

JAN 23 2014

A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF PUBLIC HEALTH 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;

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- 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 a public health statistics record
19 as evidence in a criminal investigation; provided that
20 the law enforcement officer requesting the public
21 health statistics record provides identification and
22 submits to the department a signed statement

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

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

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

7 (C) The public health statistics record is needed as
8 evidence 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.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Public Health Statistics Records; Disclosure

Description:

Authorizes the Department of Health to provide public health statistics 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 PUBLIC HEALTH STATISTICS RECORDS TO LAW ENFORCEMENT OFFICERS.

PURPOSE: To authorize the Department of Health to:
(1) allow law enforcement officers to inspect public health statistics records, and (2) issue certified copies of any such records or part thereof to law enforcement officers; and thereby facilitate law enforcement's efforts to obtain public health statistics records during the course of criminal investigations.

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

JUSTIFICATION: County police and prosecutors, the Department of the Attorney General, the Department of Public Safety, and numerous federal law enforcement agencies sometimes need public health statistics records for their criminal investigations. Such records can be extremely important to law enforcement investigators and 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 public health statistics records after they have established a direct and tangible interest in the 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 public health 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 because delays can 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 public health 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 the officer's official capacity, and in need of the records for a criminal investigation.

Law enforcement officers need public health 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 much 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 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 public health statistics records are needed as evidence, to be investigated more quickly and efficiently, while still protecting the privacy of the records.

Impact on the department and other agencies: This bill will help the department and other law enforcement agencies to obtain public health 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.