

SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. 3 Date MAR 06 2007

TO: SECTION 1. To add a new section to SB No. 96, S.D. 2 to read as follows:

"SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302A- Employees of the department and teacher trainees in any public school; reasonable suspicion testing; employee assistance. (a) The department, including the Hawaii state public library system, shall develop procedures for reasonable suspicion testing to obtain verifiable information regarding use of controlled substances under chapter 329, by persons who are employed in any position, including teacher trainees, that places them in close proximity to children. These procedures shall comply with chapter 329B.

Information obtained pursuant to this subsection shall be used exclusively by the employer for the purpose of determining whether a person is suitable for working in close proximity to children.

An employee who refuses to submit to drug testing under this subsection shall be placed on mandatory administrative leave of thirty days.



(b) If the test results under subsection (a) are positive, the employer may impose the following sanctions:

- (1) Refuse to issue a teaching or other educational certificate;
- (2) Revoke the teaching or other educational certificate;
- (3) Refuse to allow or continue to allow participation in teacher training;
- (4) Terminate the employment of any employee or deny employment to an applicant; or
- (5) Impose other administrative sanctions, including but not limited to, administrative leave,

if the employer finds by reason of the nature and circumstances of the use of controlled substances that the person poses a risk to the health, safety, or well-being of children, or otherwise negatively influences children by setting a detrimental example. Sanctions under this subsection may occur only after appropriate investigation and notification to the employee of the results and planned action, and after the employee is given an opportunity to meet and rebut the finding. Nothing in this subsection shall abrogate any applicable appeal rights under chapter 76 or 89, or administrative rule of the department.

(c) In addition to the sanctions under subsection (b), the department, by adoption of rules pursuant to chapter 91, shall provide for substance abuse assessment, treatment, and

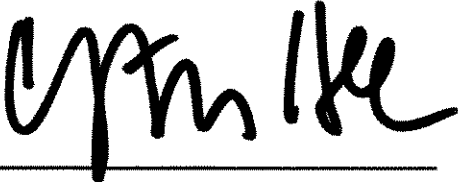


counseling, and referral to the employee assistance program
under subsection (e) if suitable, if the department determines
to retain the employee; provided that evidence of clinical
discharge from substance abuse treatment or substance abuse
counseling shall be a prerequisite to continued employment.

(d) Notwithstanding any other law to the contrary, for
purposes of this section, the department need not conduct
investigations, notifications, or hearings under this section in
accordance with chapter 91.

(e) This section shall not apply to volunteers or other
non-remunerated personnel providing support services at
individual schools or any employee subject to a substance abuse
testing policy under a valid collective bargaining agreement." "

Section 2. Sections 1 to 6 are renumbered as Sections 2-7,
respectively.

Offered by:  Carried
 Failed to Carry
 Withdrawn