

Hawaii State Guidance

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Statutory basis and key terms

Hawaii Revised Statutes Title 19, Chapter 334

Follow this link to read the Statutes in full here:

https://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0334/

Key definitions

“Assisted community treatment” is a court-ordered plan that helps someone get intensive mental health support while living in the community. It may include medication, therapy, day programs, education or job training, housing support, and other services that improve stability, independence, and safety while preventing hospitalization or jail.

“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 the order’s treatment.

“Authorized health care provider” means a licensed physician, advanced practice registered nurse, or psychologist.

“Crisis intervention officer” means a law enforcement officer who has been trained and certified to recognize impairment from a behavioral health condition.

“Dangerous to others” means likely to do substantial physical or emotional injury to another, as evidenced by a recent act, attempt, or threat.

“Dangerous to property” means causing, attempting, or threatening to cause damage to any property in a manner that constitutes a crime, as evidenced by a recent act, attempt, or threat.

“Dangerous to self” means the person has recently:

- Threatened or attempted suicide or serious bodily harm; or
- Behaved in a way as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, including treatment for a mental illness, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result without adequate treatment.

“Ex parte” means a situation where a judge decides or acts after hearing from only one party,

usually because something is urgent and cannot wait for a full hearing.

“Guardian” means a person who has qualified as a guardian of an incapacitated person pursuant to appointment by the court. The term includes a limited, emergency, and temporary substitute guardian but not a guardian ad litem.

“Guardian ad litem” means a neutral representative appointed by the court to represent the best interests of someone who may be unable to advocate for themselves. The guardian ad litem investigates the situation and gives the court recommendations they believe are in the best interests of the individual.

“Health care provider” means an individual or entity licensed, certified, or otherwise authorized or permitted by law to provide medical or health services in the ordinary course of business or practice of a profession.

“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.

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

“Judge” means any judge of Family Court or per diem judge appointed by the chief justice.

“Law enforcement officer” means any public servant, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

“Mental health emergency worker” means a person designated by the department to provide crisis intervention and emergency stabilization services and to assist in determining whether a mentally ill person is likely to meet the criteria for emergency admission and examination.

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

“Person with mental illness” means a person having psychiatric disorder or other disease which substantially impairs the person’s mental health and necessitates treatment or supervision.

“Patient” means an individual under observation, care, or treatment at a psychiatric facility or other facility designated by the director.

“Person suffering from substance use” means a person who uses narcotic, stimulant, depressant, or hallucinogenic drugs or alcohol to an extent which interferes with the person’s personal, social, family, or economic life.

“Petitioner” means a person who files a petition with the court.

“Psychiatric facility” means a public or private hospital, or a part of one, that provides care and treatment for people with mental illness or those suffering from substance use.

“Treatment” means the broad range of emergency, outpatient, 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 that may be extended to an individual with a disability.

“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.

Key abbreviations

- Law enforcement officer (LEO)
- Advanced practice registered nurse (APRN)
- Assisted community treatment (ACT)

Emergency evaluation

Criteria for emergency evaluation

Has mental illness or is suffering from substance use *and* is imminently dangerous to self or others.

Who can initiate an emergency evaluation?

Four groups of people can initiate emergency evaluation, and the process differs based on who initiates, and, in the case of overlap between groups, how emergency evaluation is initiated.

- Group one:
 - Authorized health care provider, physician assistant, or clinical social worker.
- Group two:
 - Authorized health care provider.

- Attorney, member of the clergy, health or social service professional, any state or county employee in the course of employment.
- Group three:
 - Law enforcement officers (LEO).
- Group four:
 - Crisis intervention officers.

Group one: Authorized health care provider, physician assistant, or clinical social worker

How? Determine, upon examination, that the individual meets criteria and write a statement of circumstances and reasons necessitating emergency examination.

What do they initiate? May direct a law enforcement officer to detain and transport the individual by ambulance or other suitable means to a facility for examination.

Where does the proposed patient go? Psychiatric facility or other facility designated by the director of health.

What's the time limit for the response? There is no time limit prescribed for LEO, court, or the mental health emergency worker's response.

