## A BILL FOR AN ACT

RELATING TO CHANGES TO RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH CONCERNING PATIENTS, THE COUNTY OF KALAWAO, AND THE KALAUPAPA SETTLEMENT.

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

1	PART I
2	SECTION 1. The legislature finds that the population of
3	former Hansen's disease patients residing at Kalaupapa in the
4	county of Kalawao is aging. There are currently seven
5	individuals on the Kalaupapa Registry who receive services from
6	the State. Four of them are full-time residents at Kalaupapa.
7	All these patients are age eighty-three years or older.
8	The legislature finds that the county of Kalawao consists
9	of that portion of the island of Molokai commonly known as the
10	Kalaupapa Settlement and that the county of Kalawao is under the
11	jurisdiction and control of the department of health and
12	governed by the laws and rules relating to the department and
13	the care and treatment of persons affected with Hansen's
14	disease. After the passing of the last full- or part-time
15	patient resident at Kalaupapa, the department of health will no

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- 1 longer provide patient care there but intends to complete
- 2 environmental remediation work.
- 3 The legislature further finds that there are many other
- 4 stakeholders that care about the future of the Kalaupapa
- 5 Settlement and the preservation of the historical, cultural, and
- 6 environmental significance of the county of Kalawao. This Act
- 7 reflects preliminary sentiments heard from some Maui county
- 8 residents that the county of Kalawao be reunited with the county
- 9 of Maui. A transparent process and opportunity for more
- 10 extensive public input regarding the transfer of jurisdiction
- 11 and control of Kalawao county is required.
- 12 Accordingly, the purposes of this Act are to:
- 13 (1) Prepare for changes of responsibilities of the
- 14 department of health upon the passing of the last
- patient resident of the Kalaupapa Settlement;
- 16 (2) Commemorate and preserve the historical, cultural, and
- environmental significance of the peninsula and its
- 18 residents in Hawaii's history with the establishment
- of the Kalaupapa State Historical Area; and

1	(3)	Provide the public the opportunity for input on the	
2		future of the county of Kalawao via the legislative	
3		process; and	
4	(4)	Require the department of health, in developing a plan	
5		for the permanent transfer of the powers and duties of	
6		the department and any other state agency over	
7		Kalaupapa Settlement to other governmental or	
8		qualified non-governmental entities, to include Ka	
9		Ohana O Kalaupapa and a topside community organization	
10		from Molokai in the transition planning team.	
11		PART II	
12	SECT	ION 2. Chapter 6E, Hawaii Revised Statutes, is amended	
13	by adding a new section to part II to be appropriately		
14	designate	d and to read as follows:	
15	" <u>§6E</u> -	Kalaupapa state historical area. (a) There shall	
16	be a Kalaupapa state historical area that shall consist of that		
17	portion o	f the island of Molokai known as Kalaupapa, Kalawao,	
18	and Waikolu, and commonly known or designated as the Kalaupapa		
19	Settlement.		
20	(b)	The Kalaupapa state historical area is established to	
21	preserve 1	the Kalaupapa Settlement, to educate the public, to	

- 1 commemorate the lives of residents with Hansen's disease and the
- 2 lives of the people who served them, and to recognize the county
- 3 of Kalawao and its role in the history of Hawaii."
- 4 SECTION 3. Chapter 326, Hawaii Revised Statutes, is
- 5 amended by adding a new section to be appropriately designated
- 6 and to read as follows:
- 7 "§326- County of Kalawao; cessation; county of Maui.
- 8 The county of Kalawao that consists of that portion of the
- 9 island of Molokai known as Kalaupapa, Kalawao, and Waikolu, and
- 10 commonly known or designated as the Kalaupapa Settlement shall
- 11 cease to constitute a county by itself and shall be and form a
- 12 portion of the county of Maui."
- 13 SECTION 4. Section 326-1, Hawaii Revised Statutes, is
- 14 amended to read as follows:
- 15 "\$326-1 [Establishment of facilities] Services for the
- 16 treatment and care of persons with Hansen's disease. The
- 17 department of health, subject to the approval of the governor,
- 18 shall [establish and maintain facilities and] provide services
- 19 as are necessary for the care and treatment of persons with
- 20 Hansen's disease and persons who were institutionalized for

