



GOV. MSG. NO. 1293

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 28, 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 28, 2012, the following bill was signed into law:

HB2226 HD2 SD2 CD1

RELATING TO AN AUTOMATED VICTIM
NOTIFICATION SYSTEM.

Act 190 (12)

Sincerely,
A handwritten signature in black ink that reads "Neil Abercrombie".

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

ORIGINAL

on JUN 28 2012

ACT 190

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO. 2226
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO AN AUTOMATED VICTIM NOTIFICATION SYSTEM.

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

1 SECTION 1. Chapter 353, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . AUTOMATED VICTIM INFORMATION AND
5 NOTIFICATION SYSTEM .

6 **§353-A Definitions.** For purposes of this part:

7 "Offender" means a person in the custody of the department
8 of public safety or the Hawaii paroling authority but does not
9 include juveniles under the jurisdiction of the family court.

10 "System" means the statewide automated victim information
11 and notification system.

12 "Victim" means a person against whom a crime has been
13 committed by the offender and includes, in homicide cases,
14 surviving immediate family members.

15 **§353-B System; requirements.** (a) The department shall
16 establish a statewide automated victim information and
17 notification system to:



- 1 (1) Automatically notify a registered victim or concerned
2 member of the community, via the person's choice of
3 telephone, text message, or electronic mail
4 transmission when the offender who is in the custody
5 of the department:
- 6 (A) Is transferred or assigned to another facility;
 - 7 (B) Is transferred to the custody of another agency
8 outside the State;
 - 9 (C) Is released on temporary leave or for other
10 reasons;
 - 11 (D) Is discharged; or
 - 12 (E) Has escaped;
- 13 (2) Automatically notify a registered victim or concerned
14 member of the community via the person's choice of
15 telephone, text message, or electronic mail
16 transmission when:
- 17 (A) The offender has an upcoming parole hearing; or
 - 18 (B) There is a change in the offender's parole
19 status, including a change in the offender's
20 supervision status;
- 21 (3) Permit a victim or concerned member of the community
22 to receive the most recent status report for the



1 offender in the custody of the department by calling
2 the system on a toll-free telephone number, as well as
3 by accessing the system via a public website;

4 (4) Provide all victims or concerned members of the
5 community calling the system with the option to
6 receive live operator assistance with the system on a
7 twenty-four-hours per day, three-hundred-sixty-five-
8 days per year basis; and

9 (5) Permit a victim or a concerned member of the community
10 to register or update the person's registration
11 information for the system by calling a toll-free
12 telephone number or accessing a public website.

13 (b) The prosecuting agency shall notify the victim of the
14 victim's right to register in the system. It shall be the
15 responsibility of the victim to register with the system.

16 **§353-C Satisfaction of victims' rights to notification.**

17 Participation in the system and making offender data available
18 on a timely basis to the system shall be deemed to satisfy the
19 obligations of:

20 (1) The department to notify the victim of changes in the
21 offender's custodial status pursuant to section 801D-
22 4(a)(7); and



1 (2) The police and prosecuting attorney to notify the
2 victim of the offender's release from custody pursuant
3 to section 801D-4(a) (1).

4 **§353-D Compliance by department; no cause of action.** The
5 department shall ensure that the offender information contained
6 within the system is updated on a regular basis sufficient to
7 timely notify a victim or a concerned member of the community of
8 the offender's release, discharge, or escape. However, failure
9 of the system to provide notice to the victim or a concerned
10 member of the community shall not establish a separate cause of
11 action by the victim or a concerned member of the community
12 against the State, any county, or any state or county agency,
13 officer, or employee.

14 **§353-E Law enforcement cooperation.** The attorney general,
15 and the chief of police and prosecuting attorney of each county,
16 shall cooperate with the department in establishing and
17 maintaining the system.

18 **§353-F Automated victim information and notification**
19 **system special fund; authorization of payment.** (a) There is
20 established a special fund to be known as the automated victim
21 information and notification system special fund, to be
22 administered by the department. Interest and investment



1 earnings credited to the assets of the fund shall become part of
2 the fund. Any remaining balance in the fund at the end of any
3 fiscal year shall be carried over to the next fiscal year.

4 (b) Any item purchased by an in-state or out-of-state
5 inmate from a correctional facility commissary shall be subject
6 to a four per cent surcharge on the item's price. The proceeds
7 from the surcharge shall be deposited into the automated victim
8 information and notification system special fund.

9 (c) All proceeds or revenues that are derived from any
10 commission that is realized pursuant to a telephone service
11 agreement executed by the department for the provision of
12 telephone services for inmates shall be deposited into the
13 automated victim information and notification system special
14 fund.

15 (d) Moneys received pursuant to subsections (b) and (c)
16 shall be used for the development and operating expenses,
17 including salaries and benefits of positions as authorized by
18 the legislature, of the system.

19 (e) The sum total of all moneys expended for development
20 and operating expenses, including salaries and benefits of
21 positions as authorized by the legislature, shall not exceed the
22 special fund ceiling related to the fund established by the



1 legislature; provided that the total moneys expended for these
2 purposes shall not exceed \$600,000 in any one fiscal year.

