

JAN 17 2025

A BILL FOR AN ACT

RELATING TO IMMIGRATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, according to the
2 American Immigration Council, Hawaii is home to approximately
3 two hundred fifty-four thousand immigrants, including fifty
4 thousand five hundred undocumented immigrants. The legislature
5 further finds that Hawaii is justifiably proud of its rich
6 immigrant heritage, which has woven many residents into a valued
7 tapestry of races, ancestral groups, religions, cultures, and
8 languages from many parts of the world.

9 The legislature further finds that Hawaii's public school
10 enrollment for the 2024-2025 school year is 165,340 students.
11 According to available data, approximately seven per cent of
12 Hawaii public school students have at least one parent who is an
13 undocumented immigrant. Education is critically important to
14 the proper acculturation and adaptation to living in Hawaii and
15 the United States. Schools should be a safe and secure location
16 for students to learn and grow.



1 The legislature further finds that the Hawaii health
2 systems corporation operates many of the "safety net" hospitals
3 located in five regions: east Hawaii, west Hawaii, Oahu, Maui,
4 and Kauai. The Hawaii health systems corporation has over fifty
5 affiliation agreements with educational institutions that
6 provide training and residency programs for physicians, nurses,
7 and other health care clinical and business professionals, and
8 operates eight hundred forty-seven licensed beds in facilities
9 located on four different islands. Hawaii health systems
10 corporation affiliates include Kahuku Medical Center on Oahu
11 Alii Community Care, Inc. dba Roselani Place on Maui; Alii
12 Health Center in Kona; and the Hawaii Health Systems Foundation.
13 In fiscal year 2018, these facilities across the state provided
14 a total of 13,016 acute care admissions, 575 long-term care
15 admissions, 77,398 long-term care patient days, delivered 1,872
16 babies, and handled 75,456 emergency room visits (excluding
17 inpatient admissions). As a safety net system of hospitals and
18 providers, the Hawaii health systems corporation assists
19 Hawaii's immigrant population and the public health needs of the
20 State.



1 While immigration is a federal responsibility, state and
2 local agencies have significant discretion regarding whether and
3 how to respond to requests for assistance from federal
4 immigration enforcement. The enforcement of immigration law is
5 carried out by the United States Immigration and Customs
6 Enforcement and the United States Customs and Border Protection,
7 both of which are agencies of the federal Department of Homeland
8 Security. Federal law does not require state and local entities
9 to collect or share information with Immigration and Customs
10 Enforcement or Customs and Border Protection. Rather, federal
11 law limits state and local governments from restricting
12 communication with federal immigration authorities concerning
13 "information regarding the citizenship or immigration status,
14 lawful or unlawful, of any individual", as provided in title 8
15 United States Code section 1373. There is no affirmative duty
16 for state and local governments to collect or share this
17 information, and there is no prohibition against preventing the
18 communication of other nonpublic information.

19 The legislature further finds that because Hawaii is home
20 to residents of diverse ethnic, racial, and national
21 backgrounds, including immigrants who are valuable and important



1 members of their communities, and because of Hawaii's strong due
2 process and civil rights protections for all, it is essential to
3 ensure that immigrants and migrants are provided due process and
4 civil rights protections while they send their children to
5 public schools and engage with social safety net systems for
6 public health reasons. Further, it is the legislature's intent
7 that all students and Hawaii residents should and must also be
8 protected from trauma and harm while in an educational or
9 hospital setting.

10 Accordingly, the purpose of this Act is to set a standard
11 for state agencies and public health institutions when
12 interacting with the United States Immigration and Customs
13 Enforcement regarding civil immigration violations.

14 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
15 amended by adding a new section to part IV, subpart C, to be
16 appropriately designated and to read as follows:

17 "§302A- Covered educational entities; immigration or
18 citizenship status; protections. (a) Except as required by
19 state or federal law or judicial warrant, or as required to
20 administer a state or federally supported educational program,
21 no official or employee of any covered educational entity shall



1 collect information or documents regarding the citizenship or
2 immigration status of any student or the student's family
3 members.

4 (b) No school official or employee of any covered
5 educational entity shall allow an officer or employee of the
6 United States Immigration and Customs Enforcement to enter a
7 school site without first providing valid identification, a
8 written statement of purpose, and a valid judicial warrant. Any
9 officer or employee of the United States Immigration and Customs
10 Enforcement who wishes to enter a school site shall be required
11 to obtain approval from:

12 (1) The superintendent;

13 (2) The complex area superintendent or their designee; and

14 (3) The principal of the school or their designee.

15 (c) If an officer or employee of the United States
16 Immigration and Customs Enforcement meets the requirements
17 provided in subsection (b), the covered educational entity shall
18 grant the officer or employee access only to facilities where
19 students are not present.

20 (d) The superintendent, complex area superintendent, and
21 the principal of the school shall immediately report to the



board any request for information or access to a school site by an official or employee of the United States Immigration and Customs Enforcement for the purpose of enforcing immigration laws, including but not limited to civil immigration detainers, warrants, or immigration holds, in a manner that ensures the confidentiality and privacy of any potentially identifying information. Any potentially identifying information shall be redacted before public disclosure.

(e) If an employee of a school is aware that a student's parent or guardian is not available to care for the student, the school shall first exhaust any parental instruction relating to the student's care in the emergency contact information on file to arrange for the student's care. The school shall work with a parent or guardian to update the emergency contact information and shall not contact child welfare services to arrange for the student's care unless the school is unable to arrange for care through the use of emergency contact information or other information provided by the parent or guardian.

