



GOV. MSG. NO. 1265

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

June 26, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

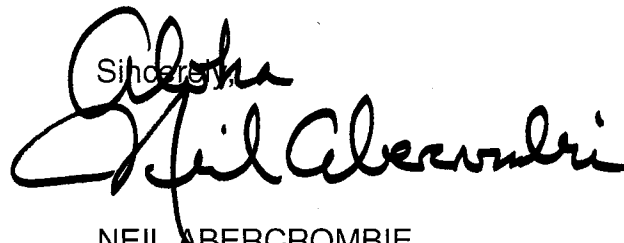
Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 26, 2012, the following bill was signed into law:

SB2821 HD3 CD1

RELATING TO MORTALITY REVIEW OF  
DEATHS OF PERSONS WITH DEVELOPMENTAL  
OR INTELLECTUAL DISABILITIES.

**Act 162 (12)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor

on JUN 26 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 62

S.B. NO. 2821  
H.D. 3  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO MORTALITY REVIEW OF DEATHS OF PERSONS WITH  
DEVELOPMENTAL OR INTELLECTUAL DISABILITIES.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           "PART       MORTALITY REVIEW OF DEATHS OF PERSONS WITH  
5                       DEVELOPMENTAL OR INTELLECTUAL DISABILITIES

6           §321-       Multidisciplinary and multiagency mortality  
7 reviews. The department may conduct multidisciplinary and  
8 multiagency mortality reviews of deaths of persons with  
9 developmental or intellectual disabilities in order to reduce  
10 the incidence of preventable deaths to persons with  
11 developmental or intellectual disabilities.

12          §321-       Definitions. As used in this part:

13          "Adult" means a person eighteen years of age or older.

14          "Adult death review information" means information  
15 regarding the adult person and person's family, including:

16           (1) Social, medical, and legal histories;

17           (2) Death and birth certificates;



- 1 (3) Law enforcement investigative data;
- 2 (4) Medical examiner or coroner investigative data;
- 3 (5) Parole and probation information and records;
- 4 (6) Information and records of social service agencies;
- 5 (7) Educational records; and
- 6 (8) Health care institution information.

7 "Department" means the department of health.

8 "Developmental disability" means a severe, chronic  
9 disability of a person that:

- 10 (1) Is attributable to a mental or physical impairment or  
11 combination of mental and physical impairments;
- 12 (2) Is manifested before the person attains age twenty-  
13 two;
- 14 (3) Is likely to continue indefinitely;
- 15 (4) Results in substantial functional limitations in three  
16 or more of the following areas of major life activity:
  - 17 (i) Self-care;
  - 18 (ii) Receptive and expressive language;
  - 19 (iii) Learning;
  - 20 (iv) Mobility;
  - 21 (v) Self-direction;
  - 22 (vi) Capacity for independent living; and



1           (vii) Economic self-sufficiency; and  
2           (5) Reflects the person's need for a combination and  
3           sequence of special, interdisciplinary, or generic  
4           care, treatment, or other services that are of  
5           lifelong or extended duration and are individually  
6           planned and coordinated.

7           "Director" means the director of health or the director's  
8           designated representative.

9           "Intellectual disability" means significantly subaverage  
10          general intellectual functioning resulting in or associated with  
11          concurrent moderate, severe, or profound impairments in adaptive  
12          behavior and manifested during the developmental period.

13          "Person with developmental or intellectual disabilities"  
14          means an adult with a developmental or intellectual disability.

15          "Preventable death" means a death that reasonable medical,  
16          social, legal, psychological, or educational intervention may  
17          have prevented.

18          "Provider of medical care" means any health care  
19          practitioner who provides, or a facility through which is  
20          provided, any medical evaluation or treatment, including dental  
21          and mental health evaluation or treatment.



1           **§321- Access to information.** (a) Upon written request  
2 of the director, all providers of medical care or other related  
3 services and state and county agencies shall disclose to the  
4 department and to those individuals appointed by the director to  
5 participate in the mortality review of the death of a person  
6 with developmental or intellectual disabilities, adult death  
7 review information regarding the circumstances of the death of a  
8 person with developmental or intellectual disabilities to allow  
9 the department to conduct multidisciplinary and multiagency  
10 mortality review of deaths of persons with developmental or  
11 intellectual disabilities pursuant to section 321-31 and this  
12 part.

13           (b) To the extent that this section conflicts with other  
14 state confidentiality laws, this section shall prevail.

15           **§321- Exception.** Information regarding an ongoing civil  
16 or criminal investigation shall be disclosed at the discretion  
17 of the applicable state, county, or federal law enforcement  
18 agency.

19           **§321- Use of information and records from mortality**  
20 **reviews of deaths of persons with developmental or intellectual**  
21 **disabilities.** (a) Except as otherwise provided in this part,  
22 all information and records acquired by the department during



1 its multidisciplinary and multiagency mortality reviews of  
2 deaths of persons with developmental or intellectual  
3 disabilities pursuant to this part shall be kept confidential  
4 and may be disclosed only as necessary to carry out the purposes  
5 of this part.

6 (b) Information and statistical compilations of data from  
7 the multidisciplinary and multiagency mortality reviews of  
8 deaths of persons with developmental or intellectual  
9 disabilities that do not contain any information that would  
10 permit the identification of any person shall be public records.

11 (c) No individual participating in the department's  
12 multidisciplinary and multiagency mortality review of the death  
13 of a person with developmental or intellectual disabilities may  
14 be questioned in any civil or criminal proceeding regarding  
15 information presented in, or opinions formed as a result of, a  
16 meeting of the multidisciplinary and multiagency mortality  
17 review of deaths of persons with developmental or intellectual  
18 disabilities. Nothing in this subsection shall be construed to  
19 prevent a person from testifying to information obtained  
20 independently of the department's multidisciplinary and  
21 multiagency mortality review of deaths of persons with  
22 developmental or intellectual disabilities, or that is public



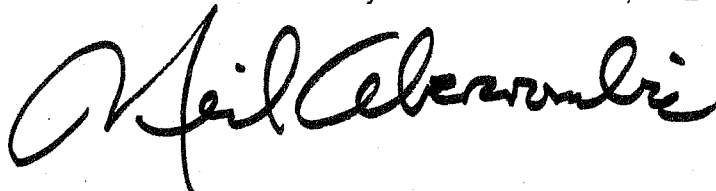
1 information, or where disclosure is required by law or court  
2 order.

3 (d) Information held by the department as a result of a  
4 multidisciplinary and multiagency mortality review of the death  
5 of a person with developmental or intellectual disabilities  
6 conducted under this part shall not be subject to subpoena,  
7 discovery, or introduction into evidence in any civil or  
8 criminal proceeding, except that information otherwise available  
9 from other sources shall not be immune from subpoena, discovery,  
10 or introduction into evidence through those sources solely  
11 because it was provided as required by this part.

12 §321- Immunity from liability. All agencies and  
13 individuals participating in multidisciplinary and multiagency  
14 mortality reviews of deaths of persons with developmental or  
15 intellectual disabilities pursuant to this part shall not be  
16 held civilly or criminally liable for providing the information  
17 required under this part."

18 SECTION 2. This Act shall take effect upon its approval.

APPROVED this 26 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII