
A BILL FOR AN ACT

RELATING TO CHANGES TO RESPONSIBILITIES OF THE DEPARTMENT OF
HEALTH CONCERNING PATIENTS, THE COUNTY OF KALAWAO, AND THE
KALAUPAPA SETTLEMENT.

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

1 PART I

2 SECTION 1. The legislature finds that the population of
3 former Hansen's disease patients residing at Kalaupapa in the
4 county of Kalawao is aging. There are currently seven
5 individuals on the Kalaupapa registry who receive services from
6 the State. Four of them are full-time residents at Kalaupapa.
7 All these patients are eighty-three years of age or older.

8 The legislature finds that the county of Kalawao consists
9 of that portion of the island of Molokai commonly known as the
10 Kalaupapa Settlement and that the county of Kalawao is under the
11 jurisdiction and control of the department of health and
12 governed by the laws and rules relating to the department and
13 the care and treatment of persons affected with Hansen's
14 disease. After the passing of the last full- or part-time
15 patient resident at Kalaupapa, the department of health will no



1 longer provide patient care there but intends to complete
2 environmental remediation work.

3 The legislature further finds that there are many other
4 stakeholders that care about the future of the Kalaupapa
5 Settlement and the preservation of the historical, cultural, and
6 environmental significance of the county of Kalawao. This Act
7 reflects preliminary sentiments expressed by some Maui county
8 residents that the county of Kalawao be reunited with the county
9 of Maui. A transparent process and opportunity for more
10 extensive public input regarding the transfer of jurisdiction
11 and control of the county of Kalawao are required.

12 Accordingly, the purpose of this Act is to:

- 13 (1) Prepare for changes to responsibilities of the
14 department of health upon the passing of the last
15 patient resident of the Kalaupapa Settlement;
- 16 (2) Offer the public an opportunity to provide input on
17 the future of the county of Kalawao; and
- 18 (3) Require the department of health, in developing a plan
19 for the permanent transfer of the powers and duties of
20 the department and any other state agency over
21 Kalaupapa Settlement to other governmental or



1 qualified non-governmental entities, to include a
2 community organization in the county of Kalawao that
3 is designated in P.L. 111-11, title VII, section 7108,
4 and a topside community organization from Molokai in
5 the transition planning team.

6 PART II

7 SECTION 2. Chapter 326, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 **"§326- County of Kalawao; cessation; county of Maui.**

11 The county of Kalawao that consists of that portion of the
12 island of Molokai known as Kalaupapa, Kalawao, and Waikolu, and
13 commonly known or designated as the Kalaupapa Settlement shall
14 cease to constitute a county by itself and shall be and form a
15 portion of the county of Maui."

16 SECTION 3. Section 326-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§326-1 ~~[Establishment of facilities]~~ Services for the**
19 **treatment and care of persons with Hansen's disease.** The
20 department of health, subject to the approval of the governor,
21 shall ~~[establish and maintain facilities and]~~ provide services



1 as are necessary for the care and treatment of persons with
2 Hansen's disease and persons who were institutionalized for
3 segregation by order of the department of health because of
4 Hansen's disease.

5 Every [~~such facility or~~] service provider shall exercise
6 every reasonable effort to effect a cure of [~~these~~] persons[~~-~~]
7 with Hansen's disease. All [~~such~~] persons with Hansen's disease
8 shall be cared for as well as circumstances will permit, in
9 accordance with accepted medical practices. [~~Every patient~~
10 ~~shall be encouraged to take complete treatment so that prompt~~
11 ~~recovery can be attained. Isolation and treatment shall be~~
12 ~~compulsory only in those cases where, in the opinion of the~~
13 ~~department, that treatment is necessary to protect the health of~~
14 ~~the public, and the department may take such measures as may be~~
15 ~~necessary to enforce this section, including the adoption of~~
16 ~~rules pursuant to chapter 91.]"~~

17 SECTION 4. Section 326-13, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§326-13 Expenses; rules.** [~~(a)~~] The department of health
20 shall bear all expenses of travel and other necessary expenses
21 incurred under sections 326-1 to 326-14 and may adopt all rules



1 and forms and perform all acts necessary and proper for carrying
2 out their provisions.