(f) The covered educational entity shall:

(1) Provide information to parents and guardians, as appropriate, regarding their child's right to a free



1 public education, regardless of immigration status;

2 and

3 (2) Educate students about the negative impact of bullying
4 other students based on the student's actual or
5 perceived immigration status.

6 (g) This section shall not prohibit the board or any
7 covered educational entity from establishing more stringent
8 standards and protections.

9 (h) For the purposes of this section:

10 "Civil immigration detainer", "civil immigration warrant",
11 or "immigration hold" means an immigration detainer issued
12 pursuant to title 8 Code of Federal Regulations section 287.7 or
13 any similar request from Immigration and Customs Enforcement or
14 Customs and Border Protection for detention of an individual
15 suspected of violating civil immigration law.

16 "Covered educational entity" means the department of
17 education and any school that satisfies the definition of public
18 schools in section 302A-101, including a public charter school
19 as defined in section 302D-1.



1 "Customs and Border Protection" means the United States
2 Customs and Border Protection, a component of the United States
3 Department of Homeland Security.

4 "Immigration and Customs Enforcement" means the United
5 States Immigration and Customs Enforcement, a component of the
6 United States Department of Homeland Security.

7 "Judicial warrant" means a warrant based on probable cause
8 and issued by a federal judge or federal magistrate judge
9 appointed under Article III of the United States Constitution
10 who authorizes federal immigration authorities to take into
11 custody the individual who is the subject of the warrant.

12 "Judicial warrant" does not include a civil immigration warrant,
13 administrative warrant, or other document signed only by
14 Immigration and Customs Enforcement or Customs and Border
15 Protection officials."

16 SECTION 3. Chapter 323F, Hawaii Revised Statutes, is
17 amended by adding a new section to part III to be appropriately
18 designated and to read as follows:

19 "§323F- Health facilities; immigration or citizenship
20 status; protections. (a) Except as required by state or
21 federal law or judicial warrant, or as required to administer a



1 state or federally supported educational program, no official or
2 employee of any health facility shall collect information or
3 documents regarding the citizenship or immigration status of any
4 patient or the patient's visitors.

5 (b) No official or employee of any health facility shall
6 allow an officer or employee of the United States Immigration
7 and Customs Enforcement to enter a health facility without first
8 providing valid identification, a written statement of purpose,
9 and a valid judicial warrant. Any officer or employee of
10 Immigration and Customs Enforcement who wishes to enter a health
11 facility shall be required to obtain approval from:

12 (1) The health facility's regional chief executive officer
13 or their designee;

14 (2) The corporation's president and chief executive
15 officer or their designee; and

16 (3) The attending physician or physicians, as applicable.

17 (c) If an officer or employee of the United States
18 Immigration and Customs Enforcement meets the requirements
19 provided in subsection (b), the health facility shall grant the
20 officer or employee access only to facilities where patients are
21 not present.



1 (d) The health facility's regional chief executive
2 officer, the corporation's president and chief executive
3 officer, and the attending physician shall immediately report to
4 the corporation board any request for information or access to a
5 health facility by an officer or employee of the United States
6 Immigration and Customs Enforcement for the purpose of enforcing
7 immigration laws, including but not limited to civil immigration
8 detainers, civil immigration warrants, or immigration holds, in
9 a manner that ensures the confidentiality and privacy of any
10 potentially identifying information. Any potentially
11 identifying information shall be redacted before public
12 disclosure.

13 (e) This section shall not prohibit the corporation board
14 or any health facility from establishing stronger standards and
15 protections.

16 (f) For the purposes of this section:
17 "Civil immigration detainer", "civil immigration warrant",
18 or "immigration hold" means an immigration detainer issued
19 pursuant to title 8 Code of Federal Regulations section 287.7 or
20 any similar request from Immigration and Customs Enforcement or



1 Customs and Border Protection for detention of an individual
2 suspected of violating civil immigration law.

3 "Customs and Border Protection" means the United States
4 Customs and Border Protection, a component of the United States
5 Department of Homeland Security.

6 "Immigration and Customs Enforcement" means the United
7 States Immigration and Customs Enforcement, a component of the
8 United States Department of Homeland Security.

9 "Judicial warrant" means a warrant based on probable cause
10 and issued by a federal judge or federal magistrate judge
11 appointed under Article III of the United States Constitution
12 who authorizes federal immigration authorities to take into
13 custody the individual who is the subject of the warrant.

14 "Judicial warrant" does not include a civil immigration warrant,
15 administrative warrant, or other document signed only by
16 Immigration and Customs Enforcement or Customs and Border
17 Protection officials."

18 SECTION 4. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



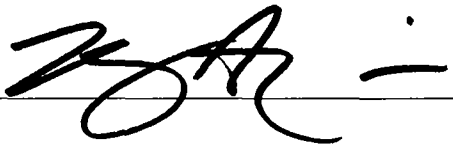
1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect upon its approval.

5

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'Z. A. -', is written over a horizontal line.



S.B. NO. 856

Report Title:

Department of Education; Hawaii Health Systems Corporation; Due Process; Public Schools; Health Facilities; Safety Net Hospitals; Citizenship and Immigration

Description:

Establishes a standard for covered educational entities and certain health facilities when interacting with federal immigration authorities regarding civil immigration violations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

