

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB 1953  
(RELATING TO HEALTH)**

REPRESENTATIVE DELLA AU-BELATTI, CHAIR  
HOUSE COMMITTEE ON HEALTH

Hearing Date: February 8, 2016

Room Number: 329

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health is providing comments on HB1953. This  
3 measure permits a broad range of public employees who may have been exposed to a bloodborne  
4 pathogen (BBP) to petition the court to order the possible source individual to provide specimens  
5 for testing to identify if he or she has a communicable bloodborne infection. When possible, this  
6 petition is to be supported by a determination by the Department of Health (DOH) that a  
7 substantial exposure took place. This determination is to be based on criteria developed by  
8 DOH. The court order requires the specimens to be tested by a hospital or laboratory and the  
9 results to be released to the petitioner.

10

11 The process outlined in this bill does not provide any significant medical advantage in the  
12 evaluation and management of occupational exposures to bloodborne pathogens. The principal  
13 communicable diseases transmitted through blood or bodily fluids are Human Immunodeficiency  
14 Virus (HIV), Hepatitis B virus (HBV), and Hepatitis C Virus (HCV). There is no post-exposure  
15 prophylaxis (PEP) medication for HBV or HCV. PEP medication is only available for HIV  
16 exposure, which should be initiated as quickly as possible after the exposure and no longer than  
17 72 hours afterwards. Ideally, the source individual would be asked about their HIV status,  
18 requested to undergo testing, and share the test results immediately and confidentially if they are  
19 willing. Court ordered HIV testing would stigmatize the person being tested and the results of a

1 court-mandated test would not be available quickly enough to influence a clinical decision  
2 whether to initiate HIV PEP.

3

4 Occupational Safety and Health Administration (OSHA) Law (29 CFR 1910.1030) mandates  
5 that employers develop and adhere to a BBP Exposure Plan based on OSHA-established  
6 standards to prevent BBP exposures and to manage accidental exposures. The majority of BBP  
7 exposures are due to nonadherence with OSHA-mandated standards.

8

9 This bill does not address any of the due process concerns that arise when taking tissue or fluid  
10 samples from an individual who may not have consented. Current law only allows mandatory  
11 sampling from an individual upon conviction.

12

13 There is no apparent public health reason to support this measure.

14

15 Thank you for the opportunity to testify.

DAVID Y. IGE  
GOVERNOR



RACHAEL WONG, DrPH  
DIRECTOR

PANKAJ BHANOT  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 8, 2016

TO: The Honorable Della Au Belatti, Chair  
House Committee on Health

FROM: Rachael Wong, DrPH, Director

SUBJECT: **HB 1953- RELATING TO HEALTH**  
Hearing: Monday, February 8, 2016; 3:00 p.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the opportunity to testify on this bill and provides comments.

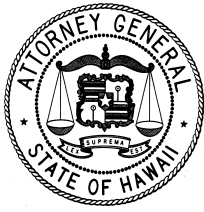
**PURPOSE:** The purpose of this bill is to authorize public sector employees and volunteers who may have been exposed to a communicable disease through contact with bodily fluids in the course of their duties to petition a court for an order requiring testing of the person or decedent who is the source of the possible exposure. Limits disclosure of test results.

The Department understands the intent of the measure and understands the importance of protecting our workers. The Department is concerned about the effect this measure would have on our day to day operations if rules are not prescribed regarding the criterion upon which petitions to the court would be made. In addition, since the Medicaid or public assistance application does not require an individual to include a diagnosis, it would be difficult to determine the source of the exposure to a communicable disease through exposure to blood or other bodily fluid referenced in the bill.

The DHS defers to the Department of Health regarding clinical efficacy of testing and determination of any public health risk that may exist. The Department defers to the

Attorney General and the Judiciary regarding the constitutionality of such a provision as well as how said employees would gain access to a judicial determination.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**  
H.B. NO. 1953, RELATING TO HEALTH.

**BEFORE THE:**  
HOUSE COMMITTEE ON HEALTH

**DATE:** Monday, February 8, 2016                      **TIME:** 3:00 p.m.  
**LOCATION:** State Capitol, Room 329  
**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Blair Goto, Deputy Attorney General

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Chair Belatti and Members of the Committee:

The Department of the Attorney General provides comments on this measure.

The purpose of the bill is to add a new section to chapter 325-101, Hawai'i Revised Statutes, that would: (1) authorize any employee or volunteer of a public agency and any emergency medical services personnel who may have been exposed to a communicable disease via human blood or bodily fluids (exposed person), or the employer or volunteer agency of such an exposed person, to seek a court order that would require medical testing of the person or decedent who was the source of the potential exposure (source person); (2) require, when possible, the exposed person to submit information to the Department of Health (DOH) to document the possible exposure and "for verification that there was substantial exposure"; (3) authorize a court to order the source person to submit two specimens or two specimens to be taken from a deceased source person for testing; (4) authorize the DOH to generate a duplicate order of the court's order; and (5) require the exposed person's employer or the agency for which the exposed person volunteers or the employer's or agency's insurer to pay the cost of any court-ordered test.

