] court order, including the written treatment plan submitted pursuant to section 334-126(g)[~~.~~], in accordance with the procedures described in subsection (b).

(b) [~~No subject of the order shall be physically forced to take medication under a family court order for assisted community treatment unless the subject is within an emergency department or admitted to a hospital, subsequent to the date of the current assisted community treatment order.~~] A qualified psychiatric examiner may administer medication or medications specifically authorized by a court order to a subject of the order over objection of the subject during emergency examination or hospitalization under part IV, subpart A or while committed for involuntary hospitalization under part IV, subpart C.

(c) A subject of the order may be transported to [~~a designated mental health program, or a hospital emergency department,~~] a psychiatric facility or other facility designated by the director 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.~~] 334-E(b).

(d) The [~~designated mental health program's treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization or designee of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] assisted community treatment provider 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 or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] assisted community treatment provider shall [~~assess whether the subject of the order meets criteria for involuntary hospitalization~~[1] ~~under part IV of this chapter, and~~] proceed [~~with the admission pursuant to section~~ [~~2~~]~~334-59(a)(2) or (3);~~] pursuant to section 334-D or 334-E; provided that the refusal of treatment shall not, by itself, constitute a basis for involuntary hospitalization.

(e) Notice of any transport or [~~admission~~] hospitalization under this section shall be provided pursuant to section [~~334-59.5.~~] 334-H."

SECTION 21. Section 334-130, Hawaii Revised Statutes, is amended to read as follows:

"§334-130 Period of assisted community treatment. (a) [~~The~~] Unless a family court orders otherwise, 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.

(b) A subject of [~~assisted community treatment is~~] the order shall be automatically and fully discharged at the end of the family [~~court ordered~~] court-ordered period of treatment[~~,~~] pursuant to an assisted community treatment order, a period of no more than two years, 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 [~~f~~]of[~~f~~] an existing court order."

SECTION 22. Section 334-131, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) When the [~~treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] assisted community treatment provider contemplates discharge for a subject of the order because of the imminent 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 or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization~~] assisted community treatment provider shall provide notice of intent to discharge."

SECTION 23. Section 334-161, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A patient who has been committed to a psychiatric facility for involuntary hospitalization or who is in the custody of the director and residing in a psychiatric facility may be ordered to receive treatment over the patient's objection, including the taking or application of medication, if the court, or administrative [~~panel~~] decision-maker through the administrative authorization process established pursuant to section 334-162, finds that:

(1) The patient suffers from a physical or mental disease, disorder, or defect;
(2) The patient is imminently dangerous to self or others;
(3) The proposed treatment is medically appropriate; and
(4) After considering less intrusive alternatives,

treatment is necessary to forestall the danger posed by the patient."

SECTION 24. Section 334-162, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A patient who is in the custody of the director and in a psychiatric facility may be ordered to receive medical treatment over the patient's objection through an administrative authorization process that includes the following due process safeguards:

(1) The facility shall give notice to the patient of the authorization process and the reasons for initiating the process;
(2) The administrative [~~panel shall consist of three members~~] decision-maker, who shall be a psychiatrist with relevant clinical training and experience, and who [~~are~~] is not involved with the current treatment of the patient[~~;~~], shall, after considering all relevant evidence, determine whether the criteria under section 334-161 are met;
(3) The patient shall have the right to attend the hearing, receive assistance from an advisor, cross examine witnesses, and present testimony, exhibits, and witnesses; and
(4) The patient shall have the right to appeal the decision of the administrative [~~panel.~~] decision-maker."

SECTION 25. Section 334E-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any patient in a psychiatric facility shall be afforded rights, and any psychiatric facility shall provide the rights to all patients; provided that when a patient is not able to exercise the patient's rights, the patient's legal guardian or legal representative shall have the authority to exercise the same on behalf of the patient. The rights shall include but not be limited to the following:

(1) Access to written rules and regulations with which the patient is expected to comply;
(2) Access to the facility's grievance procedure or to the department of health as provided in section 334-3;
(3) Freedom from reprisal;
(4) Privacy, respect, and personal dignity;
(5) A humane environment;
(6) Freedom from discriminatory treatment based on race, color, creed, national origin, age, and sex;
(7) A written treatment plan based on the individual patient;
(8) Participation in the planning of the patient's treatment plan;
(9) Refusal of treatment except in emergency situations or when a court order or an administrative order pursuant to chapter 334, part VIII or X, has been issued;
(10) Refusal to participate in experimentation;
(11) The choice of physician if the physician chosen agrees;
(12) A qualified, competent staff;
(13) A medical examination before initiation of non-emergency treatment;
(14) Confidentiality of the patient's records;
(15) Access to the patient's records;
(16) Knowledge of rights withheld or removed by a court or by law;
(17) Physical exercise and recreation;
(18) Adequate diet;
(19) Knowledge of the names and titles of staff members with whom the patient has frequent contact;
(20) The right to work at the facility and fair compensation for work done; provided that work is available and is part of the patient's treatment plan;
(21) Visitation rights, unless the patient poses a danger to self or others; provided that where visitation is prohibited, the legal guardian or legal representative shall be allowed to visit the patient upon request;
(22) Uncensored communication;
(23) Notice of and reasons for an impending transfer;
(24) Freedom from seclusion or restraint, except:

(A) When necessary to prevent injury to self or others;
(B) When part of the treatment plan; or
(C) When necessary to preserve the rights of other patients or staff;

(25) Disclosure to a court, at an involuntary civil commitment hearing, of all treatment procedures [~~which~~] that have been administered [~~prior to~~] before the hearing; and

(26) Receipt by the patient and the patient's guardian or legal guardian, if the patient has one, of this enunciation of rights at the time of admission."

SECTION 26. Section 586-5.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate, including, in the case where a protective order restrains any party from contacting, threatening, or physically abusing a minor, a fixed reasonable period extending to a date after the minor has reached eighteen years of age.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. If the court finds that the party meets the requirements under section [~~334-59(a)(2),~~] 334-D, the court [~~further~~] may further order that the party be taken to the nearest facility for emergency examination and treatment."

SECTION 27. Section 334-59, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 334-59.5, Hawaii Revised Statutes, is repealed.

SECTION 29. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 30. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 31. In codifying the new sections added by sections 2, 3, and 4 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 32. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.[3]

SECTION 33. This Act shall take effect upon its approval.

(Approved June 25, 2025.)

Notes

1. Prior to amendment, "admission to a psychiatric facility", not "involuntary hospitalization", appeared here.
2. Prior to amendment, no bracket appeared here.
3. Edited pursuant to HRS §23G-16.5.