- 1 segregation by order of the department of health because of
- 2 Hansen's disease.
- 3 Every [such-facility or] service provider shall exercise
- 4 every reasonable effort to effect a cure of [those] persons[-]
- 5 with Hansen's disease. All [such] persons with Hansen's disease
- 6 shall be cared for as well as circumstances will permit, in
- 7 accordance with accepted medical practices. [Every patient
- 8 shall be encouraged to take complete treatment so that prompt
- 9 recovery can be attained. Isolation and treatment shall be
- 10 compulsory only in those cases where, in the opinion of the
- 11 department, that treatment is necessary to protect the health of
- 12 the public, and the department may take such measures as may be
- 13 necessary to enforce this section, including the adoption of
- 14 rules pursuant to chapter 91.]"
- 15 SECTION 5. Section 326-13, Hawaii Revised Statutes, is
- 16 amended to read as follows:
- "\$326-13 Expenses; rules. [\(\frac{a}{a}\)\] The department of health
- 18 shall bear all expenses of travel and other necessary expenses
- 19 incurred under sections 326-1 to 326-14 and may adopt all rules
- 20 and forms and perform all acts necessary and proper for carrying
- 21 out their provisions.

1 [(b) - Expenses related to patients shall be tracked 2 separately from nonpatient costs, whenever appropriate and 3 possible.]" 4 SECTION 6. Section 326-24, Hawaii Revised Statutes, is 5 amended to read as follows: 6 "\$326-24 Rules. The director of health may adopt rules 7 pursuant to chapter 91 necessary for the conduct of all matters 8 pertaining to Hansen's disease, the treatment and care thereof, 9 and other services provided to persons affected with Hansen's 10 disease[7 and the full and complete governance of the county of 11 Kalawao, except as limited by this chapter]." 12 SECTION 7. Section 326-25.5, Hawaii Revised Statutes, is 13 amended to read as follows: 14 "\$326-25.5 Annual report. (a) The department of health 15 shall submit a report to the legislature no later than twenty 16 days prior to the convening of each regular session that 17 addresses the following with regard to Kalaupapa Settlement: 18 (1)The department's provision of medical and basic living 19 needs of the patients; 20 (2) The department's progress toward defining and

addressing the nonmedical needs of patients;

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1	(3)	The department's progress toward promoting a positive
2		living environment;
3	(4)	The department's management of state resources,
4		including benefits given to employees that are not
5		statutorily defined;
6	(5)	The department's progress toward establishing written
7		policies and procedures for Kalaupapa store;
8	(6)	The department's progress toward establishing and
9		maintaining a complaint file and adequately addressing
10		complaints;
11	(7)	The performance of the administrator, including
12		compliance with job duties;
13	(8)	The department's progress toward adequate
14		accountability of state property;
15	(9)	Details and justification of approved employee air
16		travel requests and trail pay;
17	(10)	Details and updated information, as available,
18		regarding the permanent transfer to other governmental
19		or qualified non-governmental entities of the powers
20		and duties of the department and any other state
21		agency over Kalaupapa Settlement; and

1	(11)	Details including efforts of engagement by the
2		department with Molokai community groups, including
3		the addition of Ka Ohana O Kalaupapa and a
4		non-governmental organization from the non-peninsular
5		area of Molokai to be selected by the department in
6		consultation with the non-peninsular area of the
7		Molokai community.
8	(b)	Annual reporting shall continue until the earlier of
9	the year	in which the passing of the last patient resident
10	occurs or	Kalaupapa settlement is no longer under the
11	jurisdict	ion and control of the department of health."
12	SECT	ION 8. Section 326-1.3, Hawaii Revised Statutes, is
13	repealed.	
14	[" <del>[\$</del>	326-1.3] Liberty, autonomy, and dignity of patient
15	<del>residents</del>	. (a) In recognition of the disruptions and hardships
16	experienc	ed over the course of their lives by former Hansen's
17	<del>disease p</del>	atients residing at Kalaupapa, the legislature declares
18	<del>its inten</del>	t to ensure that all residents at Kalaupapa are treated
19	with dign	ity, respect, courtesy, and sensitivity and that the
20	<del>protectio</del>	ns extended by this chapter to the patient residents at