3 ~~[(b) Expenses related to patients shall be tracked~~
4 ~~separately from nonpatient costs, whenever appropriate and~~
5 ~~possible.]"~~

6 SECTION 5. Section 326-24, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§326-24 Rules.** The director of health may adopt rules
9 pursuant to chapter 91 necessary for the conduct of all matters
10 pertaining to Hansen's disease, the treatment and care thereof,
11 and other services provided to persons affected with Hansen's
12 disease~~[, and the full and complete governance of the county of~~
13 ~~Kalawao, except as limited by this chapter]."~~

14 SECTION 6. Section 326-25.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§326-25.5 Annual report.** (a) The department of health
17 shall submit a report to the legislature no later than twenty
18 days prior to the convening of each regular session that
19 addresses the following with regard to Kalaupapa Settlement:

20 (1) The department's provision of medical and basic living
21 needs of the patients;



- 1 (2) The department's progress toward defining and
- 2 addressing the nonmedical needs of patients;
- 3 (3) The department's progress toward promoting a positive
- 4 living environment;
- 5 (4) The department's management of state resources,
- 6 including benefits given to employees that are not
- 7 statutorily defined;
- 8 (5) The department's progress toward establishing written
- 9 policies and procedures for Kalaupapa store;
- 10 (6) The department's progress toward establishing and
- 11 maintaining a complaint file and adequately addressing
- 12 complaints;
- 13 (7) The performance of the administrator, including
- 14 compliance with job duties;
- 15 (8) The department's progress toward adequate
- 16 accountability of state property;
- 17 (9) Details and justification of approved employee air
- 18 travel requests and trail pay;
- 19 (10) Details and updated information, as available,
- 20 regarding the permanent transfer to other governmental
- 21 or qualified non-governmental entities of the powers



1 and duties of the department and any other state
 2 agency over Kalaupapa Settlement; and
 3 (11) Details including efforts of engagement by the
 4 department with Molokai community groups, including
 5 the addition of Ka Ohana O Kalaupapa and a
 6 non-governmental organization from the non-peninsular
 7 area of Molokai to be selected by the department in
 8 consultation with the non-peninsular area of the
 9 Molokai community.

10 (b) Annual reporting shall continue until the earlier of
 11 the year in which the passing of the last patient resident
 12 occurs or the Kalaupapa Settlement is no longer under the
 13 jurisdiction and control of the department of health."

14 SECTION 7. Section 326-1.3, Hawaii Revised Statutes, is
 15 repealed.

16 ~~["**S326-1.3** Liberty, autonomy, and dignity of patient~~
 17 ~~residents. (a) In recognition of the disruptions and hardships~~
 18 ~~experienced over the course of their lives by former Hansen's~~
 19 ~~disease patients residing at Kalaupapa, the legislature declares~~
 20 ~~its intent to ensure that all residents at Kalaupapa are treated~~
 21 ~~with dignity, respect, courtesy, and sensitivity and that the~~



1 ~~protections extended by this chapter to the patient residents at~~
2 ~~Kalaupapa are honored and upheld by the department of health to~~
3 ~~the extent possible within their purview.~~

4 ~~(b) Notwithstanding any other law to the contrary, the~~
5 ~~department of health shall promote and protect the personal~~
6 ~~liberty, autonomy, and dignity of all patient residents at~~
7 ~~Kalaupapa."]~~

8 SECTION 8. Section 326-2, Hawaii Revised Statutes, is
9 repealed.

10 [~~"§326-2 Equal treatment of patients. Every Hansen's~~
11 ~~disease sufferer at Hale Mohalu and Kalaupapa shall be accorded~~
12 ~~as nearly equal care and privileges as is practicable under the~~
13 ~~different operating conditions of the two institutions."]~~

