

JAN 26 2009

A BILL FOR AN ACT

RELATING TO EPIDEMIOLOGIC INVESTIGATIONS.

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

1 SECTION 1. Section 321-29, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~§321-29~~+~~ **Epidemiologic investigations.** (a) The
4 department may conduct investigations to determine the nature
5 and extent of diseases and injuries deemed by the department to
6 threaten the public health and safety.

7 (b) Every person, health care provider, and medical
8 facility shall provide the patient's name, the name of a minor
9 patient's parent or guardian, address, telephone number, age,
10 sex, race or ethnicity, clinical signs and symptoms, laboratory
11 test results, diagnostic interview data, treatment provided, and
12 the disposition of the patient when requested by an authorized
13 representative of the director for the purpose of conducting
14 such an investigation. The authorized representative may ~~[only]~~
15 view only the limited portion of the patient's medical record~~[~~
16 ~~which]~~ that is directly relevant in time and scope to the
17 subject of the investigation.

1 (c) Every person, company, organization, association,
2 health care provider, medical facility, or any other possible
3 source of information shall provide names, addresses, telephone
4 numbers, and locating information regarding an individual or
5 group of individuals suspected of having been exposed to a
6 disease or disease-causing substance that is the subject of an
7 epidemiologic investigation when requested by an authorized
8 representative of the director.

9 For the purposes of this subsection, "locating information"
10 includes information contained in appointment, reservation,
11 registration, invitation, attendance, billing, payment lists, or
12 any other record that may help the department identify, locate,
13 or contact individuals or groups suspected of having been
14 exposed to a disease under investigation.

15 (d) When, in the opinion of the director or the director's
16 authorized representative, reasonable cause exists for the
17 investigation of a disease or series of injuries deemed by the
18 department to threaten the public health or safety that requires
19 the collection of plant, animal, food, or environmental samples
20 for testing, an authorized representative of the department,
21 during regular working hours or at other reasonable times may
22 demand entry on to any premises, public or private, for the

1 purpose of conducting an administrative investigation, to secure
2 or collect any samples or specimens deemed necessary to conduct
3 the investigation successfully, provided that:

4 (1) No entry shall occur without consent by the owner,
5 owner's agent, or person in lawful control of the
6 property to investigate and collect samples or without
7 the issuance of an administrative investigation
8 warrant, except when exigent circumstances presenting
9 imminent danger to public health and safety or the
10 environment exist;

11 (2) The investigation shall be limited to only those
12 actions that are necessary to confirm or deny the
13 cause that prompted the investigation;

14 (3) The authorized representatives shall be liable only
15 for damage caused by acts beyond the scope of the
16 representatives' authority or by the representatives'
17 gross negligence or intentional misconduct; and

18 (4) If the representative obtains any samples prior to
19 leaving the premises, the representative shall leave
20 an inventory describing any samples obtained, and the
21 department shall make split samples available to the
22 person whose premises is being investigated.

1 For the purposes of this subsection, "administrative
2 investigation" means any investigation, independent of a criminal
3 investigation, that is conducted for the purpose of determining
4 the existence of disease or series of injuries deemed by the
5 department to threaten the public health or safety. An
6 administrative investigation may involve the examination of real
7 or personal property, records, equipment, buildings, products,
8 by-products, wastes, processes, activities, environmental
9 conditions (i.e., air, soil, and water quality), or other
10 property or activities. The scope of an administrative
11 investigation may be limited by consent or by the terms of an
12 administrative investigation warrant or other court order.