The bill may create enforcement problems. The bill does not contain provisions for the exposed person, exposed person's employer, or exposed person's agency (petitioner) to locate the source person should that be necessary. Nor does it specify how an order is to be served upon the source person. In addition, the bill does not provide an enforcement mechanism should the source person fail to comply with the order.

Subsection (b) of the new statutory section (on page 2, lines 1-8) establishes a procedure, when possible, for DOH verification that there was a substantial exposure based upon a written submission from the petitioner. Subsection (b) does not state how the verification is to be used. Nor does subsection (b) state what is to happen if DOH does not verify that there was a substantial exposure or if it is not possible for the petitioner to submit information concerning the possible exposure.

Subsection (d) of the new section (on pages 3-4, lines 11-20 and 1-2) authorizes DOH to sign the name of the judge on a duplicate order if the judge enters an order to submit specimens or for specimens to be taken. It is not clear why the DOH should be granted this power. For example, if the exposed person is not a DOH employee, the DOH would have minimal interest in the outcome of the hearing. Although the measure states that a duplicate order shall be deemed to be an order of the court, the subsection does not otherwise specify the purpose of a duplicate order.

The new section also does not specify which court is to hold a prompt hearing on a petition for an order to submit specimens. Nor does the section provide for notice to the source person or explicitly state that such a hearing is to be ex parte.

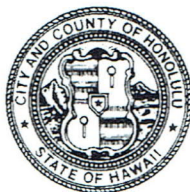
Last, we recommend a wording change on page 3, lines 9-10. Disclosure of the results of the test "to the petitioner and in accordance with section 325-101" is ambiguous. It is not clear that a disclosure to the petitioner would also be in accordance with section 325-101. To clarify the ambiguity, lines 9-10 could be amended to read: "disclose the results of the test to the petitioner and as otherwise provided in section 325-101."

We respectfully recommend that the Committee pass this bill only if these changes are made.

HONOLULU EMERGENCY SERVICES DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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DEPUTY DIRECTOR

February 8, 2016

The Honorable Della Au Belatti, Chair  
The Honorable Richard P. Creagan, Vice-Chair  
Committee on Commerce, Consumer Protection and Health  
Twenty-Eighth Legislature  
Regular Session of 2016

Re: HB1953, Relating to Health

Dear Chair Belatti, Vice-Chair Creagan and Members:

The Honolulu Emergency Services Department, Emergency Medical Services Division (EMS), would like to provide the following comments on HB1953.

Everyday our EMS personnel put themselves at risk while treating patients with unknown illnesses. The possibility of an occupational exposure by needle stick or bodily fluids is significant for our personnel. It is essential to test the source person immediately upon the known exposure for early intervention treatment.

The post-exposure prophylaxis (PEP) medication is taken immediately by the exposed health care worker for up to four weeks. The side effects of the medication are severe and may cause an employee to call in sick. The health care worker may discontinue taking the PEP medication once the results return negative. An immediate result is vital in determining whether the employee may withdraw the PEP medication.

Filing a court order is also a lengthy process to require medical testing of a source patient. It is necessary for an immediate blood draw from the source patient to conduct a test for any communicable disease. Once the court determines a probable cause for medical testing, it will be a time consuming process to track the source patient, if possible as well as exhausting resources.

Thank you for allowing EMS to provide comments on HB1953.

Sincerely,

A handwritten signature in black ink, appearing to read "Ian T. T. Santee", is written over a light blue horizontal line.

Ian T. T. Santee  
Deputy Director



# HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO  
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HOUSE OF REPRESENTATIVES  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION 2016

February 8, 2016

Committee on Health

Testimony by  
Hawaii Fire Fighters Association, Local 1463, IAFF, ALF-CIO

**H.B. No. 1953      Relating to Health**

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO. HFFA represents approximately 2,100 active-duty professional fire fighters throughout the State. HFFA **supports** H.B. No. 1953, which authorizes public sector employees and volunteers who may have been exposed to a communicable disease during the course of their duties to petition a court for an order requiring testing of the person or decedent who is the source of the possible exposure.

The request presented in H.B. No. 1953 will aid our emergency first responders in better serving their communities by preventing the potential spread of a communicable disease by providing them with the opportunity to petition the possible origin to submit appropriate specimens to a hospital or medical laboratory for testing and should the tests as required by the proposed legislation be positive, it would allow a medical professional to administer prophylactic treatment to the person or decedent in order to circumvent further transmission.

Thank you for the opportunity to testify and HFFA respectfully requests favorable consideration of these measures.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 5:19 PM  
**To:** HLTtestimony  
**Cc:** joyamarshall0416@gmail.com  
**Subject:** \*Submitted testimony for HB1953 on Feb 8, 2016 15:00PM\*

**HB1953**

Submitted on: 2/5/2016

Testimony for HLT on Feb 8, 2016 15:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joy Marshall	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HLTtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 08, 2016 3:50 PM  
To: HLTtestimony  
Cc: dylanarm@hawaii.edu  
Subject: \*Submitted testimony for HB1953 on Feb 8, 2016 15:00PM\*

**HB1953**

Submitted on: 2/8/2016

Testimony for HLT on Feb 8, 2016 15:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dylan Armstrong	Individual	Support	No

Comments:

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