

ACT 192

H.B. NO. 1138

A Bill for an Act Relating to Epidemiologic Investigations.

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

PART I

SECTION 1. The purpose of this part is to allow the department of health to update its ability to investigate significant causes of illness which threaten the public health and safety, while protecting the confidentiality of information and shielding the providers of information from liability.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Epidemiologic investigations. (a) The department may conduct investigations to determine the nature and extent of diseases and injuries deemed by the department to threaten the public health and safety.

(b) Every person, health care provider, and medical facility shall provide the patient’s name, the name of a minor patient’s parent or guardian, address, telephone number, age, sex, race or ethnicity, clinical signs and symptoms, laboratory test results, diagnostic interview data, treatment provided, and the disposition of the patient when requested by an authorized representative of the director for the purpose of conducting such an investigation. The authorized representative may only view the limited portion of the patient’s medical record which is directly relevant in time and scope to the subject of the investigation.

(c) No person, health care provider, or medical facility that provides information requested by an authorized representative of the director for the purpose of conducting an investigation under this section shall be held civilly or criminally liable for providing that information to the department.

(d) All information provided to the department under this section shall be kept strictly confidential, except as the director determines is necessary to protect the public health and safety. Access to confidential records shall be restricted to those individuals specifically authorized to participate in any given investigation. However, epidemiologic and statistical information with no individual identifying information may be released to the public. The identities of individuals whose medical records are investigated shall be disclosed only to those persons authorized by the director or the director’s representative to conduct a specific investigation under this section or determined by the director to be necessary to protect the health and safety of the public.”

SECTION 3. Section 321-1, Hawaii Revised Statutes, is amended to read as follows:

“§321-1 **General powers and duties of the department.** (a) The department of health shall have general charge, oversight, and care of the health and lives of the people of the State.

(b) The department may conduct epidemiologic investigations of diseases and injuries that threaten or are deemed by the department to threaten the public health and safety.

[(b)] (c) The department shall have authority in matters of quarantine and other health matters and may declare and enforce quarantine when none exists and modify or release quarantine when it is established.

[(c)] (d) When it is determined that there is imminent danger of epidemic or serious outbreak of communicable disease, the department may refuse, modify, or limit attendance at any school in the State.

[(d)] (e) When in the judgment of the director, there is deemed to be a potential health hazard, the department, through the director, may take precautionary measures to protect the public through the imposition of an embargo or the detention of products regulated by the department, or the removal of products regulated by the department from the market, or the declaration of quarantine; provided that the director must find evidence of a health hazard within seventy-two hours of the action taken or rescind the action. The director shall make public the findings.

[(e)] (f) All county health authorities, sheriffs, police officers, and all other officers and employees of the State, and every county thereof, shall enforce the rules of the department. All such powers in health matters as have been or may be conferred upon any county shall be concurrent with those of the department.

[(f)] (g) The department may establish charges and collect fees for any of its services; provided that the department shall not refuse to provide services to any person due to the person's inability to pay the fee for the service. The department, through the director, shall make an annual report to the governor, showing in detail all its expenditures and transactions, and such other information regarding the public health as the department may deem of special interest.

[(g)] (h) The department, during the prevalence of any severe pestilence or epidemic, shall publish a weekly report of the public health.

[(h)] (i) The department shall establish and administer programs, and adopt rules as deemed necessary, for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence.”

PART II

SECTION 4. The purpose of this part is to appropriate funds for the department of health to conduct a response action, which shall include soil sample surveys as part of an epidemiologic investigation into the causes of an apparent disturbing and as yet unexplained pattern of physical and learning disabilities of children in the Village Park and West Loch Fairways communities.

The legislature finds that, as the population of the State grows, housing developments and residential areas are being constructed on former agricultural lands or on locations formerly used by the military. This situation is certain to increase as agriculture declines and additional lands become available for residential development. Environmental health hazards in the soil, such as residue from pesticides, can remain undetected until significant clusters of disease or illness are identified. Secret underground military facilities, such as tunnels or bunkers, in which were stored arms or chemicals, are also capable of causing environmental health hazards.

The legislature finds that significant clusters of illness or disease are not readily identifiable until some commonality occurs, such as proximate neighbors comparing notes or children of the same age level entering a single neighborhood school being enrolled in special education classes.

The legislature further finds that when a significant cluster or increase of illness or disease occurs in a school and is identified by the faculty, it should be the responsibility of the principal and faculty to report their suspicions to the department of health. The department of health, working in cooperation with the department of education, should be responsible for the related health services.

Of particular concern to the legislature is the Village Park and West Loch Fairways communities. Village Park is a subdivision of approximately two thousand families, and West Loch Fairways is a subdivision of approximately seven hundred twenty families, who share a common health phenomenon. Many of the Village Park and West Loch Fairway families and children have varying degrees of disabilities and illnesses that are more than coincidence. One out of ten children has some physical or learning disability, or both, that requires special needs education. Physical disabilities include Downs Syndrome, trisomy 8 and trisomy 18, spina bifida, heart abnormalities, leukemia, and respiratory ailments. Learning disabilities include mental retardation, hearing, emotional, visual, speech and language, attention deficit disorder, hyperactivity, oppositional defiant disorder, multiple handicaps, and autism.

The purpose of this part is to appropriate funds to the department of health to conduct soil testing for Village Park and West Loch Fairways as part of an epidemiologic investigation to determine if physical and learning disabilities of children are caused by the soil.

SECTION 5. There is appropriated out of the environmental response revolving fund under section 128D-2, Hawaii Revised Statutes, the sum of \$220,000 or so much thereof as may be necessary for fiscal year 1999-2000 for the department of health to conduct a response action, which shall include soil testing at Village Park and West Loch Fairways to determine if the soil is a cause of the illnesses, and the physical and learning disabilities of children and families living in Village Park and West Loch Fairways. The testing shall be completed by December 15, 1999.

The sum appropriated shall be expended by the department of health.

SECTION 6. The department of health, with the assistance of the department of agriculture, Citizens for a Safe Environment, and Life of the Land, shall report its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2000.

PART III

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval; provided that section 5 shall take effect on July 1, 1999.

(Approved July 2, 1999.)

Note

1. Edited pursuant to HRS §23G-16.5.