

## ACT 95

S.B. NO. 931

A Bill for an Act Relating to Epidemiologic Investigations.

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

SECTION 1. Section 321-29, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321-29]]~~ **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 only the limited portion of the patient’s medical record~~[, which] that~~ that is directly relevant in time and scope to the subject of the investigation.

(c) Every person, company, organization, association, health care provider, medical facility, or any other possible source of information shall provide names, addresses, telephone numbers, and locating information regarding an individual or group of individuals suspected of having been exposed to a disease or disease-causing substance that is the subject of an epidemiologic investigation when requested by an authorized representative of the director.

For the purposes of this subsection, “locating information” includes information contained in appointment, reservation, registration, invitation, attendance, billing, payment lists, or any other record that may help the department identify, locate, or contact individuals or groups suspected of having been exposed to a disease under investigation.

(d) When, in the written opinion of the director of health reasonable cause exists for the investigation of a disease or series of injuries that threatens public health or safety and that the collection of plant, animal, food, or environmental samples or specimens for immediate testing is necessary, an authorized representative of the department, during regular working hours or at other reasonable times may demand entry onto any premises, public or private, for the purpose of conducting an administrative investigation; provided that:

- (1) (A) Entry shall only occur with the consent of the owner, owner's agent, or person in lawful control of the property to investigate and collect relevant samples; or
- (B) If consent is not obtained, entry shall only occur after issuance of an administrative investigation warrant pursuant to subsection (e), specifying the area to be searched and the types of samples and specimens sought;
- (2) The investigation shall be limited to only those samples, specimens, and investigative actions that are necessary to confirm or deny the cause that prompted the investigation;
- (3) An authorized representative of the director shall be liable only for damage caused by acts beyond the scope of the representative's authority, or by the representative's gross negligence or intentional misconduct; and
- (4) The director's authorized representative shall leave an inventory describing any samples or specimens obtained, and the department shall make split samples available to the person whose premises are subject to the investigation.

For the purposes of this subsection, "administrative investigation" means any investigation, independent of a criminal investigation, that is conducted for the purpose of determining the existence of disease or series of injuries deemed by the department to threaten the public health or safety. An administrative investigation may involve the examination of real or personal property, records, equipment, buildings, products, by-products, wastes, processes, activities, environmental conditions (i.e., air, soil, and water quality), or other property or activities.

(e) If consent to entry is denied under subsection (d), the department representative may apply to the district court in the circuit in which the property is located for an administrative investigation warrant to enter the premises to effectuate the purposes of this section. The district court may issue an administrative investigation warrant directing a police officer of the county in the circuit to assist the department representative in gaining entry onto the premises during regular working hours or at other reasonable times. The warrant may command the police officer to take sufficient aid, and being accompanied by a representative of the department, to go to the premises described in the warrant and search for, seize, secure, or collect, under the specific direction of the representative, or allow the representative to search for, seize, secure, or collect, plant, animal, food, or environmental samples or specimens deemed necessary to conduct the investigation successfully. A district court may issue an administrative investigation warrant if sufficient facts are presented to the court that would establish probable cause for the need for the search. Probable cause for the need for the search shall be established by affidavit demonstrating:

- (1) The opinion of the director of health that there is reasonable cause for the investigation of the particular premises at issue;
- (2) That the investigation is necessary for the protection of public health and safety under this section; and
- (3) That consent to search the particular premises has been denied under subsection (d)(1)(A).

A copy of the administrative investigation warrant and all supporting affidavits shall be provided to the person served. If a suitable person is not available to be served after reasonable efforts to locate such a person, the administrative investigation warrant may be left at the principal entry of the investigated premises.

[(d)] (f) No person, company, organization, association, health care provider, medical facility, or other source 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.

~~[(e)]~~ (g) 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.

(h) The director shall adopt rules under chapter 91 as are appropriate to carry out the purposes of this section and its efficient administration. The rules shall:

- (1) Establish administrative remedies for the owner, owner's agent, or person in lawful control of the property to file a claim with the department for damaged and seized property; provided that there shall be no administrative remedy for the seizure of de minimis samples;
- (2) Provide notice to the owner, owner's agent, or person in lawful control of the property of the administrative remedies available for damaged and seized property; and
- (3) Provide penalties for the failure to comply with any rule."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2009.

(Approved June 8, 2009.)