

S.B. NO. 2727

JAN 25 2012

A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF VITAL STATISTICS RECORDS TO LAW
ENFORCEMENT OFFICERS.

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

1 SECTION 1. Section 338-18, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The department shall not permit inspection of public
4 health statistics records, or issue a certified copy of any such
5 record or part thereof, unless it is satisfied that the
6 applicant has a direct and tangible interest in the record. The
7 following persons shall be considered to have a direct and
8 tangible interest in a public health statistics record:

- 9 (1) The registrant;
- 10 (2) The spouse of the registrant;
- 11 (3) A parent of the registrant;
- 12 (4) A descendant of the registrant;
- 13 (5) A person having a common ancestor with the registrant;
- 14 (6) A legal guardian of the registrant;
- 15 (7) A person or agency acting on behalf of the registrant;
- 16 (8) A personal representative of the registrant's estate;

S.B. NO. 2727

- 1 (9) A person whose right to inspect or obtain a certified
2 copy of the record is established by an order of a
3 court of competent jurisdiction;
- 4 (10) Adoptive parents who have filed a petition for
5 adoption and who need to determine the death of one or
6 more of the prospective adopted child's natural or
7 legal parents;
- 8 (11) A person who needs to determine the marital status of
9 a former spouse in order to determine the payment of
10 alimony;
- 11 (12) A person who needs to determine the death of a
12 nonrelated co-owner of property purchased under a
13 joint tenancy agreement; [and]
- 14 (13) A person who needs a death certificate for the
15 determination of payments under a credit insurance
16 policy[-]; and
- 17 (14) A law enforcement officer, as defined by section 710-
18 1000(13), who needs vital statistics records as
19 evidence in a criminal investigation; provided that
20 the law enforcement officer requesting the vital
21 statistics records provides identification and submits
22 to the department a signed statement verifying, under

S.B. NO. 2727

1 penalty of criminal prosecution for false swearing in
2 official matters, that the:


3 (A) Officer is a law enforcement officer as defined
4 by section 710-1000(13);

5 (B) Officer is acting in the officer's official
6 capacity; and

7 (C) Vital statistics records are needed as evidence
8 in a criminal investigation."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

12
13 INTRODUCED BY: 

14 BY REQUEST

15
16
17
18

S.B. NO. 2727

Report Title:

Vital Statistics Records; Disclosure

Description:

Authorizes the Department of Health to provide certain public health records to law enforcement officers to facilitate criminal investigations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE DISCLOSURE OF VITAL STATISTICS RECORDS TO LAW ENFORCEMENT OFFICERS.

PURPOSE: To add law enforcement officers to those who are considered to have a direct and tangible interest in certain public health statistic records, and thereby facilitate law enforcement's efforts to obtain vital statistics records during the course of investigations.

MEANS: Amend section 338-18(b), Hawaii Revised Statutes.

JUSTIFICATION: Generally, the Department of Health is not permitted to give law enforcement officers access to vital statistics records even though law enforcement officers sometimes need access to those records during the course of investigating or prosecuting a crime. 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.

Law enforcement officers need vital statistics records for many reasons. They may need death certificates to determine 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.

Impact on the public: This bill will be beneficial to the public interest because it would allow crimes, where vital statistics records are needed as evidence, to be investigated quicker and more efficiently.

Impact on the department and other agencies: This bill will help the department and other agencies because it would enable access to vital statistic records that will expedite the investigation of certain crimes.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of Health, county police, county prosecutors, and various other state and federal law enforcement agencies.

EFFECTIVE DATE: Upon approval.