What happens? Those performing emergency transport must coordinate the transport with the mental health emergency worker.

What's next? A licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or APRN will conduct an initial examination and screening of the patient to determine whether the individual meets criteria for involuntary hospitalization (see "inpatient treatment" below) and administer treatment as indicated by good medical practice. If so, a qualified psychiatric examiner will further examine the patient 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 the patient continues to meet the criteria for involuntary hospitalization.

If no initial examination and screening of the patient is conducted, a qualified psychiatric examiner must proceed with their emergency examination without unnecessary delay and provide the patient with treatment as indicated by good medical practice.

If, following an emergency examination, the qualified psychiatric examiner determines that the individual meets criteria, they must hospitalize the patient on an emergency basis.

If, following an emergency examination, or at any time during the period of emergency hospitalization, the qualified psychiatric examiner determines that the patient does not meet inpatient criteria, they must examine the patient to determine if they meet outpatient criteria (see “outpatient treatment” below), unless the patient is already a participant. If the patient is not a candidate for outpatient treatment, they must be discharged without delay.

Time duration of the hold? Up to 72 hours. The individual may be held longer if they voluntarily agree or a proceeding for court-ordered evaluation or hospitalization (see “inpatient treatment” below) is initiated.

Who decides whether to continue to a hearing? To proceed to a hearing, an authorized party must petition for inpatient or outpatient treatment, as provided below.

Is there a form? MH-3: [Application for Emergency Transportation Initiated by a Health Care Provider \(MH-3 Application Form Fillable\) \(PDF\)](#)

Group two: Authorized health care provider, attorney, member of the clergy, health or social service professional, any state or county employee in the course of employment

How? Make a written or oral application to a judge for an ex parte order for emergency examination.

What do they initiate? Will initiate judicial review for probable cause.

Where does the proposed patient go? Nowhere before court review.

What’s the time limit for the response? There is no time limit prescribed for LEO, court, or the mental health emergency worker’s response.

What happens? The judge will review the application for probable cause. If probable cause is found, the judge may issue an ex parte order directing that a law enforcement take the individual into custody and transport them directly to a psychiatric facility, or a facility designated by the director of health.

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

What’s next? A licensed physician, medical resident under the supervision of a licensed

physician, physician assistant, psychologist, or APRN will conduct an initial examination and screening of the patient to determine whether the individual meets criteria for involuntary hospitalization (see “inpatient treatment” below) and administer treatment as indicated by good medical practice. If so, a qualified psychiatric examiner will further examine the patient 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 the patient continues to meet the criteria for involuntary hospitalization.

If no initial examination and screening of the patient is conducted, a qualified psychiatric examiner must proceed with their emergency examination without unnecessary delay and provide the patient with treatment as indicated by good medical practice.

If, following an emergency examination, the qualified psychiatric examiner determines that the individual meets criteria, they must hospitalize the patient on an emergency basis.

If, following an emergency examination, or at any time during the period of emergency hospitalization, the qualified psychiatric examiner determines that the patient does not meet inpatient criteria, they must examine the patient to determine if they meet outpatient criteria (see “outpatient treatment” below), unless the patient is already a participant. If the patient is not a candidate for outpatient treatment, they must be discharged without delay.

Time duration of the hold? Up to 72 hours. The individual may be held longer if they voluntarily agree or a proceeding for court-ordered evaluation or hospitalization (see “inpatient treatment” below) is initiated.

Who decides whether to continue to a hearing? To proceed to a hearing, an authorized party must petition for inpatient or outpatient treatment, as provided below.

Is there a form? MH-2: [Application for Emergency Examination and Treatment \(Microsoft Word\)](#)

Group three: Law enforcement officer (LEO)

How? Have reasonable suspicion that an individual meets the criteria.

What do they initiate? Must contact a mental health emergency worker.

Where does the proposed patient go? Nowhere before determination by a mental health emergency worker that the person meets criteria.

If the LEO is unable to reach a mental health emergency worker by telephone after three attempts and has reason to believe the situation requires immediate intervention to prevent

harm, the LEO may temporarily hold the person if they document the reasons necessitating the intervention and contact the mental health emergency worker at the earliest time possible.

