

H.B. NO. 1101

A BILL FOR AN ACT

RELATING TO INVESTIGATORS OF THE DEPARTMENT OF HUMAN SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that for the State to
2 comply with the settlement agreement between the State and the
3 United States Department of Justice concerning conditions at the
4 Hawaii youth correctional facility, the State must be able to
5 investigate incidents of use of force, staff-on-youth violence,
6 serious youth-on-youth violence, inappropriate staff
7 relationships with youth, sexual misconduct between youth, and
8 abusive institutional practices at the Hawaii youth correctional
9 facility. Although pursuant to section 346-4.5, Hawaii Revised
10 Statutes, the director of human services has broad authority to
11 appoint and commission investigators and those investigators are
12 authorized to access information maintained by any state or
13 county entity, the statute does not state specifically that
14 investigators have the authority to access information necessary
15 to investigate incidents at the Hawaii youth correctional
16 facilities. The purpose of this Act is to ensure that
17 investigators appointed and commissioned by the director of
18 human services have access to all information necessary to

1 investigate incidents at the Hawaii youth correctional
2 facilities.

3 SECTION 2. Section 346-4.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§346-4.5 Investigators; authority and access to records.**

6 (a) The director shall appoint and commission one or more
7 investigators as the exigencies of the public service may
8 require. Persons appointed and commissioned under this section
9 shall have and may exercise all the powers and authority of a
10 police officer or of a deputy sheriff, provided that the persons
11 so appointed and commissioned shall not carry any firearms.

12 (b) Information necessary to investigate fraud and other
13 crimes relating to public assistance, to locate absent parents,
14 to establish paternity, [~~and~~] to obtain and enforce court orders
15 of support, and to investigate incidents at the Hawaii youth
16 correctional facilities, and contained within the records of any
17 agency, board, commission, authority, or committee of the State
18 or its political subdivisions shall be made available to any
19 commissioned investigator of the department of human services,
20 notwithstanding any provision for confidentiality."

21 SECTION 3. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Ay

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BY REQUEST

JAN 26 2009

Report Title:

Department of Human Services Investigators

Description:

Authorizes the Director of Human Services to appoint and commission investigators to investigate incidents at the Hawaii youth correctional facilities, and gives these investigators access to necessary information maintained by state and county entities.

JUSTIFICATION SHEET

DEPARTMENT: Human Services.

TITLE: A BILL FOR AN ACT RELATING TO INVESTIGATORS OF THE DEPARTMENT OF HUMAN SERVICES.

PURPOSE: To allow investigators appointed and commissioned by the Director of Human Services to have access to state and county documents while investigating incidents at the Hawaii youth correctional facilities (HYCF).

MEANS: Amend section 346-4.5, Hawaii Revised Statutes.

JUSTIFICATION: The Office of Youth Services (OYS) established an administrative investigator position to respond to a requirement of the Memorandum of Agreement between the United States Department of Justice and the State of Hawaii concerning conditions at the HYCF.

Section 346-4.5, Hawaii Revised Statutes (HRS), authorizes the Director of Human Services to appoint and commission investigators. The investigators can access documents without regard to state or county confidentiality laws for the purposes of investigating crime relating to public assistance, locating absent parents, and obtaining and enforcing court orders of support. But the statute does not state specifically that this authority to access documents extends to investigating incidents at the HYCF. To ensure thorough investigations, the law should be amended to make it explicit that investigators appointed and commissioned by the Director can access state or county documents while investigating incidents at the HYCF.

Impact on the public: This bill will help ensure the health, safety, and security of youths in the Department's care at the HYCF.

Impact on the department and other agencies:
This bill will help ensure the department's ability to investigate thoroughly, incidents at the HYCF.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 904

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.