
HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU, IN CONSULTATION
WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, TO CONDUCT A
STUDY RELATING TO THE REPORTING REQUIREMENTS OF SECTION
353C-8.5, HAWAII REVISED STATUTES.

1 WHEREAS, section 353C-8.5, Hawaii Revised Statutes, enacted
2 by Act 234, Session Laws of Hawaii 2019 (Act 234), requires the
3 Director of Public Safety to report, within forty-eight hours,
4 the death of a correctional facility or community correctional
5 center employee who dies on the grounds of a correctional
6 facility or community correctional center where Hawaii inmates
7 reside, or who sustains an injury on those grounds that causes
8 the death of the employee; and

9
10 WHEREAS, section 353C-8.5, Hawaii Revised Statutes, also
11 requires the Director of Public Safety to report, within forty-
12 eight hours, the death of a Hawaii inmate who is incarcerated in
13 a state or contracted correctional facility; and

14
15 WHEREAS, section 353C-8.5, Hawaii Revised Statutes,
16 specifies the information that shall be included in the report,
17 which includes identifying information of the decedent, but
18 allows the Director discretion to withhold disclosure of the
19 decedent's name or any information protected from disclosure by
20 state or federal laws; and

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22 WHEREAS, Act 234 was intended to address concerns that
23 inmate deaths had become a common occurrence in the State's
24 criminal justice system and that information about these deaths
25 was neither informative nor transparent; and

26
27 WHEREAS, on January 5, 2020, the Honolulu Star-Advertiser
28 reported on a prisoner who died on Christmas morning after being
29 assaulted at the Oahu Community Correctional Center, noting
30 prison officials had not publicly announced the death; and
31



1 WHEREAS, the Department of the Attorney General cited the
2 federal Health Insurance Portability and Accountability Act of
3 1996, or HIPAA, as requiring the withholding of information to
4 safeguard patients' private health care information, and
5 indicated that it does not consider the name of an inmate who
6 dies in custody to be a public record, including suicides and
7 homicides; and

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9 WHEREAS, according to the article, a number of other
10 states, including Arizona, California, Nevada, and Oregon, do
11 publicly announce homicides, suicides, and other inmate deaths
12 and routinely name the prisoners who died; and

13
14 WHEREAS, the Department of the Attorney General also stated
15 the HIPAA analysis depends on factors including how the prison
16 system is structured and whether the prisons as a whole or only
17 their medical units are covered by responsibilities under HIPAA;
18 and

19
20 WHEREAS, the existing implementation of section 353C-8.5,
21 Hawaii Revised Statutes, is not accomplishing Act 234's purpose;
22 indeed, the discretion to withhold information under that law
23 appears to be resulting in nondisclosure as the rule; now,
24 therefore,

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26 BE IT RESOLVED by the House of Representatives of the
27 Thirtieth Legislature of the State of Hawaii, Regular Session of
28 2020, that this body requests the Legislative Reference Bureau,
29 in consultation with the Department of the Attorney General, to
30 conduct a study on the structure of Hawaii's correctional center
31 system and related medical units as compared to those states
32 that routinely release information on prisoner deaths, and
33 recommend legislation or restructuring, if necessary, that would
34 allow the State to obtain the information sought by section
35 353C-8.5, Hawaii Revised Statutes; and

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37 BE IT FURTHER RESOLVED that the study include:

- 38
39 (1) The Department of Public Safety's compliance with the
40 informational disclosure requirements of section 353C-
41 8.5, Hawaii Revised Statutes;



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2 (2) HIPAA requirements as they relate to correctional
3 facility or community correctional center injuries and
4 deaths of employees and deaths of inmates;
5
6 (3) The structure of Hawaii's correctional system and
7 related medical units as compared to those states that
8 routinely release information on prisoner deaths and,
9 if available, prison employee deaths; and
10
11 (4) Whether the states favoring disclosure over
12 nondisclosure rely upon any statutes or restrictions
13 on the type of information that may be disclosed, or
14 other authority to avoid HIPAA violations when making
15 such disclosures; and
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17 BE IT FURTHER RESOLVED that the Legislative Reference
18 Bureau, in consultation with the Department of the Attorney
19 General, is requested to submit a report of its findings and
20 recommendations, including proposed legislation, to the
21 Legislature no later than twenty days prior to the convening of
22 the Regular Session of 2021; and
23

24 BE IT FURTHER RESOLVED that certified copies of this
25 Resolution be transmitted to the Director of the Legislative
26 Reference Bureau, Director of Public Safety, and Attorney
27 General.
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OFFERED BY:



FEB 18 2020