1 Kalaupapa are honored and upheld by the department of health to 2 the extent possible within their purview. 3 (b) Notwithstanding any other law to the contrary, the 4 department of health shall promote and protect the personal 5 liberty, autonomy, and dignity of all patient residents at 6 Kalaupapa." 7 SECTION 9. Section 326-2, Hawaii Revised Statutes, is 8 repealed. 9 ["\$326-2 Equal treatment of patients. Every Hansen's 10 disease sufferer at Hale Mohalu and Kalaupapa shall be accorded 11 as nearly equal care and privileges as is practicable under the 12 different operating conditions of the two institutions." SECTION 10. Section 326-11, Hawaii Revised Statutes, is 13 14 repealed. ["\$326-11 Voluntary transfer to and from Kalaupapa. Any 15 16 person undergoing treatment and receiving care for Hansen's disease at Hale Mohalu on June 30, 1969, may be transferred to 17 18 Kalaupapa for care and treatment if the person desires. Any 19 person who may undergo treatment and receive care for Hansen's disease at Hale Mohalu after June 30, 1969, may apply to the 20 21 director of health for transfer to Kalaupapa. Any person

1 undergoing treatment and receiving care for Hansen's disease at 2 Kalaupapa may be transferred to Hale Mohalu for care and 3 treatment if the person desires. A person transferred may be 4 retransferred to Kalaupapa if the person desires."] 5 SECTION 11. Section 326-21, Hawaii Revised Statutes, is 6 repealed. 7 ["§326-21 Employment of patients. At any facility for the care and treatment of persons with Hansen's disease, the 8 9 department of health, with the consent of a patient, may employ 10 that patient to perform labor or service. 11 When there are vacancies in positions, classified under chapter 76, at a facility exclusively for the care and treatment 12 13 of persons with Hansen's disease, employment-preference shall be 14 given to temporary release patients and discharged patients from 15 those facilities provided that the persons so hired shall be 16 otherwise qualified under chapter 76. 17 Discharged patients who have been employed prior to 18 December 30, 1960, under chapter 76 in accordance with the 19 second paragraph of this section shall be eligible to receive 20 the same rights and privileges as those enjoyed by temporary

1 release patients employed under the second paragraph of this 2 section." 3 SECTION 12. Section 326-22, Hawaii Revised Statutes, is 4 repealed. ["§326-22 Compensation of patient employees. The 5 6 compensation for patients employed under section 326-21 shall be 7 set by the department of health; provided that in no case shall 8 the compensation be less than the minimum wage as established by 9 section 387-2. 10 Each patient employee of the department shall be entitled 11 to and granted sick leave with pay and a vacation with pay each 12 calendar year, each calculated at the following rate: 13 For patients working six hours a day, one and one-half days 14 for each month of service; 15 For patients working five hours a day, one and one-quarter 16 days for each month of service; 17 For patients working four hours a day, one day for each 18 month of service. 19 A month of service is defined as eighty or more hours of 20 work which may be accumulated over any period of time to total 21 eighty hours. No more than twelve months of service may be

