



**TESTIMONY OF THE STATE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2009**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 1041, RELATING TO PERSONS COMMITTED TO THE HAWAII YOUTH CORRECTIONAL FACILITIES OR TO THE CUSTODY OR CARE OF THE EXECUTIVE DIRECTOR OF THE OFFICE OF YOUTH SERVICES.

**BEFORE THE:**

HOUSE COMMITTEE ON HUMAN SERVICES

**DATE:** Monday, February 09, 2009 **TIME:** 8:15 AM

**LOCATION:** State Capitol, Room 329

*Deliver to: e-mail: HUSStestimony@Capitol.hawaii.gov, Room --, 1 Copy*

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or Blair Goto, Deputy Attorney General

---

Chair Mizuno and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

This measure will allow the Hawaii Youth Correctional Facility (HYCF) to obtain necessary information quickly when youth are committed to the facility, and to use the information for treatment and care at HYCF.

Youth who are committed to HYCF need many types of services: medical services, mental health and substance abuse services, educational services, social services, and planning for transition back into the community. At times it has been difficult for HYCF to obtain all the records and information it needs to provide these services in a timely way. Much of the information is protected by confidentiality laws, so consents or court orders to release the information must be obtained before the information can be transmitted to personnel working with youth at HYCF. In those instances, staff may not be aware of all of a youth's medical or mental health needs or history for some time after a youth arrives,

or may lack other important information that would allow immediate, comprehensive care.

This bill would allow otherwise confidential medical, mental health, and social services information to be disclosed to the Executive Director of the Office of Youth Services and to the people working with committed youth at the facility, and would permit its use in care and treatment. It does not affect the disclosure of information for whose release federal law requires consent or appropriate court orders, such as educational records or substance abuse treatment records.

This bill is the result of collaboration among many of the state agencies serving youth committed to HYCF. Their work with these youth will be enhanced by this measure, and we urge you to pass it.



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES

OFFICE OF YOUTH SERVICES  
820 Millilani Street, Suite 817  
Honolulu, Hawaii 96813

Phone: (808) 587-5700  
Fax: (808) 587-5734

February 9, 2009

TO: The Honorable John M. Mizuno, Chair  
House Committee on Human Services

FROM: Martha T. Torney, Executive Director

**SUBJECT: HB 1041, RELATING TO PERSONS COMMITTED TO THE  
HAWAII YOUTH CORRECTIONAL FACILITY OR TO THE  
CUSTODY OR CARE OF THE EXECUTIVE DIRECTOR OF THE  
OFFICE OF YOUTH SERVICES**

Hearing: Monday, February 9, 2009; 8:15 a.m.  
State Capitol, Conference Room 329

The Office of Youth Services (OYS) strongly supports HB 1041, an Administration bill concerning youth committed to the custody or care of the OYS Executive Director, which allows the timely sharing of information regarding these youth to facilitate service delivery and promote rehabilitation. Too often, confidentiality laws impede the ability of Hawaii Youth Correctional Facility (HYCF) to obtain vital information necessary to coordinate services for youth across State agencies and with private providers. This measure will go a long way in removing those barriers.

In accordance with Section 352-2.1, Hawaii Revised Statutes, the OYS is mandated to “provide for the custody, rehabilitation, and institutional care and services to prepare for reentry into their communities and families, youth committed by the courts to the State.” To accomplish the goals set forth, it is imperative that information germane to individual youth be available so that effective comprehensive treatment plans utilizing the best combination of services to meet his or her needs may be developed and implemented. In order to achieve this, we require information from agencies, both public

and private, that a youth has had prior contact with. This sharing is especially important in developing discharge plans to move youth back into their home communities.

Information sharing is also a requirement of the Memorandum of Agreement (MOA) between the US Department of Justice and the State of Hawaii concerning conditions at the HYCF. To ensure compliance with the provisions pertaining to the transfer of records from the Family Courts and detention facilities to HYCF, an agreement for this purpose between the Judiciary and OYS has been in effect since August 2007. This measure will codify that agreement.

At this time, though, we have no agreements to facilitate the sharing of information from additional agencies that have serviced our wards prior to their commitment. Youth committed to HYCF usually have had extensive contact with many State agencies, including the Department of Human Services (DHS), Department of Education (DOE), and the Department of Health (DOH). In addition, most State agencies rely on private providers to help carry out their mandate through the delivery of direct services to clients. Each agency operates under mandates that govern their particular responsibility to youth and which may preclude the sharing of information.

If we are to effectively provide services that will meet the needs of our youth, we must do it through a multidisciplinary approach that allows us to collaborate and share information on youth involved with multiple systems to avoid duplication and provide comprehensive services.

We appreciate the intent of the privacy laws to protect the youth from the misuse of information. And we are very committed to ensuring that confidential information shared is held to the same high standards to continue to protect privacy.

In summary, the OYS strongly supports HB 1041 as it facilitates coordinated services to youth.

Date of Hearing: February 9, 2009

Committee: House Human Services

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 1041, Relating to Persons Committed to the Hawaii Youth Correctional Facilities or to the Custody or Care of the Executive Director of the Office of Youth Services.

Purpose: Allows the Hawaii Youth Correctional Facility to obtain necessary information on youth committed to the facility quickly when the youth are admitted, and to use the information for treatment and care within the facility.

Department's Position: The Department of Education (Department) opposes H.B 1041. The Family Educational Rights and Privacy Act (FERPA), 34 CFR Part 99, and the Individuals with Disabilities Education Act (IDEA) govern the confidentiality of information requirements that apply to personally identifiable data, information, and records collected or maintained by all public schools. The Department must have written permission from the parent or eligible student in order to release any information from a student's educational record. Exceptions to the consent are allowed under the certain conditions: a school official with legitimate educational interest; other schools to which a student is transferring; specified officials for audit or evaluation purposes; appropriate parties in connection

with financial aid to the student; organizations conducting certain studies for or on behalf of the school; accrediting organizations; to comply with a judicial order or lawfully issued subpoena; appropriate officials in cases of health and safety emergencies; and state and local authorities, within a juvenile justice system, pursuant to specific State law adopted before November 19, 1974. Currently, students who are committed to the Hawaii youth Correctional Facilities (HYCF) are provided their educational services at the on-site school. The teachers are Department of Education employees and have access to their students' records. The Department does not support H.B. 1041.