14 SECTION 9. Section 326-11, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§326-11 Voluntary transfer to and from Kalaupapa. Any~~
17 ~~person undergoing treatment and receiving care for Hansen's~~
18 ~~disease at Hale Mohalu on June 30, 1969, may be transferred to~~
19 ~~Kalaupapa for care and treatment if the person desires. Any~~
20 ~~person who may undergo treatment and receive care for Hansen's~~
21 ~~disease at Hale Mohalu after June 30, 1969, may apply to the~~



1 ~~director of health for transfer to Kalaupapa. Any person~~
2 ~~undergoing treatment and receiving care for Hansen's disease at~~
3 ~~Kalaupapa may be transferred to Hale Mohalu for care and~~
4 ~~treatment if the person desires. A person transferred may be~~
5 ~~retransferred to Kalaupapa if the person desires."]~~

6 SECTION 10. Section 326-21, Hawaii Revised Statutes, is
7 repealed.

8 [~~"§326-21 Employment of patients. At any facility for the~~
9 ~~care and treatment of persons with Hansen's disease, the~~
10 ~~department of health, with the consent of a patient, may employ~~
11 ~~that patient to perform labor or service.~~

12 ~~When there are vacancies in positions, classified under~~
13 ~~chapter 76, at a facility exclusively for the care and treatment~~
14 ~~of persons with Hansen's disease, employment preference shall be~~
15 ~~given to temporary release patients and discharged patients from~~
16 ~~those facilities provided that the persons so hired shall be~~
17 ~~otherwise qualified under chapter 76.~~

18 ~~Discharged patients who have been employed prior to~~
19 ~~December 30, 1960, under chapter 76 in accordance with the~~
20 ~~second paragraph of this section shall be eligible to receive~~
21 ~~the same rights and privileges as those enjoyed by temporary~~



1 ~~release patients employed under the second paragraph of this~~
2 ~~section."~~]

3 SECTION 11. Section 326-22, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§326-22 Compensation of patient employees. The~~
6 ~~compensation for patients employed under section 326-21 shall be~~
7 ~~set by the department of health; provided that in no case shall~~
8 ~~the compensation be less than the minimum wage as established by~~
9 ~~section 387-2.~~

10 ~~Each patient employee of the department shall be entitled~~
11 ~~to and granted sick leave with pay and a vacation with pay each~~
12 ~~calendar year, each calculated at the following rate:~~

13 ~~For patients working six hours a day, one and one-half days~~
14 ~~for each month of service;~~

15 ~~For patients working five hours a day, one and one-quarter~~
16 ~~days for each month of service;~~

17 ~~For patients working four hours a day, one day for each~~
18 ~~month of service.~~

19 ~~A month of service is defined as eighty or more hours of~~
20 ~~work which may be accumulated over any period of time to total~~
21 ~~eighty hours. No more than twelve months of service may be~~



1 ~~earned and credited in any calendar year, even if the total~~
2 ~~number of hours worked should exceed nine hundred sixty hours."]~~

3 SECTION 12. Section 326-23, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§326-23 Pensions for patient employees at facilities.~~

6 ~~(a) All patient employees or patient laborers at every facility~~
7 ~~maintained for the treatment and care of persons with Hansen's~~
8 ~~disease shall be entitled, upon retirement after twenty years or~~
9 ~~more service with the department of health, to a pension in an~~
10 ~~amount which shall be equal to sixty-six and two-thirds per cent~~
11 ~~of the monthly wage or salary which the patient was receiving at~~
12 ~~the time of retirement, or to a pension in an amount which shall~~
13 ~~be equal to sixty-six and two-thirds per cent of the average~~
14 ~~monthly wage or salary which the patient employee was receiving~~
15 ~~during the last twelve months of employment at the department of~~
16 ~~health, whichever is higher. For the period from July 1, 2007,~~
17 ~~to June 30, 2008, the pension amounts shall be adjusted as~~
18 ~~follows:~~

19 ~~(1) Retired patient employees receiving less than \$4,000~~
20 ~~annually shall be granted a five per cent increase;~~



1 ~~(2) Retired patient employees receiving \$4,000 or more but~~
2 ~~less than \$5,000 annually shall be granted a four per~~
3 ~~cent increase; and~~