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earned and credited in any calendar year, even if the total
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    number of hours worked-should-exceed nine hundred sixty hours."]
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         SECTION 13. Section 326-23, Hawaii Revised Statutes, is
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    repealed.
         ["$326-23 Pensions for patient employees at facilities.
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    (a) All patient employees or patient laborers at every facility
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    maintained for the treatment and care of persons with Hansen's
    disease shall be entitled, upon retirement after twenty years or
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    more service with the department of health, to a pension in an
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    amount which shall be equal to sixty-six and two-thirds per cent
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    of the monthly wage or salary which the patient was receiving at
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    the time of retirement, or to a pension in an amount which shall
    be equal to sixty-six and two-thirds per cent of the average
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    monthly wage or salary which the patient employee was receiving
    during the last twelve months of employment at the department of
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    health, whichever is higher. For the period from July 1, -2007,
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    to June 30, 2008, the pension amounts shall be adjusted as
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    follows:
         (1) Retired patient employees receiving less than $4,000
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              annually shall be granted a five per cent increase;
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1	<del>(2)</del> R	<del>etired patient employees receiving \$4,000 or more but</del>
2	1	ess than \$5,000 annually shall be granted a four per
3	е	e <del>nt increase; and</del>
4	<del>(3)</del> R	etired patient employees receiving \$5,000 or more
5	<del>a</del>	nnually shall be granted a 2.5 per cent increase.
6	For the per	iod from July 1, 2008, to June 30, 2009, all retired
7	<del>patient emp</del>	loyees shall be granted a 2.5 per cent increase.
8	Thereafter,	the pension amounts shall remain as adjusted
9	effective f	or the period ending June 30, 2009.
10	<del>(b)P</del>	atient employees may use service with any state
11	<del>department</del>	or agency not exceeding five years which has not been
12	<del>credited un</del>	der the state retirement system in lieu of service
13	with a faci	lity maintained for the treatment and care of persons
14	<del>with Hansen</del>	's disease to satisfy the requirements of subsection
15	<del>(a); provid</del>	ed that the service shall be authenticated by
16	official re	cords of the department where service was performed.
17	<del>(c) W</del>	nen work is available at Kalaupapa which may be
18	fulfilled by	y patient residents of the facility under section
19	<del>326-21 and :</del>	there are no applicants for those positions from
20	among the e	ligible patients, pensioned patients who are in
21	<del>residence a</del>	Kalaupapa may-be reemployed, not to exceed nineteen

hours per-week, without relinquishing the pension granted to 1 them under this section. Furthermore, notwithstanding any other 2 3 law relating to this subject, that reemployment shall not result 4 in-suspension or termination of payment of the pension granted originally or serve to increase, decrease, or alter the pension 5 6 in-any way."] 7 SECTION 14. Section 326-26, Hawaii Revised Statutes, is 8 repealed. ["\footnote{326-26} Persons allowed at places for Hansen's disease 9 10 patients. (a) No person, not having Hansen's disease, shall be 11 allowed to visit or remain upon any land, place, or inclosure 12 set apart by the department of health for the domiciles and community facilities of persons affected with Hansen's disease, 13 without the written permission of the director of health, or 14 15 some officer authorized thereto by the department, under any circumstances whatever, and any person found upon such land, 16 place, or inclosure without a written permission shall be fined 17 18 not less than \$10 nor more than \$100 for such offense; provided 19 that any patient resident of Kalaupapa desiring to remain at the 20 facility shall be permitted to do so for as long as the person

may choose, regardless of whether the person has been 1 2 successfully treated. 3 (b) Notwithstanding subsection (a), upon the request of a 4 patient, the non-patient-spouse of a patient residing at 5 Kalaupapa shall be allowed to reside with the patient-spouse at 6 Kalaupapa. The non-patient-spouse shall not be entitled to 7 receive any services or benefits accorded specifically to 8 Hansen's disease patients at Kalaupapa."] 9 SECTION 15. Section 326-27, Hawaii Revised Statutes, is 10 repealed. 11 ["§326-27 Kalaupapa store; loans for operation and 12 maintenance. (a) All moneys to enable the department of health 13 to operate and maintain the Kalaupapa store, situated in 14 Kalaupapa, Molokai, shall be allocated by the legislature 15 through appropriations out of the state general fund. 16 (b) The department shall include in its budgetary request 17 for each upcoming fiscal period, the amounts necessary to 18 effectuate the purposes of this section. 19 (c) All moneys received in reimbursement of payments made 20 under-this section shall be deposited to the credit of the state 21 general fund."]

