

STAND. COM. REP. NO. 1647
Honolulu, Hawaii

RE: H.B. No. 345
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii
Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 345, H.D. 2, S.D. 1, entitled:
"A BILL FOR AN ACT RELATING TO ASSISTED COMMUNITY TREATMENT,"

beg leave to report as follows:

The purpose and intent of this measure is to mandate appointment of a guardian to represent the best interests of a mentally ill individual in assisted community treatment proceedings.

Your Committees received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu; Institute for Human Services, Inc.; Hawai'i Substance Abuse Coalition; 'Ohana Health Plan; and eight individuals. Your Committees received testimony in opposition to this measure from the Judiciary. Your Committees received comments on this measure from the Department of the Attorney General, Office of the Public Defender, and Hawai'i Disability Rights Center.

Your Committees find that the Assisted Community Treatment process (ACT) established in 2013 provides individuals with severe mental illness who are unlikely to live safely in the community without available supervision with necessary medical treatment and medication when it is in the individual's best interest. ACT presents appropriate individuals with an opportunity to receive on-going treatment in the least restrictive setting and serves as a vital alternative to repeat emergency interventions as their primary course of treatment. However, many mentally ill individuals are not ordered to obtain treatment through ACT. Existing law does not require a guardian ad litem to be appointed to represent the individual with severe mental illness for whom an ACT petition is sought. Your Committees further find that the mandatory appointment of a guardian ad litem will improve the ACT process by providing an advocate for the concerned individual's needs and interest. Your Committees note that while the prior Committees expressed the intent to remove the requirement that the Office of the Public Defender be appointed to represent subjects of ACT petitions, not all necessary amendments were made.

Your Committees have amended this measure by:

- (1) Mandating the appointment of a guardian ad litem rather than the Public Guardian to represent the best interests of a mentally ill individual in ACT proceedings unless the court determines the existence of a guardian;
- (2) Eliminating the requirement that the Office of the Public Defender participate in ACT proceedings on behalf of the subject of a petition;
- (3) Making conforming amendments;
- (4) Making it effective upon its approval; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 345, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 345, H.D. 2, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on
Judiciary and Ways and Means,

DONOVAN M. DELA CRUZ, Chair

KARL RHOADS, Chair