

JAN 27 2021

---

# A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF VITAL STATISTICS RECORDS.

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

1       SECTION 1. The purpose of this Act is to enable the  
2       department of health to disclose vital statistics records for  
3       public health and law enforcement purposes and update the  
4       categories of those who are able to access otherwise  
5       confidential vital statistics records.

6       SECTION 2. Section 338-18, Hawaii Revised Statutes, is  
7       amended to read as follows:

8       "**§338-18 Disclosure of records.** (a) To protect the  
9       integrity of vital statistics records, to ensure their proper  
10      use, and to ensure the efficient and proper administration of  
11      the vital statistics system, it shall be unlawful for any person  
12      to permit inspection of, or to disclose information contained in  
13      vital statistics records, or to copy or issue a copy of all or  
14      part of any such record, except as authorized by this part [~~or~~  
15      ~~by~~] and in a manner consistent with rules adopted by the  
16      department of health.

17      (b) The department shall not permit inspection of public  
18      health statistics records, or issue a certified copy of any such

1 record or part thereof, unless it is satisfied that the  
2 applicant has a direct and tangible interest in the record. The  
3 following exclusive list of persons or agencies shall be  
4 considered to have a direct and tangible interest in a public  
5 health statistics record:

- 6 (1) The registrant;
- 7 (2) The spouse of the registrant;
- 8 (3) A parent of the registrant;
- 9 (4) A descendant of the registrant;
- 10 (5) A person having a common ancestor with the registrant;
- 11 (6) A legal guardian of the registrant;
- 12 (7) A person or agency acting on behalf of the registrant;
- 13 (8) A personal representative of the registrant's estate;
- 14 (9) A person whose right to inspect or obtain a certified  
15 copy of the record is established by an order of a  
16 court of competent jurisdiction;
- 17 (10) Adoptive parents who have filed a petition for  
18 adoption and who need to determine the death of one or  
19 more of the prospective adopted child's natural or  
20 legal parents;
- 21 (11) A person who needs to determine the marital status of  
22 a former spouse in order to determine the payment of  
23 alimony;

1 (12) A person or agency who needs to determine the death of  
2 a [nonrelated] co-owner of real property; [purchased  
3 ~~under a joint tenancy agreement; and~~

4 ~~(13) A person who needs a death certificate for the~~  
5 ~~determination of payments under a credit insurance~~  
6 ~~policy.]~~

7 (13) A person or agency who needs vital statistics records  
8 for a public health purpose, as determined by the  
9 director of health; and

10 (14) A government law enforcement agency with jurisdiction  
11 in the State of Hawaii that needs vital statistics  
12 records for a law enforcement purpose.

13 (c) The department may permit the use [+]of[+] the data  
14 contained in public health [~~statistical~~] statistics records for  
15 research purposes only, but no identifying use thereof shall be  
16 made. Research purposes under this section are limited to those  
17 that have been approved by the department's institutional review  
18 committee.

19 [~~(d) Index data consisting of name and sex of the~~  
20 ~~registrant, type of vital event, and such other data as the~~  
21 ~~director may authorize shall be made available to the public.]~~

22 ~~[+e+]~~ (d) The department may permit persons working on  
23 genealogy projects access to microfilm or other copies of vital

1 records of events that occurred more than seventy-five years  
2 prior to the current year.

3 ~~[(f) Subject to this section, the department may direct~~  
4 ~~its local agents to make a return upon filing of birth, death,~~  
5 ~~and fetal death certificates with them, of certain data shown to~~  
6 ~~federal, state, territorial, county, or municipal agencies.~~  
7 ~~Payment by these agencies for these services may be made as the~~  
8 ~~department shall direct.]~~

9 ~~[(g)]~~ (e) The department shall not issue a verification in  
10 lieu of a certified copy of any such record, or any part  
11 thereof, unless it is satisfied that the applicant requesting a  
12 verification is:

13 (1) A person who has a direct and tangible interest in the  
14 record but requests a verification in lieu of a  
15 certified copy;

16 (2) A governmental agency that, for a legitimate  
17 government purpose, maintains and needs to update  
18 official lists of persons in the ordinary course of  
19 the agency's activities. Notwithstanding other  
20 provisions of this section, upon request from a  
21 governmental agency of the State of Hawaii or its  
22 political subdivisions, the department may further

1 disclose to that governmental agency the date of the  
2 vital event that has been verified;

3 (3) A [~~governmental agency, or~~] government, private,  
4 social, or educational agency or organization that  
5 seeks confirmation of a certified copy of any such  
6 record submitted in support of or information provided  
7 about a vital event relating to any such record and  
8 contained in an official application made in the  
9 ordinary course of the agency's or organization's  
10 activities by an individual seeking employment with,  
11 entrance to, or the services or products of the agency  
12 or organization;

13 (4) A private or government attorney who seeks to confirm  
14 information about a vital event relating to any such  
15 record that was acquired during the course of or for  
16 purposes of legal proceedings; or

17 (5) An individual employed, endorsed, or sponsored by a  
18 governmental agency, or private, social, or  
19 educational agency or organization who seeks to  
20 confirm information about a vital event relating to  
21 preparation of reports or publications by the agency  
22 or organization for research or educational purposes.

SECTION 3. Section 338-18.5, Hawaii Revised Statutes, is repealed.