1 SECTION 16. Section 326-28, Hawaii Revised Statutes, is 2 repealed. 3 ["\$326-28 Kalaupapa store prices; penalty. It shall be 4 unlawful for the department of health or its agents to sell or 5 offer for sale any merchandise at the Kalaupapa store at prices 6 exceeding the actual cost thereof, free on board steamer or any 7 other means of transportation at Honolulu. Any person violating this section shall be fined \$25 and in addition-thereto shall, 8 9 in the discretion of the department, be subject to removal from 10 office." SECTION 17. Section 326-29, Hawaii Revised Statutes, is 11 12 repealed. 13 ["\footnotesia 326-29 Fishing laws exemption; Kalaupapa. 14 Notwithstanding any provision of law to the contrary, state laws 15 on fishing shall not be applicable to Hansen's disease patients 16 of Kalaupapa, provided the patients engage in fishing along the 17 shorelines and in waters immediately adjacent to the county of 18 Kalawao. 19 No fish or other marine products obtained by patients may 20 be sold outside of the county of Kalawao.

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         The department of health shall adopt rules pursuant to
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    chapter 91 necessary to control all fishing and acquisition of
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    marine products by Hansen's disease patients."]
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         SECTION 18. Section 326-30, Hawaii Revised Statutes, is
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    repealed.
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         ["§326-30 Making or taking of pictures without permission
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    prohibited. (a) No person shall photograph, film, or videotape
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    any patient at any facility maintained by the department of
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    health-for the-care and treatment of persons with Hansen's
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    disease, without the written permission of the patient.
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         (b) Any person violating this section shall be fined not
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    more than-$1,000 per incident."]
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         SECTION 19. Section 326-34, Hawaii Revised Statutes, is
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    repealed.
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         ["$326-34 County of Kalawao; governance. (a) The county
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    of Kalawao shall consist of that portion of the island of
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    Molokai known as Kalaupapa, Kalawao, and Waikolu, and commonly
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    known or designated as the Kalaupapa Settlement, and shall not
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    be or form a portion of the county of Maui, but is constituted a
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    county by itself. As a county it shall have only the powers
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    especially conferred and given by sections 326-34 to 326-38 and,
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except as-provided in those-sections, none of the provisions of
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    the Hawaii Revised Statutes regarding counties shall be deemed
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    to refer to or shall be applicable to the county of Kalawao.
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         (b) The county of Kalawao shall be under the jurisdiction
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    and control of the department of health and be governed by the
    laws, and rules relating to the department and the care and
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    treatment of persons affected with Hansen's disease, except as
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    otherwise provided by law."]
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         SECTION 20. Section 326-35, Hawaii Revised Statutes, is
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    repealed.
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         ["$326-35 Sheriff, appointment, removal. There shall be
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    no county officer in the county other than a sheriff, who shall
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    be a patient resident of and be appointed in the county-by the
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    department of health and who shall hold office at the pleasure
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    of the department or until-a successor is appointed by the
    department. When a qualified patient resident is not available,
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    the department may-appoint a staff employee or other qualified
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    person to serve as sheriff."]
         SECTION 21. Section 326-36, Hawaii Revised Statutes, is
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    repealed.
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         ["§326-36 Sheriff, salary. The salary of the sheriff
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    shall be fixed and paid by the department of health out of the
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    appropriation allowed by the legislature for the care and
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    treatment of persons affected with Hansen's disease."]
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         SECTION 22. Section 326-37, Hawaii Revised Statutes, is
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    repealed.
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         ["§326-37 Sheriff, duties. The sheriff of the county of
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    Kalawao shall preserve the public peace and shall arrest and
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    take before the district judge for examination all persons who
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    attempt to commit or who have committed a public offense and
    prosecute the same to the best of the sheriff's ability."]
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         SECTION 23. Section 326-38, Hawaii Revised Statutes, is
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    repealed.
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         ["$326-38 Sheriff, powers. The sheriff may appoint and
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    dismiss and reappoint as many police officers as may be
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    authorized by the department of health for the county. Patient
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    residents, for the services rendered as police officers, shall
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    receive pay as the department determines and which pay shall-be
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    taken out of and from the appropriation-made by the legislature
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    for the care and treatment-of persons affected with Hansen's
    disease. The sheriff shall have other powers and duties within
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1 the county of Kalawao and appropriate thereto as are prescribed by law for the chiefs of police or police officers of the 2 3 several counties respectively."] 4 SECTION 24. Section 326-40, Hawaii Revised Statutes, is 5 repealed. 6 ["\$326-40 Kalaupapa; policy on residency. The legislature 7 finds that Hawaii's Hansen's disease victims have in many ways 8 symbolized the plight of those afflicted with this disease 9 throughout the world. Their sufferings and social deprivations 10 helped eventually to bring the story of the disease and an 11 understanding of its health ravages to people everywhere. Those 12 patients who settled in Kalaupapa remain a living memorial to a 13 long history of tragic separation, readjustment, and endurance. It is the policy of the State that the patient residents of 14 15 Kalaupapa shall be accorded adequate health care and other 16 services for the remainder of their lives. Furthermore, it is 17 the policy of the State that any patient resident of Kalaupapa 18 desiring to remain at the facility shall be permitted to do so 19 for as long as that patient may choose, regardless of whether or 20 not the patient has been successfully treated. A patient 21 resident of Kalaupapa desiring to take leave may do so without