3 (f) Federal funds shall not be transferred to, or
4 deposited into, the automated victim information and
5 notification system special fund.

6 **§353-G Automated victim information and notification**
7 **system governance committee.** (a) There is established within
8 the department of public safety, an automated victim information
9 and notification system governance committee. The members of
10 the governance committee shall be appointed by the director of
11 public safety from a list submitted by the governance committee;
12 provided that the initial members of the committee shall be
13 selected by the director from a list of members provided by the
14 statewide automated victim information and notification
15 governance committee currently serving in that capacity under a
16 grant from the federal Bureau of Justice Assistance establishing
17 the victim notification system.

18 (b) The terms of the members shall be for four years and
19 shall commence on July 1 and expire on June 30; provided that
20 the governance committee may elect to reduce the terms of those
21 initially appointed so as to provide, as nearly as can be, for
22 the expiration of an equal number of terms at intervals of one



1 year. No person shall be appointed consecutively to more than
2 two terms on the governance committee; provided that membership
3 shall not exceed eight consecutive years. Any member whose term
4 has expired and who is not disqualified for membership under
5 this subsection may continue in office as a holdover member
6 until a successor is nominated and appointed; provided that a
7 holdover member shall not hold office beyond the end of the
8 second regular legislative session following the expiration of
9 the member's term of office.

10 (c) A vacancy occurring in the membership of the
11 governance committee during a term shall be filled for the
12 unexpired term thereof as provided in subsection (a). The
13 director of public safety may remove or suspend for cause any
14 member after due notice and public hearing.

15 (d) The governance committee members shall include:

16 (1) A victim;

17 (2) One representative from a victim assistance program in
18 each county;

19 (3) One representative from the police department of each
20 county; and

21 (4) One representative from each of the following:



- 1 (A) Mothers Against Drunk Driving shall be requested
- 2 to serve;
- 3 (B) The Hawaii State Coalition Against Domestic
- 4 Violence shall be requested to serve;
- 5 (C) Sex Abuse Treatment Center shall be requested to
- 6 serve;
- 7 (D) Crime victim compensation commission;
- 8 (E) The Hawaii paroling authority;
- 9 (F) The judiciary;
- 10 (G) The crime prevention and justice assistance
- 11 division of the department of the attorney
- 12 general; and
- 13 (H) The information technology section of the
- 14 department.

15 The committee members shall elect a member who shall serve as
16 the chairperson.

17 (e) The governance committee may advise the department on
18 the following issues:

- 19 (1) The implementation and operation of the system;
- 20 (2) The establishment of performance measures;
- 21 (3) Specifications and configuration parameters for the
- 22 operation of the system;



1 (4) Management of the system; and

2 (5) Policies and procedures governing the use of the
3 system, including policies to safeguard the safety,
4 confidentiality, and autonomy of victims.

5 (f) Meetings of the governance committee shall be held on
6 a quarterly basis during the system's first year of
7 implementation and no less than twice a year thereafter.

8 (g) The members of the governance committee shall serve
9 without compensation but shall be reimbursed for expenses,
10 including travel expenses, necessary for the performance of
11 their duties.

12 (h) Members of the governance committee acting in good
13 faith and within the scope of their duties under this chapter
14 shall be immune from any civil or criminal liability arising
15 from these acts, except where the member's conduct would
16 constitute gross negligence, wilful and wanton misconduct, or
17 intentional misconduct."

18 SECTION 2. Section 36-27, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Except as provided in this section, and
21 notwithstanding any other law to the contrary, from time to
22 time, the director of finance, for the purpose of defraying the



1 prorated estimate of central service expenses of government in
2 relation to all special funds, except the:

- 3 (1) Special out-of-school time instructional program fund
4 under section 302A-1310;
- 5 (2) School cafeteria special funds of the department of
6 education;
- 7 (3) Special funds of the University of Hawaii;
- 8 (4) State educational facilities improvement special fund;
- 9 (5) Convention center enterprise special fund under
10 section 201B-8;
- 11 (6) Special funds established by section 206E-6;
- 12 (7) Housing loan program revenue bond special fund;
- 13 (8) Housing project bond special fund;
- 14 (9) Aloha Tower fund created by section 206J-17;
- 15 (10) Funds of the employees' retirement system created by
16 section 88-109;
- 17 (11) Unemployment compensation fund established under
18 section 383-121;
- 19 (12) Hawaii hurricane relief fund established under chapter
20 431P;
- 21 (13) Hawaii health systems corporation special funds and
22 the subaccounts of its regional system boards;



