

ACT 162

S.B. NO. 2821

A Bill for an Act Relating to Mortality Review of Deaths of Persons With Developmental or Intellectual Disabilities.

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 . MORTALITY REVIEW OF DEATHS OF PERSONS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES

§321- Multidisciplinary and multiagency mortality reviews. The department may conduct multidisciplinary and multiagency mortality reviews of deaths of persons with developmental or intellectual disabilities in order to re-

duce the incidence of preventable deaths to persons with developmental or intellectual disabilities.

§321- Definitions. As used in this part:

“Adult” means a person eighteen years of age or older.

“Adult death review information” means information regarding the adult person and person’s family, including:

- (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.

“Developmental disability” means a severe, chronic disability of a person that:

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the person attains age twenty-two;
- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency; and
- (5) Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

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

“Intellectual disability” means significantly subaverage general intellectual functioning resulting in or associated with concurrent moderate, severe, or profound impairments in adaptive behavior and manifested during the developmental period.

“Person with developmental or intellectual disabilities” means an adult with a developmental or intellectual disability.

“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 or other related services and state and county agencies shall disclose to the department and to those individuals appointed by the director to participate in the mortality review of the death of a person with developmental or intellectual disabilities, adult death review information

regarding the circumstances of the death of a person with developmental or intellectual disabilities to allow the department to conduct multidisciplinary and multiagency mortality review of deaths of persons with developmental or intellectual disabilities 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 information and records from mortality reviews of deaths of persons with developmental or intellectual disabilities. (a) Except as otherwise provided in this part, all information and records acquired by the department during its multidisciplinary and multiagency mortality reviews of deaths of persons with developmental or intellectual disabilities pursuant to this part shall be kept confidential and may be disclosed only as necessary to carry out the purposes of this part.

(b) Information and statistical compilations of data from the multidisciplinary and multiagency mortality reviews of deaths of persons with developmental or intellectual disabilities 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 mortality review of the death of a person with developmental or intellectual disabilities may be questioned in any civil or criminal proceeding regarding information presented in, or opinions formed as a result of, a meeting of the multidisciplinary and multiagency mortality review of deaths of persons with developmental or intellectual disabilities. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's multidisciplinary and multiagency mortality review of deaths of persons with developmental or intellectual disabilities, or that is public information, or where disclosure is required by law or court order.

(d) Information held by the department as a result of a multidisciplinary and multiagency mortality review of the death of a person with developmental or intellectual disabilities conducted under this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because it was provided as required by this part.

§321- Immunity from liability. All agencies and individuals participating in multidisciplinary and multiagency mortality reviews of deaths of persons with developmental or intellectual disabilities 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 June 26, 2012.)