4 ~~(3) Retired patient employees receiving \$5,000 or more~~
5 ~~annually shall be granted a 2.5 per cent increase.~~

6 ~~For the period from July 1, 2008, to June 30, 2009, all retired~~
7 ~~patient employees shall be granted a 2.5 per cent increase.~~

8 ~~Thereafter, the pension amounts shall remain as adjusted~~
9 ~~effective for the period ending June 30, 2009.~~

10 ~~(b) Patient employees may use service with any state~~
11 ~~department or agency not exceeding five years which has not been~~
12 ~~credited under the state retirement system in lieu of service~~
13 ~~with a facility maintained for the treatment and care of persons~~
14 ~~with Hansen's disease to satisfy the requirements of subsection~~
15 ~~(a); provided that the service shall be authenticated by~~
16 ~~official records of the department where service was performed.~~

17 ~~(c) When work is available at Kalaupapa which may be~~
18 ~~fulfilled by patient residents of the facility under section~~
19 ~~326-21 and there are no applicants for those positions from~~
20 ~~among the eligible patients, pensioned patients who are in~~
21 ~~residence at Kalaupapa may be reemployed, not to exceed nineteen~~



1 ~~hours per week, without relinquishing the pension granted to~~
2 ~~them under this section. Furthermore, notwithstanding any other~~
3 ~~law relating to this subject, that reemployment shall not result~~
4 ~~in suspension or termination of payment of the pension granted~~
5 ~~originally or serve to increase, decrease, or alter the pension~~
6 ~~in any way."]~~

7 SECTION 13. Section 326-26, Hawaii Revised Statutes, is
8 repealed.

9 ~~["**§326-26 Persons allowed at places for Hansen's disease**~~
10 ~~**patients.** (a) No person, not having Hansen's disease, shall be~~
11 ~~allowed to visit or remain upon any land, place, or inclosure~~
12 ~~set apart by the department of health for the domiciles and~~
13 ~~community facilities of persons affected with Hansen's disease,~~
14 ~~without the written permission of the director of health, or~~
15 ~~some officer authorized thereto by the department, under any~~
16 ~~circumstances whatever, and any person found upon such land,~~
17 ~~place, or inclosure without a written permission shall be fined~~
18 ~~not less than \$10 nor more than \$100 for such offense; provided~~
19 ~~that any patient resident of Kalaupapa desiring to remain at the~~
20 ~~facility shall be permitted to do so for as long as the person~~



1 ~~may choose, regardless of whether the person has been~~
2 ~~successfully treated.~~

3 ~~(b) Notwithstanding subsection (a), upon the request of a~~
4 ~~patient, the non-patient spouse of a patient residing at~~
5 ~~Kalaupapa shall be allowed to reside with the patient spouse at~~
6 ~~Kalaupapa. The non-patient spouse shall not be entitled to~~
7 ~~receive any services or benefits accorded specifically to~~
8 ~~Hansen's disease patients at Kalaupapa."]~~

9 SECTION 14. Section 326-27, Hawaii Revised Statutes, is
10 repealed.

11 [~~"§326-27 Kalaupapa store; loans for operation and~~
12 ~~maintenance. (a) All moneys to enable the department of health~~
13 ~~to operate and maintain the Kalaupapa store, situated in~~
14 ~~Kalaupapa, Molokai, shall be allocated by the legislature~~
15 ~~through appropriations out of the state general fund.~~

16 ~~(b) The department shall include in its budgetary request~~
17 ~~for each upcoming fiscal period, the amounts necessary to~~
18 ~~effectuate the purposes of this section.~~

19 ~~(c) All moneys received in reimbursement of payments made~~
20 ~~under this section shall be deposited to the credit of the state~~
21 ~~general fund."]~~

1 SECTION 15. Section 326-28, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§326-28 Kalaupapa store prices; penalty. It shall be~~
4 ~~unlawful for the department of health or its agents to sell or~~
5 ~~offer for sale any merchandise at the Kalaupapa store at prices~~
6 ~~exceeding the actual cost thereof, free on board steamer or any~~
7 ~~other means of transportation at Honolulu. Any person violating~~
8 ~~this section shall be fined \$25 and in addition thereto shall,~~
9 ~~in the discretion of the department, be subject to removal from~~
10 ~~office."]~~

