

**Assisted Community Treatment Act
(Summary Draft for Petitioners)**

Purpose. To use a Family Court Assisted Community Treatment (ACT) Order to stabilize seriously mentally ill individuals and/or substance abusers who often cycle between homelessness, hospitals and/or correctional facilities.

I. Process of Submitting the Petition

A. Petitioner's responsibilities

Before submitting petition, the petitioner must understand their long-term commitment to support the potential ACT individual (subject or respondent). Commitments to individual includes:

1. Initiating the petition. Working on the petition to submit it to court and mailing it to all necessary parties (the petitioner is responsible for getting their own attorney);
2. Making certain the psychiatrist is willing and able to testify at the hearing;
3. Identify the designated mental health program responsible for the coordination of care and their 24/7 phone number.
4. Be present at court hearings;
5. Working with the psychiatrist at the appropriate times (Respondent or the provider is responsible for paying for the psychiatrist and ACT);
6. Meeting with the subject on a regular basis to encourage adherence to the treatment specified by the court;
7. Being responsive to law enforcement in the event the subject is found to be in violation of the court order; and
8. Make positive identification of the subject for law enforcement by a copy of an ID, and to have the court order readily available for law enforcement.

B. Petition Eligibility Criteria. A person must meet the following seven (7) criteria before family court can issue an ACT order (the following criteria is the law as it is written):

1. The person is mentally ill or suffering from substance abuse; and
2. The person is unlikely to live safely in the community without available supervision based on the professional opinion of a psychiatrist; and

3. The person, at some time in the past: (1) has received inpatient hospital treatment for mental illness or substance abuse or (2) has been found to be imminently dangerous to self or others, as a result of mental illness or substance abuse; and
4. The person, based on the person's treatment history and current condition, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; and
5. The person has a history of a lack of adherence to treatment for mental illness or substance abuse, and the person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
6. The assisted community treatment is medically appropriate, and in the person's medical interest; and
7. Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person.

C. Submission of the Petition

1. An interested party (parent, grandparent, spouse, sibling, adult child, reciprocal beneficiary, service provider, case manager, outreach worker, or mental health professional) shall file a "Petition for Assisted Community Treatment" with the family court alleging that a person meets the criteria for ACT. See Attachment A for all Judiciary Assisted Community Treatment Forms or they can be found at http://www.courts.state.hi.us/self-help/courts/forms/oahu/family_court_forms.html.
2. The petition shall be executed subject to the penalties of perjury. The petition must be filed in the county where the Respondent resides.
3. Simultaneously with the filing of the petition, the petitioner is required to file a Certificate of Licensed Psychiatrist for ACT and a Treatment Plan, which are Exhibits A and B, respectively, attached to the "Petition for ACT." The Treatment Plan is required to "identify the designated mental health program responsible for the coordination of care."

II. Family Court Hearing of the Petition

- A. The hearing date will be set within ten calendar days after filing the petition.
- B. The hearing notice shall be mailed by certified or registered mail, return receipt requested on the Respondent, public defender or subject's own attorney, and to as many as are known to petitioner of the Respondent's spouse or reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed. A "Statement of Mailing" needs to be filed with the court for each of the above mailings.
- C. Family court will be convened in Kapolei for the island of Oahu and will likely occur on Thursdays. Family court on the neighbor islands will normally schedule hearings in any convenient location and day in the circuit.
- D. Either subject or interested party may request a hearing in another court within the circuit because of inconvenience to the parties, witnesses or the subject's physical or mental condition.

- E. The hearing shall be closed to the public, unless the subject requests otherwise.
- F. A psychiatrist, who has personally assessed the subject within the time period commencing ten calendar days before filing the petition and ending at the time of the psychiatrist's testimony, must testify in person at the hearing. If the subject does not consent to be examined the court may order the commitment of the subject to a psychiatric facility for an examination by an "Order for Psychiatric Examination", and for no longer than forty-eight hours.
- G. The psychiatrist must develop a treatment plan for the subject to be presented at the hearing.
- H. If the subject has been served with the petition and does not appear at the hearing, the court, in its discretion, may go forward with the hearing, or may "Order Continuing Hearing on Petition".
- I. If the family court orders the appointment of a public defender or other attorney to represent the subject and continue the hearing an "Order Continuing Hearing for Appointment of Counsel" shall be completed and the hearing will be delayed for not more than seven calendar days.

III. Family Court Decision

- A. The initial court decision in favor of ACT shall result in an order to compel subject to receive ACT for a period of not more than 180 days. Court decision not in favor of ACT shall result in dismissal of petition. See the "Order Granting or Dismissing Petition."
- B. The treatment plan will be part of the order.
- C. The court shall also designate on the order, pursuant to the Treatment Plan, the treating psychiatrist who is to be responsible for the management and supervision of the subject's treatment, or shall assign the administrator of a mental health program, as identified in the Treatment Plan, to designate the treating psychiatrist.
- D. The petitioner will provide to the Department of Health (DOH) for the purposes of repository of court orders and program evaluation the following information:
 - 1. A scanned copy of the initial ACT court order
 - 2. A copy of the successful petition
 - 3. Name and contact information of the person managing the subject's mental health treatment.
All information pertaining to treatment will be treated as protected health information.
- E. The Repository...

IV. Failure to comply with ACT

- A. No subject shall be physically forced to take medication under an ACT order.
- B. An individual if in a psychiatric facility can be prescribed treatment per the ACT order.
- C. An interested party with the consent of the subject may transport the subject to the designated mental health program for failure to comply with ACT.
- D. Notify of episodes of non-compliance with the order, psychiatric and medical hospitalizations, arrests, incarceration and emergency mental health evaluations that result in emergency room visit.

V. Notice of Intent to Discharge. When the psychiatrist intends to discharge the subject early, or per the court order, the treating psychiatrist will file a "Notice of Intent to Discharge" at least 10 calendar days prior to discharge and notify all persons identified in the Order for ACT by certified or registered mail, return receipt requested. The "Statement of Mailing" needs to be filed for each person receiving this notification.

VI. Objection to Early Discharge. The court will conduct a hearing if there is an “Objection to Intended Discharge” by the petitioner or others notified by the court to determine if the subject still meets the criteria for ACT. If the court decides the subject still meets the ACT criteria the subject will continue treatment for the remaining period of the order, otherwise the court will order the early discharge of the subject. If it is a discharge according to court order the law allows for no objection, however, any interested party may petition for additional period of treatment.

VII. Petition for additional period of treatment. Prior to the expiration of the ACT order an interested party may file a “Petition for the Continued Assisted Community Treatment” with the court for an order of continued ACT. The petition, notices, hearing and court decision shall be made in the same manner as the initial procedures. The family court may order the continued ACT for not more than one year. The subject may agree to the continuance of an existing court order.

VIII. Legislation Effective Date. This Act shall take effect on January 1, 2014, and shall be repealed on July 1, 2020; provided that petitions filed for ACT involving a state-operated provider shall not be filed until after July 1, 2015.