~~["§338-18.5] Sharing of vital statistics records with department of health program employees for approved research purposes. (a) Notwithstanding section 338-18, the department may disclose public health statistics records to persons who are employed by department of health programs, acting within the scope of their employment, who need to use a public health statistics record for research purposes, as approved by the department of health's institutional review committee. Upon the institutional review committee's approval, the department may disclose the following to department employees as specified in this section:~~

- ~~(1) Names, addresses, and contact information in the record for the purpose of contacting persons identified in the record to request informed consent to use additional specified information in the record. Upon confirmation of informed consent, the additional specified information in the record may be disclosed and used for approved research purposes; and~~
- ~~(2) Information in the record as approved by the institutional review committee without informed~~

1 ~~consent of persons identified in the record; provided~~  
2 ~~that the institutional review committee:~~

3 ~~(A) Identifies the information in the record for~~  
4 ~~which disclosure is sought;~~

5 ~~(B) Determines that obtaining informed consent is not~~  
6 ~~practicable; and~~

7 ~~(C) Determines that there is a public health purpose~~  
8 ~~for the approved research that substantially~~  
9 ~~outweighs the confidentiality interest of persons~~  
10 ~~identified in the record.~~

11 ~~(b) Research purposes under this section are limited to~~  
12 ~~those that have been approved by the department's institutional~~  
13 ~~review committee.~~

14 ~~(c) Requirements for informed consent shall be determined~~  
15 ~~by the department's institutional review committee as part of~~  
16 ~~its approval of the research purposes for which the information~~  
17 ~~in the record will be disclosed and used.~~

18 ~~(d) Information disclosed pursuant to this section may~~  
19 ~~only be re-disclosed:~~

20 ~~(1) With authorization from the institutional review~~  
21 ~~committee; or~~

22 ~~(2) If the record has been redacted of identifying~~  
23 ~~personal information.~~

S.B. NO. 1145

1       ~~(e) For the purposes of this section, "department" means~~  
2       ~~the department of health."]~~

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

5       SECTION 5. This Act shall take effect upon its approval.

6

7

INTRODUCED BY: 

8

BY REQUEST

9



**Report Title:**

Disclosure of Vital Records for Public Health and Law  
Enforcement Purposes

**Description:**

Amends and repeals sections in chapter 338, Hawaii Revised Statutes, to allow the Department of Health to disclose vital statistics records for public health and law enforcement purposes. Updates eligibility requirements for access to confidential vital records.

*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: Health

TITLE: A BILL FOR AN ACT RELATING TO THE DISCLOSURE OF VITAL STATISTICS RECORDS

PURPOSE: To enable the Department of Health to disclose vital statistics records for public health and law enforcement purposes and update the categories of those who can access otherwise confidential vital statistics records.

MEANS: Amend section 338-18, Hawaii Revised Statutes (HRS) and repeal section 338-18.5, HRS.

JUSTIFICATION: Generally, the Department of Health is not permitted to allow access to vital statistics records for public health purposes. A limited exception exists in section 338-18.5, HRS, which allows disclosure of vital statistics records for research purposes to a Department of Health Program that can obtain Institutional Review Committee approval. Other entities, including the University of Hawaii, the National Health Institutes, private hospitals, and public health authorities are not authorized access to data from vital statistics records. By not being able to share vital statistics records, the DOH has been unable to assist important public health projects both in-State and nationally, and it has lost many grant and funding opportunities. The proposed amendment would still require the Director of Health to determine that the disclosure of records is for a public health purpose and would allow the Director to attach appropriate conditions to the disclosure. Criteria could be established by rules.

Similarly, the Department of Health is not permitted to allow access to vital statistics records for law enforcement purposes without a court order even though law enforcement officers sometimes need access to vital statistics records during the course of investigating a crime before a court matter has been filed. For example, in homicide investigations, access to a death certificate can be helpful when deciding what charge, if any, to bring against a suspect. Another example would be the need to access birth certificates in sexual assault cases when the age of the victim or the age of the suspect needs to be ascertained by the investigator. Law enforcement could do its job in a more efficient and effective manner if law enforcement officers are allowed limited access to certain vital statistics records. The criteria for access could be established by rules.

Repealing those portions of sections 338-18, HRS, that are no longer relevant and all of 338-18.5, will maintain internal consistency within chapter 338, HRS.

Impact on the public: This bill will be beneficial to the public interest because of the anticipated benefits of public health research and interpretations of vital statistics data and enhanced outcomes for disease prevention. It will benefit the public safety by assisting efficient investigation and prosecutions of crimes where vital statistics records are needed as evidence.

Impact on the department and other agencies: This bill will help the department and other agencies because it will enable access to vital statistic records that assist in public health research, surveillance, education, disease prevention, injury prevention, and other public health

purposes, and it will help local law enforcement agencies to expedite the investigation of certain crimes without the need for expending time and resources to obtain subpoenas.

GENERAL FUND: N/A.

OTHER FUNDS: N/A.

PPBS PROGRAM  
DESIGNATION: HTH-760.

OTHER AFFECTED  
AGENCIES: State and county law enforcement agencies,  
federal law enforcement with jurisdiction in  
Hawaii.

EFFECTIVE DATE: Upon approval.