- 1 (14) Tourism special fund established under section
- 2 201B-11;
- 3 (15) Universal service fund established under section
- 4 269-42;
- 5 (16) Emergency and budget reserve fund under section
- 6 328L-3;
- 7 (17) Public schools special fees and charges fund under
- 8 section 302A-1130;
- 9 (18) Sport fish special fund under section 187A-9.5;
- 10 (19) Glass advance disposal fee established by section
- 11 342G-82;
- 12 (20) Center for nursing special fund under section
- 13 304A-2163;
- 14 (21) Passenger facility charge special fund established by
- 15 section 261-5.5;
- 16 (22) Court interpreting services revolving fund under
- 17 section 607-1.5;
- 18 (23) Hawaii cancer research special fund;
- 19 (24) Community health centers special fund;
- 20 (25) Emergency medical services special fund;
- 21 (26) Rental motor vehicle customer facility charge special
- 22 fund established under section 261-5.6; [and]



1 (27) Shared services technology special fund under section
2 27-43[7]; and
3 (28) Automated victim information and notification system
4 special fund established under section 353-F,
5 shall deduct five per cent of all receipts of all special funds,
6 which deduction shall be transferred to the general fund of the
7 State and become general realizations of the State. All
8 officers of the State and other persons having power to allocate
9 or disburse any special funds shall cooperate with the director
10 in effecting these transfers. To determine the proper revenue
11 base upon which the central service assessment is to be
12 calculated, the director shall adopt rules pursuant to chapter
13 91 for the purpose of suspending or limiting the application of
14 the central service assessment of any fund. No later than
15 twenty days prior to the convening of each regular session of
16 the legislature, the director shall report all central service
17 assessments made during the preceding fiscal year."

18 SECTION 3. Section 36-30, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Each special fund, except the:

21 (1) Transportation use special fund established by section
22 261D-1;



- 1 (2) Special out-of-school time instructional program fund
2 under section 302A-1310;
- 3 (3) School cafeteria special funds of the department of
4 education;
- 5 (4) Special funds of the University of Hawaii;
- 6 (5) State educational facilities improvement special fund;
- 7 (6) Special funds established by section 206E-6;
- 8 (7) Aloha Tower fund created by section 206J-17;
- 9 (8) Funds of the employees' retirement system created by
10 section 88-109;
- 11 (9) Unemployment compensation fund established under
12 section 383-121;
- 13 (10) Hawaii hurricane relief fund established under section
14 431P-2;
- 15 (11) Convention center enterprise special fund established
16 under section 201B-8;
- 17 (12) Hawaii health systems corporation special funds and
18 the subaccounts of its regional system boards;
- 19 (13) Tourism special fund established under section
20 201B-11;
- 21 (14) Universal service fund established under section
22 269-42;



- 1 (15) Emergency and budget reserve fund under section
2 328L-3;
- 3 (16) Public schools special fees and charges fund under
4 section 302A-1130;
- 5 (17) Sport fish special fund under section 187A-9.5;
- 6 (18) Center for nursing special fund under section
7 304A-2163;
- 8 (19) Passenger facility charge special fund established by
9 section 261-5.5;
- 10 (20) Court interpreting services revolving fund under
11 section 607-1.5;
- 12 (21) Hawaii cancer research special fund;
- 13 (22) Community health centers special fund;
- 14 (23) Emergency medical services special fund;
- 15 (24) Rental motor vehicle customer facility charge special
16 fund established under section 261-5.6; ~~and~~
- 17 (25) Shared services technology special fund under section
18 27-43 [7]; and
- 19 (26) Automated victim information and notification system
20 special fund established under section 353-F,



1 shall be responsible for its pro rata share of the
2 administrative expenses incurred by the department responsible
3 for the operations supported by the special fund concerned."

4 SECTION 4. The department of public safety shall continue
5 to operate the statewide automated victim information and
6 notification system pursuant to the funding structure under
7 which it operated on June 30, 2012, which may include the use of
8 federal funds, until such time as the automated victim
9 information and notification system special fund has accumulated
10 sufficient moneys to carry out the purposes of this Act.

11 SECTION 5. There is appropriated out of the automated
12 victim information and notification system special fund the sum
13 of \$250,000 or so much thereof as may be necessary for fiscal
14 year 2012-2013 to operate the automated victim information and
15 notification system established by this Act; provided that funds
16 shall be made available upon the accumulation of sufficient
17 moneys in the automated victim information and notification
18 system special fund to carry out the purposes of this Act.

19 The sum appropriated shall be expended by the department of
20 public safety for the purposes of this Act.

21 SECTION 6. In codifying the new sections added by section
22 1 of this Act, the revisor of statutes shall substitute

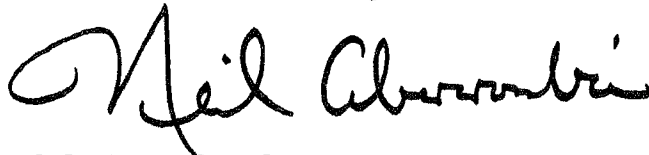


1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2012;
6 provided that the amendments to sections 36-27(a) and 36-30(a),
7 Hawaii Revised Statutes, in sections 2 and 3 of this Act shall
8 not be repealed when sections 36-27 and 36-30, Hawaii Revised
9 Statutes, are reenacted on June 30, 2015, pursuant to section 34
10 of Act 79, Session Laws of Hawaii 2009.

APPROVED this 28 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII

