
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. Section 346-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§346-10 Protection of records; divulging confidential**
4 **information prohibited.** (a) The department and its agents
5 shall keep records that may be necessary or proper in accordance
6 with this chapter. All applications and records concerning any
7 applicant or recipient shall be confidential. The use or
8 disclosure of information concerning applicants and recipients
9 shall be limited to:

- 10 (1) Persons duly authorized by the State or the United
11 States in connection with their official duties, when
12 the official duties are directly connected with the
13 administration of any form of public assistance,
14 medical assistance, food stamps, or social services;
- 15 (2) Purposes directly connected with any investigation,
16 prosecution, or criminal or civil proceeding conducted
17 in connection with the administration of any form of
18 public assistance, food stamps, medical assistance, or



1 social services, including disclosure by the
2 department, of information and documents to police
3 departments, prosecutors' offices, the attorney
4 general's office, or any other state, county, or
5 federal agency engaged in the detection,
6 investigation, or prosecution of violations of
7 applicable state, county, and federal laws or
8 regulations regarding any aspect of theft, fraud,
9 deception, or overpayment in connection with any
10 aspect of public assistance, food stamps, medical
11 assistance, or social services; provided that
12 disclosure by recipient agencies and personnel shall
13 be permitted under this section to the extent
14 reasonably necessary to carry out the functions for
15 which the information was provided;

- 16 (3) Disclosure to the extent necessary to provide services
17 for applicants and recipients, to determine
18 eligibility, or to determine the amount of public
19 assistance, including verification of information
20 provided by the recipient of public assistance,
21 medical assistance, or food stamps, or to determine
22 the type, kind, frequency, and amount of social



1 services, including health and mental health related
2 services needed;

3 (4) Disclosure to banks, financial institutions, or any
4 other payor of a public assistance warrant or check of
5 any information indicating that a public assistance
6 warrant or check honored by the bank, institution, or
7 payor has been forged or otherwise wrongfully
8 presented for payment;

9 (5) Federal agencies responsible for the administration of
10 federally assisted programs, that provide assistance
11 in cash or in kind for services directly to
12 individuals on the basis of need; and certification of
13 receipt of assistance to needy families with minor
14 dependents to an employer for purposes of claiming tax
15 credit under Public Law 94-12, the Tax Reduction Act
16 of 1975, shall be permitted;

17 (6) Employees acting within the scope and course of their
18 employment of recognized social welfare organizations
19 as may be approved by the department;

20 (7) Purposes directly connected with any investigation,
21 prosecution, or criminal proceeding conducted in
22 connection with the licensure or operation of an adult



1 day care center, including disclosure by the
2 department, of information and documents to police
3 departments, prosecutors' offices, the attorney
4 general's office, or any other state, county, or
5 federal agency engaged in the detection,
6 investigation, or prosecution of violations of
7 applicable state, county, and federal laws or
8 regulations;

9 (8) Disclosure to the child support enforcement agency for
10 obtaining or enforcing a child support order under
11 chapter 576D;

12 ~~[(9) Purposes directly connected to and necessary for the~~
13 ~~career planning, job training, education, job~~
14 ~~placement, or employment of participants in the~~
15 ~~workfare program under part IX;~~

16 ~~+(10)]~~ (9) Disclosure of a recipient's residence and business
17 address to law enforcement officers who request
18 information if the information is needed for an
19 official administrative, civil, or criminal law
20 enforcement purpose to identify a recipient as a
21 fugitive felon or parole violator, and in cases where
22 the information is needed for an official purpose and



1 where the department has informed the recipient of the
2 circumstances in which the recipient's address may be
3 released under section 92F-19(a)(1), (3), or (4); and

4 ~~[(11)]~~ (10) Disclosure of reports and records relating to
5 child abuse or neglect to the extent allowed by rules
6 adopted under section 350-1.4.

7 (b) Disclosure to any committee or legislative body
8 (federal, state, or local) of any information that identifies by
9 name and address any such applicant or recipient; and
10 publication of lists or names of applicants and recipients shall
11 be prohibited.

12 (c) The department shall promulgate and enforce such rules
13 as may be necessary to prevent improper acquisition or use of
14 confidential information. Any information secured pursuant to
15 this section by the officials or employees may be used in
16 connection with their official duties or within the scope and
17 course of their employment but not otherwise, and shall be kept
18 in confidential records or files, which shall not be subject to
19 any other law permitting inspection of government records. The
20 department and its agents shall determine whether or not such
21 inspection is in connection with such official duties or within
22 the scope and course of such employment.



1 (d) The use of the records, and other communications of
2 the department or its agents by any other agency or department
3 of government to which they may be furnished, shall be limited
4 to the purposes for which they are furnished.

5 (e) Confidential information shall be released if
6 requested by specific written waiver of the applicant or
7 recipient concerned.

8 (f) The identity of foster parents, adoptive parents, and
9 foster care facility staff parents, and the location of the
10 foster home, adoptive home, or foster care facility is
11 confidential but may be released with the consent of the foster
12 parent, adoptive parent, or foster care facility staff. If the
13 department determines it is in the best interest of the child
14 and of the adoptive parents, foster parents, or facility, the
15 identity and location of the adoptive parents or foster parents,
16 foster home, or facility may be stricken from the individual's
17 case file or withheld from the child's parents, guardians, or
18 other interested persons. Notwithstanding the above, the
19 department shall release the identity, mailing address, and
20 telephone number of licensed or certified foster parents and
21 approved relative caregivers to any association, agency, or
22 government entity which would be of benefit to the foster



1 parents or relative caregivers or to the foster care program,
2 unless the foster parents or relative caregivers submit to the
3 department a signed statement requesting that such information
4 be kept confidential. To be effective, this statement must be
5 submitted to the department by December 31, 1996, or with the
6 application to the department thereafter. The identity, mailing
7 address, and telephone number of licensed or certified foster
8 parents and approved relative caregivers provided to an
9 association, agency, or government entity shall not be released
10 by the association, agency, or government entity without the
11 consent of the foster parent or relative caregiver.

12 (g) All reports concerning adult abuse or neglect, as well
13 as all records of such reports, are confidential and any
14 unauthorized disclosure of a report or record of a report shall
15 be a violation. The director of human services may adopt,
16 amend, or repeal rules, pursuant to chapter 91, to provide for
17 the confidentiality of reports and records and for the
18 authorized disclosure of reports and records.

19 (h) The prohibition against divulging confidential
20 information shall not apply to applicants, recipients, or their
21 minor dependents concerning the use or disclosure of the
22 contents of the applicant's, recipient's, or the applicant's or



1 recipient's minor dependents' own applications or records, or
 2 information regarding any services received or investigations
 3 pending against them. Notwithstanding any law to the contrary,
 4 in adopting and enforcing such rules as may be necessary to
 5 prevent the improper acquisition, disclosure, or use of
 6 confidential information, the department may not prohibit
 7 applicants, recipients, or their minor dependents by rule,
 8 formal or informal policy, or otherwise from disclosing the
 9 contents of of the applicant's, recipient's, or the applicant's
 10 or recipient's minor dependents' own applications or records, or
 11 information regarding any services received or investigations
 12 pending against them."

13 SECTION 2. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

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

16

INTRODUCED BY: John M. Pardo (BR)
 JAN 19 2012



Report Title:

Confidential Information; Department of Human Services

Description:

Exempts applicants, recipients, or their minor dependents from the prohibition against divulging confidential information regarding their own information, and prohibits the Department of Human Services from adopting or enforcing rules or policies to prevent applicants, recipients, or their minor dependents from disclosing information regarding their applications, records, services received, or any pending investigations against them.

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