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## A BILL FOR AN ACT

RELATING TO MEDICAL USE OF MARIJUANA.

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

1           SECTION 1. The legislature finds that the possession or  
2 distribution of marijuana is a criminal offense under part IV of  
3 chapter 712, Hawaii Revised Statutes. However, qualifying  
4 patients with certain medical conditions may assert the medical  
5 use of marijuana as a defense to prosecution pursuant to  
6 sections 329-125 and 712-1240.1, Hawaii Revised Statutes.

7           The department of public safety currently administers the  
8 state program regulating the medical use of marijuana. However,  
9 the legislature finds that the program should be transferred to  
10 the department of health, which has experience and expertise in  
11 working with patients and health programs. A transfer of  
12 departmental jurisdiction would help steer the focus of the  
13 medical marijuana program towards health issues and remove any  
14 stigma of perceived criminality that may be attached to the  
15 program being administered by the department of public safety,  
16 which is largely associated with the purposes of corrections,  
17 security, and law enforcement. In addition, the department of  
18 health is the more appropriate agency to facilitate authorized



1 access to medical marijuana and disseminate easily  
2 understandable information relating to the program.

3 The purpose of this Act is to improve the state program on  
4 the medical use of marijuana by transferring jurisdiction over  
5 the program from the department of public safety to the  
6 department of health.

7 SECTION 2. Section 329-121, Hawaii Revised Statutes, is  
8 amended by amending the definition of "written certification" to  
9 read as follows:

10 ""Written certification" means the qualifying patient's  
11 medical records or a statement signed by a qualifying patient's  
12 physician, stating that in the physician's professional opinion,  
13 the qualifying patient has a debilitating medical condition and  
14 the potential benefits of the medical use of marijuana would  
15 likely outweigh the health risks for the qualifying patient.  
16 The department of [~~public safety~~] health may require, through  
17 its rulemaking authority, that all written certifications comply  
18 with a designated form. "Written certifications" are valid for  
19 only one year from the time of signing."

20 SECTION 3. Section 329-123, Hawaii Revised Statutes, is  
21 amended to read as follows:



1 "[§329-123] Registration requirements. (a)

2 Physicians who issue written certifications shall register the  
3 names, addresses, patient identification numbers, and other  
4 identifying information of the patients issued written  
5 certifications with the department of [~~public safety~~] health.

6 (b) Qualifying patients shall register with the department  
7 of [~~public safety~~] health. The registration shall be effective  
8 until the expiration of the certificate issued by the department  
9 of health and signed by the physician. Every qualifying patient  
10 shall provide sufficient identifying information to establish  
11 the personal identities of the qualifying patient and the  
12 primary caregiver. Qualifying patients shall report changes in  
13 information within five working days. Every qualifying patient  
14 shall have only one primary caregiver at any given time. The  
15 department of health shall then issue to the qualifying patient  
16 a registration certificate, and may charge a reasonable fee not  
17 to exceed \$35.

18 (c) Primary caregivers shall register with the department  
19 of [~~public safety~~] health. Every primary caregiver shall be  
20 responsible for the care of only one qualifying patient at any  
21 given time.



1 (d) Upon an inquiry by a law enforcement agency, the  
2 department of [~~public safety~~] health shall verify whether the  
3 particular qualifying patient has registered with the department  
4 of health and may provide reasonable access to the registry  
5 information for official law enforcement purposes."

6 SECTION 4. All rights, powers, functions, and duties of  
7 the department of public safety relating to the medical use of  
8 marijuana under chapter 329, Part IX, Hawaii Revised Statutes,  
9 are transferred to the department of health.

10 All employees who occupy civil service positions and whose  
11 functions are transferred to the department of health by this  
12 Act shall retain their civil service status, whether permanent  
13 or temporary. Employees shall be transferred without loss of  
14 salary, seniority (except as prescribed by applicable collective  
15 bargaining agreements), retention points, prior service credit,  
16 any vacation and sick leave credits previously earned, and other  
17 rights, benefits, and privileges, in accordance with state  
18 personnel laws and this Act; provided that the employees possess  
19 the minimum qualifications and public employment requirements  
20 for the class or position to which transferred or appointed, as  
21 applicable; provided further that subsequent changes in status



1 may be made pursuant to applicable civil service and  
2 compensation laws.

3 Any employee who, prior to this Act, is exempt from civil  
4 service and is transferred as a consequence of this Act may  
5 retain the employee's exempt status, but shall not be appointed  
6 to a civil service position as a consequence of this Act. An  
7 exempt employee who is transferred by this Act shall not suffer  
8 any loss of prior service credit, vacation or sick leave credits  
9 previously earned, or other employee benefits or privileges as a  
10 consequence of this Act; provided that the employees possess  
11 legal and public employment requirements for the position to  
12 which transferred or appointed, as applicable; provided further  
13 that subsequent changes in status may be made pursuant to  
14 applicable employment and compensation laws. The director of  
15 health may prescribe the duties and qualifications of such  
16 employees and fix their salaries without regard to chapter 76,  
17 Hawaii Revised Statutes.

18 SECTION 5. All appropriations, records, equipment,  
19 machines, files, supplies, contracts, books, papers, documents,  
20 maps, and other personal property heretofore made, used,  
21 acquired, or held by the department of public safety relating to



1 the functions transferred to the department of health shall be  
2 transferred with the functions to which they relate.

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

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JAN 24 2013



# H.B. NO. 1438

**Report Title:**

Medical Use of Marijuana; Transfer of Departmental Jurisdiction

**Description:**

Transfers jurisdiction over the state medical marijuana program from PSD to DOH.

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