11 SECTION 16. Section 326-29, Hawaii Revised Statutes, is
12 repealed.

13 [~~"§326-29 Fishing laws exemption; Kalaupapa.~~
14 ~~Notwithstanding any provision of law to the contrary, state laws~~
15 ~~on fishing shall not be applicable to Hansen's disease patients~~
16 ~~of Kalaupapa, provided the patients engage in fishing along the~~
17 ~~shorelines and in waters immediately adjacent to the county of~~
18 ~~Kalawao.~~

19 ~~No fish or other marine products obtained by patients may~~
20 ~~be sold outside of the county of Kalawao.~~



1 ~~The department of health shall adopt rules pursuant to~~
2 ~~chapter 91 necessary to control all fishing and acquisition of~~
3 ~~marine products by Hansen's disease patients."]~~

4 SECTION 17. Section 326-30, Hawaii Revised Statutes, is
5 repealed.

6 ["~~§326-30 Making or taking of pictures without permission~~
7 ~~prohibited.~~ (a) ~~No person shall photograph, film, or videotape~~
8 ~~any patient at any facility maintained by the department of~~
9 ~~health for the care and treatment of persons with Hansen's~~
10 ~~disease, without the written permission of the patient.~~

11 ~~(b) Any person violating this section shall be fined not~~
12 ~~more than \$1,000 per incident."]~~

13 SECTION 18. Section 326-34, Hawaii Revised Statutes, is
14 repealed.

15 ["~~§326-34 County of Kalawao; governance.~~ (a) ~~The county~~
16 ~~of Kalawao shall consist of that portion of the island of~~
17 ~~Molokai known as Kalaupapa, Kalawao, and Waikolu, and commonly~~
18 ~~known or designated as the Kalaupapa Settlement, and shall not~~
19 ~~be or form a portion of the county of Maui, but is constituted a~~
20 ~~county by itself. As a county it shall have only the powers~~
21 ~~especially conferred and given by sections 326-34 to 326-38 and,~~



1 ~~except as provided in those sections, none of the provisions of~~
2 ~~the Hawaii Revised Statutes regarding counties shall be deemed~~
3 ~~to refer to or shall be applicable to the county of Kalawao.~~

4 ~~(b) The county of Kalawao shall be under the jurisdiction~~
5 ~~and control of the department of health and be governed by the~~
6 ~~laws, and rules relating to the department and the care and~~
7 ~~treatment of persons affected with Hansen's disease, except as~~
8 ~~otherwise provided by law."]~~

9 SECTION 19. Section 326-35, Hawaii Revised Statutes, is
10 repealed.

11 ~~["**S326-35 Sheriff, appointment, removal.** There shall be~~
12 ~~no county officer in the county other than a sheriff, who shall~~
13 ~~be a patient resident of and be appointed in the county by the~~
14 ~~department of health and who shall hold office at the pleasure~~
15 ~~of the department or until a successor is appointed by the~~
16 ~~department. When a qualified patient resident is not available,~~
17 ~~the department may appoint a staff employee or other qualified~~
18 ~~person to serve as sheriff."]~~

19 SECTION 20. Section 326-36, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§326-36 Sheriff, salary. The salary of the sheriff~~
2 ~~shall be fixed and paid by the department of health out of the~~
3 ~~appropriation allowed by the legislature for the care and~~
4 ~~treatment of persons affected with Hansen's disease."]~~

5 SECTION 21. Section 326-37, Hawaii Revised Statutes, is
6 repealed.

7 ~~["§326-37 Sheriff, duties. The sheriff of the county of~~
8 ~~Kalawao shall preserve the public peace and shall arrest and~~
9 ~~take before the district judge for examination all persons who~~
10 ~~attempt to commit or who have committed a public offense and~~
11 ~~prosecute the same to the best of the sheriff's ability."]~~