If the mental health emergency worker determines the individual meets criteria, the LEO must hold the individual for transportation to a facility for emergency examination.

What's the time limit for the response? There is no time limit prescribed for LEO, court, or the mental health emergency worker's response.

What happens? The individual is transported directly to a psychiatric facility or other facility designated by the director, as determined by a mental health emergency worker.

The officer must 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.

What's next? A licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or APRN will conduct an initial examination and screening of the patient to determine whether the individual meets criteria for involuntary hospitalization (see "inpatient treatment" below) and administer treatment as indicated by good medical practice. If so, a qualified psychiatric examiner will further examine the patient 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 the patient continues to meet the criteria for involuntary hospitalization.

If no initial examination and screening of the patient is conducted, a qualified psychiatric examiner must proceed with their emergency examination without unnecessary delay and provide the patient with treatment as indicated by good medical practice.

If, following an emergency examination, the qualified psychiatric examiner determines that the individual meets criteria, they must hospitalize the patient on an emergency basis.

If, following an emergency examination, or at any time during the period of emergency hospitalization, the qualified psychiatric examiner determines that the patient does not meet inpatient criteria, they must examine the patient to determine if they meet outpatient criteria (see "outpatient treatment" below), unless the patient is already a participant. If the patient is not a candidate for outpatient treatment, they must be discharged without delay.

Time duration of the hold? Up to 72 hours. The individual may be held longer if they voluntarily agree or a proceeding for court-ordered evaluation or hospitalization (see "inpatient treatment" below) is initiated.

Who decides whether to continue to a hearing? To proceed to a hearing, an authorized party must petition for inpatient or outpatient treatment, as provided below.

Is there a form? MH-1: Application for Emergency Examination and Hospitalization (it is unclear if a statewide form is available online)

Group four: Crisis intervention officer

How? Have probable cause to believe that an individual meets the criteria.

What do they initiate? Must hold the individual for transportation to a facility for an emergency examination.

Where does the proposed patient go? The crisis intervention officer must contact a mental health emergency worker to determine the type of psychiatric facility or other facility designated by the director of health where the individual should be transported.

What's the time limit for the response? There is no time limit prescribed for LEO, court, or the mental health emergency worker's response.

What happens? The individual is transported directly to a psychiatric facility or other facility designated by the director, as determined by a mental health emergency worker.

The officer must 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.

What's next? A licensed physician, medical resident under the supervision of a licensed physician, physician assistant, psychologist, or APRN will conduct an initial examination and screening of the patient to determine whether the individual meets criteria for involuntary hospitalization (see "inpatient treatment" below) and administer treatment as indicated by good medical practice. If so, a qualified psychiatric examiner will further examine the patient 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 the patient continues to meet the criteria for involuntary hospitalization.

If no initial examination and screening of the patient is conducted, a qualified psychiatric examiner must proceed with their emergency examination without unnecessary delay and provide the patient with treatment as indicated by good medical practice.

If, following an emergency examination, the qualified psychiatric examiner determines that the individual meets criteria, they must hospitalize the patient on an emergency basis.

If, following an emergency examination, or at any time during the period of emergency hospitalization, the qualified psychiatric examiner determines that the patient does not meet inpatient criteria, they must examine the patient to determine if they meet outpatient criteria (see “outpatient treatment” below), unless the patient is already a participant. If the patient is not a candidate for outpatient treatment, they must be discharged without delay.

Time duration of the hold? Up to 72 hours. The individual may be held longer if they voluntarily agree or a proceeding for court-ordered evaluation or hospitalization (see “inpatient treatment” below) is initiated.

Who decides whether to continue to a hearing? To proceed to a hearing, an authorized party must petition for inpatient or outpatient treatment, as provided below.

