



## **TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 783, H.D. 1, RELATING TO THE DISCLOSURE OF PUBLIC HEALTH STATISTICS RECORDS TO LAW ENFORCEMENT OFFICERS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Thursday, February 21, 2013

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lance M. Goto, Deputy Attorney General.

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to amend section 338-18(b), Hawaii Revised Statutes (HRS), to authorize the Department of Health to: (1) allow law enforcement officers to inspect public health statistics records, and (2) issue certified copies of any such records or part thereof to law enforcement officers; and thereby facilitate law enforcement's efforts to obtain public health statistics records during the course of criminal investigations.

This bill has the unanimous support of the Hawaii Law Enforcement Coalition. The Coalition is composed of the Chiefs of Police of all four counties, the Prosecuting Attorneys of all four counties, the Attorney General, and the United States Attorney for the District of Hawaii.

County police and prosecutors, the Department of the Attorney General, the Department of Public Safety, and numerous federal law enforcement agencies sometimes need public health statistics records for their criminal investigations. Such records can be extremely important to law enforcement investigators, and can help investigators complete their cases in a more timely and effective manner.

Section 338-18(b), HRS, lists persons who are permitted to obtain public health statistics records after they have established a direct and tangible interest in the records. Law enforcement officers, however, are not currently included on this list, even though they do have a substantial need for and interest in the records. As a result, law enforcement officers generally cannot obtain public health statistics records unless they have a court order, a process that can be time

consuming, and interrupt or delay investigations. Some investigations cannot be delayed for any length of time because delays can compromise physical evidence, the safety of victims or others in the community, the availability of witnesses, or the ability to locate suspects.

This bill amends section 338-18(b) to add law enforcement officers to the list of persons permitted to obtain public health statistics records. To address concerns that the requestor is in fact a law enforcement officer requesting the records for an official law enforcement purpose, this bill requires the officer to provide identification and a signed statement, verifying under penalty of criminal prosecution, that the person is a law enforcement officer, acting in the officer's official capacity, and in need of the records for a criminal investigation.

Law enforcement officers need public health statistics records for many reasons. They may need death certificates to determine or confirm that a witness, victim, or suspect has died. That information may be critical to how the case is investigated or how much resources are committed to the case. Investigators, attempting to locate a witness or serve an arrest warrant on a defendant, need to know if the witness or defendant has died. Investigators, assessing a complaint that a sex offender has failed to comply with sex offender registration requirements, should know that the offender died before they invest any time or resources on the case.

Investigators may also need birth certificates to determine the age of the victim or defendant. The ages of the victim and defendant are sometimes extremely important in sexual assault investigations when the charges depend on their ages. The age of the victim may also be important for investigation of offenses involving child abuse, promoting pornography, and endangering the welfare of a minor. Investigators may need marriage certificates to help locate relatives or family members of witnesses, victims, or suspects. Marriage certificates may also be needed in criminal investigations to confirm a person's marital status, determine when someone was married, or determine a person's name prior to marriage.

The Department notes that the Committee on Health, in its Standing Committee Report No. 367, indicated an amendment to House Bill No. 783 intending to limit the disclosure of public health statistics records to law enforcement officers who are employees of the State or a county. But the amendment, on page 3, lines 7-8, only provides that the requesting officer include in the officer's signed statement, submitted with the request for information, the assertion

that the officer is an employee of the State or county. On page 2, lines 17-18, a "law enforcement officer" is still defined by section 710-1000(13), HRS, which reads:

"Law enforcement officer" means any public servant, whether employed by the State or subdivisions thereof **or by the United States**, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

(Emphasis added.) This definition still included federal officers. To clearly exclude federal officers, the bill should not rely on the definition under section 710-1000(13), HRS, but should simply reference law enforcement officers employed by the State or subdivision thereof.

This bill will give law enforcement officers the tools necessary to investigate crimes more quickly and efficiently, while still protecting the confidentiality of the records.

The Department respectfully requests passage of this bill.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

## HOUSE COMMITTEE ON JUDICIARY

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.  
Director of Health

HB 0783, HD1, Relating to the Disclosure of Public Health Statistics Records to Law  
Enforcement Officers

February 21, 2013

**WRITTEN ONLY**

- 1 **Department's Position:** The Department of Health supports intent of HB 0783, HD1, but recommends  
2 limiting disclosure to only law enforcement officers in the State of Hawaii.
- 3 **Fiscal Implications:** No impact.
- 4 **Purpose and Justification:** HB 0783, HD1, authorizes the Department of Health (DOH) to provide  
5 public health statistics records (primarily birth, marriage, divorce and death records) to law enforcement  
6 officers to facilitate criminal investigations. The DOH was opposed to earlier versions of this proposal  
7 because it poised a burden on the DOH in determining whether the requestor was entitled to and had a  
8 direct and tangible interest in the vital record. The current proposal provides that the law enforcement  
9 officer must present identification confirming that he/she is a law enforcement officer as defined by  
10 section 710-10000(13) HRS, and submits a signed statement verifying under penalty of criminal  
11 prosecution for false swearing in official matters that he/she is acting in their official capacity and the  
12 public health statistics record is needed as evidence in a criminal investigation. We would like to limit  
13 the disclosure to only law enforcement officers in the State of Hawaii to prevent exploitation of the  
14 process, for example from mainland law enforcement officers requesting the President's birth record.

1 Thank you for the opportunity to provide testimony in support of HB 0783, HD1.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
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**THE HONORABLE KARL RHOADS**  
**HOUSE JUDICIARY COMMITTEE**  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawai`i

February 21, 2013

**RE: H.B. 783, H.D. 1; RELATING TO PUBLIC HEALTH STATISTICS RECORDS TO  
LAW ENFORCEMENT OFFICERS.**

Chair Rhoads, Vice Chair Har, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 783, H.D. 1.

This bill authorizes the Department of Health to provide public health statistics records to law enforcement officers for evidence in criminal investigations. This authorization will help increase successful investigation and prosecution of criminal cases. For these reasons, we support the passage of H.B. 783, H.D.1. Thank you.

**HB783**

Submitted on: 2/15/2013

Testimony for JUD on Feb 21, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Williams	Individual	Oppose	No

Comments:

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