12 SECTION 22. Section 326-38, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§326-38 Sheriff, powers. The sheriff may appoint and~~
15 ~~dismiss and reappoint as many police officers as may be~~
16 ~~authorized by the department of health for the county. Patient~~
17 ~~residents, for the services rendered as police officers, shall~~
18 ~~receive pay as the department determines and which pay shall be~~
19 ~~taken out of and from the appropriation made by the legislature~~
20 ~~for the care and treatment of persons affected with Hansen's~~
21 ~~disease. The sheriff shall have other powers and duties within~~



1 ~~the county of Kalawao and appropriate thereto as are prescribed~~
2 ~~by law for the chiefs of police or police officers of the~~
3 ~~several counties respectively."]~~

4 SECTION 23. Section 326-40, Hawaii Revised Statutes, is
5 repealed.

6 [~~"§326-40 Kalaupapa; policy on residency. The legislature~~
7 ~~finds that Hawaii's Hansen's disease victims have in many ways~~
8 ~~symbolized the plight of those afflicted with this disease~~
9 ~~throughout the world. Their sufferings and social deprivations~~
10 ~~helped eventually to bring the story of the disease and an~~
11 ~~understanding of its health ravages to people everywhere. Those~~
12 ~~patients who settled in Kalaupapa remain a living memorial to a~~
13 ~~long history of tragic separation, readjustment, and endurance.~~
14 ~~It is the policy of the State that the patient residents of~~
15 ~~Kalaupapa shall be accorded adequate health care and other~~
16 ~~services for the remainder of their lives. Furthermore, it is~~
17 ~~the policy of the State that any patient resident of Kalaupapa~~
18 ~~desiring to remain at the facility shall be permitted to do so~~
19 ~~for as long as that patient may choose, regardless of whether or~~
20 ~~not the patient has been successfully treated. A patient~~
21 ~~resident of Kalaupapa desiring to take leave may do so without~~



1 ~~loss of financial allowance or coverage of health care costs~~
2 ~~given those who remain at Kalaupapa."}]~~

3 PART III

4 SECTION 24. Upon the passing of the last full- or
5 part-time patient resident of Kalaupapa, the director of health
6 shall notify the governor, who shall issue a proclamation to
7 affirm the date of passing. The governor shall also immediately
8 deliver a copy of the proclamation to the revisor of statutes.

9 SECTION 25. The department of health, in developing a plan
10 for the permanent transfer of the powers and duties of the
11 department and any other state agency over Kalaupapa Settlement
12 to other governmental or qualified non-governmental entities,
13 shall include a community organization in the county of Kalawao
14 that is designated in P.L. 111-11, title VII, section 7108, and
15 a topside community organization from Molokai in the transition
16 planning team. The department of health shall select the
17 topside community in consultation with the Molokai community.
18 For purposes of this section, "topside community organization
19 from Molokai" means a community of Molokai outside of the county
20 of Kalawao.



1 SECTION 26. For the purposes of this Act, "full- or
2 part-time patient resident of Kalaupapa" means a person who was
3 institutionalized for segregation by order of the department of
4 health because of Hansen's disease and who chose to remain at
5 Kalaupapa or Hale Mohalu after June 30, 1969.

6 SECTION 27. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 28. This Act shall take effect upon its approval;
9 provided that part II of this Act shall take effect on the date
10 one year after the passing of the last full- or part-time
11 patient resident of Kalaupapa as affirmed in the governor's
12 proclamation, as described in section 24 of this Act.



S.B. NO. 1432
S.D. 2
H.D. 2
C.D. 1

Report Title:

DOH; Hansen's Disease; Expenses; Rules; Annual Report; Transfer to the County of Maui

Description:

Authorizes the Department of Health to continue providing services statewide to Hansen's disease patients living in the community. Repeals sections of Chapter 326, Hawaii Revised Statutes, upon the 1-year anniversary of the passing of the last patient resident of Kalaupapa as affirmed in the Governor's proclamation. Requires the Department of Health to include community organizations in the transition planning team. (CD1)

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

