

ACT 369

S.B. NO. 1589

A Bill for an Act Relating to Child Death Review.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . CHILD DEATH REVIEW

§321- Multidisciplinary and multiagency reviews. The department of health may conduct multidisciplinary and multiagency reviews of child deaths in order to reduce the incidence of preventable child deaths.

§321- Definitions. As used in this part:

“Child” means a person under eighteen years of age.

“Child death review information” means information regarding the child and child’s family, including but not limited to:

- (1) Social, medical, and legal histories;
- (2) Death and birth certificates;
- (3) Law enforcement investigative data;
- (4) Medical examiner or coroner investigative data;
- (5) Parole and probation information and records;
- (6) Information and records of social service agencies;
- (7) Educational records; and
- (8) Health care institution information.

“Department” means the department of health.

“Director” means the director of health or the director’s designated representatives.

“Family” means:

- (1) Each legal parent;
- (2) The natural mother;
- (3) The natural father;
- (4) The adjudicated, presumed, or concerned natural father as defined under section 578-2;

- (5) Each parent's spouse or former spouses;
- (6) Each sibling or person related by consanguinity or marriage;
- (7) Each person residing in the same dwelling unit; and
- (8) Any other person who, or legal entity that, is a child's legal or physical custodian or guardian, or who is otherwise responsible for the child's care, other than an authorized agency that assumes such a legal status or relationship with the child under chapter 587.

"Preventable death" means a death that reasonable medical, social, legal, psychological, or educational intervention may have prevented.

"Provider of medical care" means any health care practitioner who provides, or a facility through which is provided, any medical evaluation or treatment, including dental and mental health evaluation or treatment.

§321- Access to information. (a) Upon written request of the director, all providers of medical care and state and county agencies shall disclose to the department, and those individuals appointed by the director to participate in the review of child deaths, child death review information regarding the circumstances of a child's death so that the department may conduct a multidisciplinary and multiagency review of child deaths pursuant to section 321-31 and this part.

(b) To the extent that this section conflicts with other state confidentiality laws, this section shall prevail.

§321- Exception. Information regarding an ongoing civil or criminal investigation shall be disclosed at the discretion of the applicable state, county, or federal law enforcement agency.

§321- Use of child death review information and records. (a) Except as otherwise provided in this part, all child death review information acquired by the department during its review of child deaths pursuant to this part, is confidential and may only be disclosed as necessary to carry out the purposes of this part.

(b) Child death review information and statistical compilations of data that do not contain any information that would permit the identification of any person shall be public records.

(c) No individual participating in the department's multidisciplinary and multiagency review of a child's death may be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a child death review meeting. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's multidisciplinary and multiagency review of a child's death, or which is public information, or where disclosure is required by law or court order.

(d) Child death review information held by the department as a result of child death reviews conducted under this part are not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that child death review information otherwise available from other sources is not immune from subpoena, discovery, or introduction into evidence through those sources solely because they were provided as required by this part.

§321- Immunity from liability. All agencies and individuals participating in the review of child deaths pursuant to this part shall not be held civilly or criminally liable for providing the information required under this part."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 3, 1997.)