



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

**Senate Committee on Judiciary and Government Operations**

**S.B. 931, S.D. 1 Relating to Epidemiologic Investigations**

**Comments of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**March 2, 2009, 10:30 a.m.**

- 1 **Department's Position:** The Department strongly supports this Administration proposal.
- 2 **Fiscal Implications:** None
- 3 **Purpose and Justification:** This Administration measure amends section 321-29, Hawaii Revised
- 4 Statutes (HRS), to grant the Department of Health (DOH) the authority to access premises and secure
- 5 samples or specimens if during the course of an investigation of a disease or a series of injuries, the
- 6 Department deems that the threat to public health and/or safety requires the collection of plant, animal,
- 7 food or environmental samples for testing.
- 8 If entry to the premises for the purpose of conducting the epidemiological investigation and/or
- 9 the collection of samples during the investigation is refused, the "Department member or agent" may
- 10 apply through the Department of the Attorney General for an administrative investigation warrant to
- 11 enter the premises. If necessary, the warrant may also command a police officer to assist the
- 12 Department in collecting the samples needed to conduct the investigation. Protection of the public's
- 13 privacy is a high priority within the Department and would be ensured via the administrative search
- 14 warrant process, as well as by existing statutory requirements regarding the treatment of confidential
- 15 information received by the Department during the course of an epidemiologic investigation (HRS
- 16 §321-29e). If entry onto a property is refused, and an administrative search warrant is sought, judicial

1 oversight would ensure that there is sufficient cause to allow for the collection of only those samples  
2 indicated before the warrant is granted.

3         The Department believes this measure is necessary for the protection of public health. The  
4 interruption, containment, and prevention of outbreaks of dangerous diseases depend on timely  
5 epidemiological investigations that often include the collection of samples to assist in determining the  
6 source and tracking the spread of disease. Outbreaks of food borne disease in Hawaii are one of the  
7 most common reasons that epidemiologic investigations are conducted by the DOH.

8         Epidemiological investigations have been impeded by individuals who refused to allow DOH  
9 investigators to access their property or to obtain samples necessary to determine the source of an  
10 outbreak. Specific examples include an April through July 2007 epidemiologic investigation of an *E.*  
11 *coli* O157:H7 outbreak on the island of Kaua‘i. This investigation was impeded by the reluctance and  
12 refusal of small business owners to allow the Department to collect samples critical to the public health  
13 investigation. In 2001, a similar situation in which access to environmental samples was denied  
14 occurred during the investigation of a *Salmonella* disease outbreak. The lack of timely access to samples  
15 compromised public health in that it resulted in a lengthier investigation and potentially additional cases  
16 of disease.

17         Thank you for the opportunity to testify on this important measure.