

A Bill for an Act Relating to Domestic Violence Fatality Review.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . DOMESTIC VIOLENCE FATALITY REVIEW

§321- Definitions. As used in this part:

“Dating relationship” as used in this section has the same meaning prescribed in section 586-1.

“Department” means the department of health.

“Director” means the director of health or the director’s designated representative.

“Domestic violence” means physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members.

“Domestic violence fatality review information” means information regarding a victim, including but not limited to:

- (1) Social, medical, and legal history;
- (2) Death and birth certificates;
- (3) Law enforcement investigative information and data;
- (4) Medical examiner or coroner investigative information and data;
- (5) Parole and probation information and records;
- (6) Information and records of social services agencies;
- (7) Educational records; and
- (8) Health care institution information.

“Domestic violence fatality review team” means those individuals appointed by the director to review domestic violence fatalities.

“Extreme psychological abuse” as used in this section has the same meaning prescribed in section 586-1.

“Family or household members” as used in this section means:

- (1) Each legal parent;
- (2) The natural mother;
- (3) The natural father;
- (4) Each natural or adopted child;
- (5) Each sibling or person related by consanguinity;
- (6) Spouses or former spouses;
- (7) Reciprocal beneficiaries or former reciprocal beneficiaries;
- (8) Each person who has or has had a dating relationship;
- (9) Each person jointly residing or formerly residing in the same dwelling unit; and
- (10) Any other person who, or legal entity that, is a victim’s legal or physical custodian or guardian, or who is otherwise responsible for the victim’s care, other than an authorized agency that assumes such a legal status or relationship with the victim under chapter 587.

“Malicious property damage” as used in this section has the same meaning prescribed in section 586-1.

“Preventable death” means a death that reasonable medical, social, legal, psychological, or educational intervention may have prevented.

“Provider of medical care” means any health care practitioner who provides, or a facility through which is provided, any medical evaluation or treatment, including dental and mental health evaluation or treatment.

“Suspect” means a person suspected of having caused a victim’s death.

“Victim” means an adult whose death is suspected of having been caused by domestic violence or domestic violence-related suicide.

§321- Multidisciplinary and multiagency reviews. The department may conduct multidisciplinary and multiagency reviews of domestic violence fatalities to reduce the incidence of preventable deaths. The director may form domestic violence fatality review teams, as necessary, by appointing individuals to review domestic violence fatalities. A domestic violence fatality review team shall not be subject to part I, chapter 92.

§321- Access to information. (a) Upon request of the director or a domestic violence fatality review team, all medical examiners, physicians acting under the direction of a coroner, providers of medical care, state agencies, and county agencies shall disclose to the department and the domestic violence fatality review team all information and records regarding the circumstances of a victim’s death so that the department may conduct a multidisciplinary and multiagency review of domestic violence fatalities pursuant to this part.

(b) To the extent that this section conflicts with other state confidentiality laws, the provisions of this section shall require disclosure, notwithstanding the existence of a specific confidentiality statute.

(c) An entity represented on a domestic violence fatality review team and any entity cooperating with an entity represented on a domestic violence fatality review team may share with other members of the team:

- (1) Information in its possession concerning the victim;
- (2) Information in its possession concerning any person who was in contact with the victim; and
- (3) Any other information in its possession deemed by the entity to be pertinent to the domestic violence fatality review.

(d) Any information shared by an entity with other members of a domestic violence fatality review team is subject to the same restrictions on disclosure of the information or the records as the originating entity.

§321- Exception. Information regarding an ongoing civil or criminal investigation shall be disclosed at the discretion of the applicable state or county law enforcement agency.

§321- Use of domestic violence fatality review information and records. (a) Except as otherwise provided in this part, all information and records acquired by the department during its review of domestic violence fatalities pursuant to this part are confidential and shall only be disclosed as necessary to carry out the purposes of this part.

(b) Domestic violence fatality review information and statistical compilations of data that do not contain any information not previously publicly disclosed that would permit the identification of any person, shall be public records.

(c) An individual participating in the domestic violence fatality review of a victim’s death shall not be questioned in any civil or criminal proceeding regarding information presented in or an opinion formed as a result of a domestic violence fatality review meeting. Nothing in this section shall be construed to prevent an individual from testifying to information obtained independently of the domestic

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violence fatality review of a victim's death, or which is public information, or where law or court order requires disclosure.

(d) Domestic violence fatality review information held by the department as a result of domestic violence fatality reviews conducted under this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that domestic violence fatality review information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because it was provided as required by this part.

§321- Immunity from liability. A domestic violence fatality review team, its members, and any entity, agency, or individual participating in, or cooperating in, the review of a domestic violence fatality pursuant to this part shall not be civilly or criminally liable for providing the information required under this part.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 8, 2006.)