- 1 loss of financial allowance or coverage of health care costs
- 2 given those who-remain-at Kalaupapa."]
- 3 PART III
- 4 SECTION 25. Upon the passing of the last full- or
- 5 part-time patient resident of Kalaupapa, the governor shall
- 6 issue a proclamation to affirm the date of passing. The
- 7 governor shall also immediately deliver a copy of the
- 8 proclamation to the revisor of statutes.
- 9 SECTION 26. The department of health, in developing a plan
- 10 for the permanent transfer of the powers and duties of the
- 11 department and any other state agency over Kalaupapa Settlement
- 12 to other governmental or qualified non-governmental entities,
- 13 shall include Ka Ohana O Kalaupapa and a topside community
- 14 organization from Molokai in the transition planning team. The
- 15 department of health shall select the topside community in
- 16 consultation with the Molokai community. For purposes of this
- 17 section, "topside community organization from Molokai" means a
- 18 community of Molokai outside of the county of Kalawao.
- 19 SECTION 27. For the purposes of this Act, "full- or
- 20 part-time patient resident of Kalaupapa" means a person who was
- 21 institutionalized for segregation by order of the department of

- 1 health because of Hansen's disease and who chose to remain at
- 2 Kalaupapa or Hale Mohalu after June 30, 1969.
- 3 SECTION 28. Statutory material to be repealed is bracketed
- 4 and stricken. New statutory material is underscored.
- 5 SECTION 29. This Act shall take effect on December 31,
- 6 2050; provided that part II of this Act shall take effect on the
- 7 one-year anniversary of the passing of the last full- or
- 8 part-time patient resident of Kalaupapa as affirmed in the
- 9 governor's proclamation, as described in section 25 of this Act.

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### Report Title:

DOH; Kalaupapa State Historical Area; Hansen's Disease; Expenses; Rules; Annual Report; Transfer to the County of Maui

### Description:

Establishes the Kalaupapa State Historical Area. Authorizes the Department of Health to continue providing services statewide to Hansen's disease patients living in the community. Repeals sections of chapter 326, Hawaii Revised Statutes, upon the one-year anniversary of the passing of the last patient resident of Kalaupapa as affirmed in the Governor's proclamation. Requires the Department of Health to include Ka Ohana O Kalaupapa and a topside community organization from Molokai in the transition planning team. Effective 12/31/2050. (SD1)

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