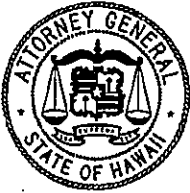


LATE TESTIMONY



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SIXTH LEGISLATURE, 2011

ON THE FOLLOWING MEASURE:

S.B. NO. 1237, RELATING TO THE DISCLOSURE OF VITAL
STATISTICS RECORDS TO LAW ENFORCEMENT OFFICERS.

BEFORE THE:

SENATE COMMITTEES ON
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AND ON
HEALTH

DATE: Tuesday, February 8, 2011 TIME: 2:45 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chairs Espero and Green and Members of the Committees:

The Attorney General strongly supports this bill.

The purpose of this bill is to amend section 338-18(b), Hawaii Revised Statutes, to authorize the Department of Health to: (1) permit law enforcement officers to inspect public health statistics records; and (2) issue certified copies of any such records or part thereof to law enforcement.

County police and prosecutors, the State Attorney General and Department of Public Safety, and numerous federal law enforcement agencies sometimes need vital statistics records for their criminal investigations.

They may need to know or confirm that a witness, victim, or suspect has died. That information may be critical to how the case is investigated or how many resources are committed to the case. Investigators, attempting to locate a witness or serve an arrest warrant on a defendant, need to know if the witness or defendant has died. Investigators, assessing a complaint that a sex offender has failed to comply with sex offender registration

requirements, should know that the offender died before they invest any time or resources on the case.

Investigators may also need birth certificates to determine the age of the victim or defendant. The ages of the victim and defendant are sometimes extremely important in sexual assault investigations when the charges depend on their ages. The age of the victim may also be important for investigation of offenses involving child abuse, promoting pornography, and endangering the welfare of a minor. There are many other types of cases for which the information on a birth certificate could be important. Immigration officials could clearly use information that a subject was born in Hawaii, or has children born in Hawaii, or has qualifying relatives born in Hawaii. Sometimes, the identity of a person's parents may be important to an investigation. In missing persons cases, investigators may need to identify family members.

Investigators may need marriage certificates to help locate relatives or family members of witnesses, victims, or suspects. Marriage certificates may also be needed in criminal investigations to confirm a person's marital status, determine when someone was married, or determine a person's name prior to marriage.

Vital statistics records can be extremely important to law enforcement investigators. The records can help investigators complete their cases in a more timely and effective manner.

Section 338-18(b), Hawaii Revised Statutes, lists persons who are permitted to obtain vital statistics records. Law enforcement officers, however, are not currently included on this list, even though they do have a substantial need for the records. As a result, law enforcement officers generally cannot obtain vital statistics records unless they have a court order.

The problem, however, is that the process to obtain such court orders can be time consuming, and interrupt or delay investigations. Some investigations cannot be delayed for any length of time. Delays can sometimes compromise physical evidence, the safety of victims or others in the community, the availability of witnesses, or the ability to locate suspects.

This bill amends section 338-18(b) to add law enforcement officers to the list of persons permitted to obtain the vital statistics records. To address concerns that the requestor is in fact a law enforcement officer requesting the records for an official law enforcement purpose, this bill requires the officer to provide identification and a signed statement, verifying under penalty of criminal prosecution, that the person is a law enforcement officer, acting in his official capacity, and in need of the records for a criminal investigation.

This bill will allow for more timely investigation of crimes when such records are needed, while protecting the privacy of the records.

We respectfully request passage of this measure.