Is there a form? MH-1: Application for Emergency Examination and Hospitalization (it is unclear if a statewide form is available online)

Inpatient treatment

Referred to as “involuntary hospitalization”

Criteria for involuntary treatment:

All the following:

- Has mental illness or is suffering from substance use;
- Is imminently dangerous to self or others; *and*
- Is in need of care or treatment, or both, and there is no suitable alternative through existing facilities and programs that would be less restrictive than hospitalization.

Who can initiate involuntary treatment?

Any person can initiate involuntary treatment, and the process does not differ based on who initiates.

Any person

How? File a petition with the court in the county where the person who may need treatment resides.

The [Department of the Attorney General](#) shall assist the petitioner in stating the substance of the petition in plain and simple language and present the case at any related hearings.

(The statute is not clear which court has jurisdiction over inpatient civil commitment. However,

it appears from public information that Family Court hears these matters.)

Required documentation?

Either:

- Certificate of examination by a qualified psychiatric examiner or psychologist who examined the person within the last two days, *or*
- A statement that the person refused examination.

If the person was given an examination, evaluation, or treatment in a psychiatric facility within the past five days, and the facility staff recommended hospitalization, the facility administrator's certificate can be submitted in lieu of a qualified psychiatric examiner or psychologist's certificate.

The petition may include a request for further examination.

What's next? The court will schedule a hearing as soon as possible within ten days of the filing of the petition. The court may reasonably delay the hearing for good cause.

The person who may need treatment may waive the hearing subject to acceptance by the court following a determination that the person understands their rights and is competent to waive them. If the court accepts this waiver, it will order the person to receive inpatient treatment at a facility that has agreed to admit the person as an involuntary patient.

If the person has refused examination, the court may order the person to be examined by a court-appointed qualified psychiatric examiner or psychologist before the hearing. If the person continues to refuse the examination and there is sufficient evidence to believe that the person meets criteria, 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.

If the person is unable to participate in the hearing, the court must appoint a guardian ad litem or a temporary guardian to represent the person throughout the proceedings.

If, after hearing all relevant evidence, the court finds that the person has mental illness or is suffering from substance use beyond a reasonable doubt and finds the remaining criteria by clear and convincing evidence, it may issue an order to any law enforcement officer to 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 90 days unless sooner discharged.

Who issues the treatment order? The court. (The statute is not clear which court has

jurisdiction over inpatient civil commitment. However, it appears from public information that Family Court hears these matters.)

Who makes discharge decisions? The administrator, the administrator's deputy, or the physician assuming medical responsibility for the patient.

Family Court in the circuit in which the psychiatric facility is located upon a hearing on a request for judicial review by the patient or, on the patient's behalf, any member of the patient's family, relative, friend, or responsible person.

Is there a form? It is unclear if there is a statewide form available. The family division of the [Department of the Attorney General](#) is tasked with assisting petitioners and can provide further guidance.

Outpatient treatment

Referred to as "assisted community treatment or ACT"

Criteria for inpatient treatment:

Mentally ill person subject to involuntary commitment.

Criteria for outpatient treatment:

All the following:

- The person has mental illness or is suffering from substance use;
- The person cannot safely live in the community without supervision, needs treatment to prevent a likely relapse or deterioration that would predictably result in the person becoming imminently dangerous to self or others, and the person is unable to make an informed decision to voluntarily seek or comply with recommended treatment due to their current mental state or the nature of their illness.
- The person has a:
 - Mental illness that has caused that person to refuse needed and appropriate mental health services in the community; or
 - History of not adhering to recommended treatment for mental illness or substance use that resulted in the person becoming dangerous to self or others and that now would predictably result in their becoming imminently dangerous to self or others; and
- ACT is essential to prevent the danger posed by the person, is medically appropriate, and is in the person's medical interests.

When can outpatient treatment be court ordered?

Upon discharge from the hospital or from a community setting. A qualified psychiatric examiner must examine a patient receiving inpatient treatment to determine if an assisted community treatment plan is appropriate.

Who can initiate inpatient or outpatient treatment?

Any interested party (*see definitions*).

How? File a petition with [Family Court](#) in the county where the person who may need treatment is present.

The [Department of the Attorney General](#) will assist with the preparation of and filing for the petition and with the presentation of the case at any related court proceedings. If the petitioner is a private provider or other private individual, the petitioner may decline assistance.