13 (e) If consent to investigate is denied under subsection
14 (d), the department representative may apply to the district
15 court in the circuit in which the property is located for an
16 administrative investigation warrant to enter the premises to
17 effectuate the purposes of this section. The district court may
18 issue an administrative investigation warrant directing a police
19 officer of the circuit to assist the department representative
20 in gaining entry onto the premises during regular working hours
21 or at other reasonable times. The warrant may command the
22 police officer to take sufficient aid, and being accompanied by

1 a representative of the department, to go to the premises
2 described in the warrant and seize, secure, or collect, under
3 directions of the representative, or allow the representative to
4 seize, secure, or collect plant, animal, food, or environmental
5 samples deemed necessary to conduct the investigation
6 successfully. A district court may issue an administrative
7 investigation warrant if sufficient facts are presented to the
8 court that would establish probable cause for the search.
9 Probable cause for the search shall be established by affidavit
10 demonstrating: (1) that there is reasonable cause for the
11 investigation of the particular premises at issue, (2) that the
12 investigation is necessary for the protection of public health
13 and safety under this section, and (3) that consent to search
14 the particular premises has been denied under subsection (d).
15 The authorized representatives and police officers shall be
16 liable only for damage caused by acts beyond the scope of the
17 representatives' or officers' authorities or by the
18 representatives' or officers' gross negligence or intentional
19 misconduct. A copy of the administrative investigation warrant
20 and all supporting affidavits shall be provided to the person
21 served or left at the entry of the investigated premises.

1 [~~(d)~~] (f) No person, company, organization, association,
2 health care provider, medical facility, or other source that
3 provides information requested by an authorized representative
4 of the director, for the purpose of conducting an investigation
5 under this section, shall be held civilly or criminally liable
6 for providing that information to the department.

7 [~~(e)~~] (g) All information provided to the department under
8 this section shall be kept strictly confidential, except as the
9 director determines is necessary to protect the public health
10 and safety. Access to confidential records shall be restricted
11 to those individuals specifically authorized to participate in
12 any given investigation. However, epidemiologic and statistical
13 information with no individual identifying information may be
14 released to the public. The identities of individuals whose
15 medical records are investigated shall be disclosed only to
16 those persons authorized by the director or the director's
17 representative to conduct a specific investigation under this
18 section or determined by the director to be necessary to protect
19 the health and safety of the public.

20 (h) The director shall adopt rules under chapter 91 as are
21 appropriate to carry out the purposes of this section and for

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1 the efficient administration thereof. The rules shall be
2 designed to:

3 (1) Establish administrative remedies for the owner,
4 owner's agent, or person in lawful control of the
5 property to file a claim with the department for
6 damaged and seized property; provided that there shall
7 be no administrative remedy for the seizure of de
8 minimus samples;

9 (2) Provide notice to the owner, owner's agent, or person
10 in lawful control of the property of the
11 administrative remedies available for damaged and
12 seized property; and

13 (3) Provide penalties for the failure to comply with any
14 rule."


15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



BY REQUEST

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Report Title:

Epidemiologic Investigations

Description:

Grants the Department of Health authority to take samples necessary for epidemiologic investigations.

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS.

PURPOSE: To authorize the Department of Health to take samples necessary for an epidemiologic investigation.

MEANS: Amend section 321-29, Hawaii Revised Statutes.

JUSTIFICATION: Interruption, containment, and prevention of outbreaks of dangerous diseases depend on timely epidemiological investigations that include tracing the possible sources and tracking the spread of disease. Epidemiological investigations have been impeded by refusal of individuals to allow department investigators to gain access to implicated premises to obtain samples necessary for analysis. Collection and analysis of plant, animal, food, or environmental samples associated with an outbreak investigation can identify the source and specific type of microbiological or chemical contamination. Analytical testing results provide essential data needed to make recommendations for remediation of an existing outbreak as well as prevention of future serious outbreaks. Lack of authority to take samples of potentially contaminated materials can impede an epidemiological investigation necessary to protect the public health.

Impact on the public: Authority to take samples for laboratory analysis can protect the public health and welfare by enabling or facilitating accurate determination of disease threats which is needed to prevent and control associated disease outbreaks.

Impact on the department and other agencies:
Authority to take samples for laboratory analysis will facilitate the department's ability to investigate, control, and prevent threats to public health.

GENERAL FUND: No additional state funds would be required to implement this proposal. Programs would prioritize expenditures to meet administrative remedy obligations with existing resources.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH-131.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.