

ACT 22

H.B. NO. 823

A Bill for an Act Relating to Deaths Within the Correctional System.

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

SECTION 1. Section 353-40, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§353-40~~ **Correctional facility and community correctional center deaths; reporting.** (a) Within forty-eight hours, the director shall report to the governor, and the governor shall report to the legislature, the death of any:

- (1) Correctional facility or community correctional center employee who:
 - (A) Dies on the grounds of or while on duty at a correctional facility or community correctional center where Hawaii inmates reside; or
 - (B) Sustains an injury on the grounds of or while on duty at a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; or
- (2) Hawaii inmate who is incarcerated ~~[in a]~~ by or under the care and custody of:
 - (A) A state or contracted correctional facility[.]; or
 - (B) An agent of a state or contracted correctional facility.

Within seven days of the director's submission of the report to the governor, the department shall post a copy of the report on its public website.

- (b) The report in subsection (a) shall include the following information:
 - (1) The name of the decedent; ~~[provided that this information is not protected from disclosure by state or federal law;]~~
 - (2) The gender and age of the decedent;
 - (3) Whether the decedent was an inmate or an employee;
 - (4) The location of the death or injury leading to the death;
 - (5) The date and time of the death;
 - (6) The cause of death; and
 - (7) Any indication of sexual assault leading to the death[.];

~~provided that when the official cause of death has been determined, the director shall immediately report the official cause of death to the governor, and the governor shall immediately report the official cause of death to the legislature].~~

(c) ~~[Within thirty days of a death described in subsection (a).]~~ When the official cause of death has been determined, the director shall submit a report

to the governor, and the governor shall submit the report to the legislature~~[, of the clinical mortality review conducted in response to the death, including correctional actions to be taken.]~~ that shall include the following information:

- (1) The clinical mortality review conducted in response to the death, including correctional actions to be taken;
- (2) The official cause of death; and
- (3) Any indication of sexual assault leading to the death.
- (d) ~~[The director may disclose other information not specified in subsection (b); provided that the director shall not disclose information protected from disclosure by state or federal law.]~~ The information specified in subsection (c)(2) and (3) shall be open to public inspection, unless:
 - (1) Any federal or state law protects the information from disclosure; provided that the report shall cite the applicable federal or state law;
or
 - (2) The disclosure of the information would materially impair an ongoing criminal investigation.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 4. This Act shall take effect upon its approval.

(Approved April 19, 2023.)