Required documentation? The petition must include the name of a proposed ACT provider.

The petition may be accompanied by:

- A certificate of a qualified psychiatric examiner who has examined the person who may need treatment within the past 20 days.
- A request for further examination.

When can outpatient be ordered? Upon discharge from the hospital or from a community setting. The court has the authority to enter an order for outpatient treatment at any time as an alternative to any inpatient treatment order.

What's next? Family Court will set a hearing date as soon as possible within ten days of the filing of the petition. The court may delay the hearing pending further examination of the person, for the appointment of a guardian ad litem, or for good cause.

Family Court, upon receipt of the petition, must determine the existence of a guardian and if none, must appoint a guardian ad litem to represent the best interests of the subject of the petition throughout the duration of the proceedings.

At least one qualified psychiatric examiner must personally examine the person within a reasonable time before the hearing. This examiner must provide oral testimony at the hearing to support their opinion that the person meets the criteria. The examiner must additionally provide a written treatment plan, the rationale for the recommended treatment, and identify the assisted community treatment provider.

If, after hearing all relevant evidence, the court finds that the person has mental illness or is suffering from substance use beyond a reasonable doubt and finds the remaining criteria by clear and convincing evidence, it must order the person participate in assisted community treatment for a length of time set by the court, not to exceed two years.

The written treatment plan will be made part of the order. The order will also state who should receive notice of intent to discharge early in the event that the assisted community treatment provider determines, before the end of the court ordered period of treatment, that the patient should be discharged early.

Who issues the treatment order? Family Court.

Who supervises the outpatient treatment plan? Family Court will designate the ACT provider who will administer and supervise the treatment plan.

How long can the first treatment order last? Up to two years.

What's the discharge process? *Initiated by provider:*

When the ACT provider contemplates discharge of the patient because of the imminent expiration of the court order or because the patient is no longer a proper subject for ACT, the ACT provider must provide notice of intent to discharge.

This notice must be filed with Family Court that issued the order and served by personal service or by certified mail on the interested party who filed the petition and those persons whom the order for ACT specifies as entitled to receive notice. This notice must be mailed at least ten days prior to the intended date of discharge.

If any person entitled to receive notice files a written objection with the court on the grounds that the patient continues to meet the criteria, the court must hold a hearing to determine if the person continues to meet criteria.

If no objection is filed, or the court finds that the person no longer meets the criteria, the person will be discharged.

If the court finds that the person continues to meet the criteria, it will order the person to continue the unexpired period of treatment.

The patient is automatically discharged at the end of the treatment period set by the court, unless the order has been renewed (*see below*) or the patient accepts the extension.

Initiated by any person:

Any person may petition the Family Court to end an ACT order. This request may be made after 60 days have passed since the most recent court hearing involving the person subject to the order.

The request must be filed with the court and handled in the same way as the original ACT petition. This includes determining whether the person has a guardian, appointing a guardian ad litem if required, providing proper notice, holding a court hearing, and issuing a court order using the same procedures that apply when deciding whether someone meets the criteria for ACT.

What's the renewal process? The patient may agree to continue an existing order.

Before the expiration of the order, any interested party (*see definitions*) may petition Family Court for an order of continued ACT. The Department of the Attorney General shall help prepare and file any petition submitted under this section and shall assist in presenting the case at any related court proceedings. However, if the person filing the petition is a private provider or another private individual, that person may choose not to use the Department's assistance.

The petition must be filed and processed in the same manner as the original petition. This includes determining whether the subject has a guardian, appointing a guardian ad litem if needed, and providing notice as required under the original petition process.

Family Court will hold a hearing and make its decision in the same manner as the original petition. After hearing the relevant evidence, if the court determines the individual continues to meet the criteria and is likely to continue to meet the criteria beyond 100 days, it may order the continued ACT for no more than two years after the date of the hearing.

Is there a form? Petition forms are available under Family Court for most jurisdictions [here](#). The [Department of the Attorney General](#) can assist with the preparation of and filing for the petition.