

ACT 190

H.B. NO. 2226

A Bill for an Act Relating to an Automated Victim Notification System.

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

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . AUTOMATED VICTIM INFORMATION AND NOTIFICATION SYSTEM

§353-A Definitions. For purposes of this part:

“Offender” means a person in the custody of the department of public safety or the Hawaii paroling authority but does not include juveniles under the jurisdiction of the family court.

“System” means the statewide automated victim information and notification system.

“Victim” means a person against whom a crime has been committed by the offender and includes, in homicide cases, surviving immediate family members.

§353-B System; requirements. (a) The department shall establish a statewide automated victim information and notification system to:

- (1) Automatically notify a registered victim or concerned member of the community, via the person’s choice of telephone, text message, or electronic mail transmission when the offender who is in the custody of the department:
 - (A) Is transferred or assigned to another facility;
 - (B) Is transferred to the custody of another agency outside the State;
 - (C) Is released on temporary leave or for other reasons;
 - (D) Is discharged; or
 - (E) Has escaped;
- (2) Automatically notify a registered victim or concerned member of the community via the person’s choice of telephone, text message, or electronic mail transmission when:
 - (A) The offender has an upcoming parole hearing; or
 - (B) There is a change in the offender’s parole status, including a change in the offender’s supervision status;

- (3) Permit a victim or concerned member of the community to receive the most recent status report for the offender in the custody of the department by calling the system on a toll-free telephone number, as well as by accessing the system via a public website;
 - (4) Provide all victims or concerned members of the community calling the system with the option to receive live operator assistance with the system on a twenty-four-hours per day, three-hundred-sixty-five-days per year basis; and
 - (5) Permit a victim or a concerned member of the community to register or update the person's registration information for the system by calling a toll-free telephone number or accessing a public website.
- (b) The prosecuting agency shall notify the victim of the victim's right to register in the system. It shall be the responsibility of the victim to register with the system.

§353-C Satisfaction of victims' rights to notification. Participation in the system and making offender data available on a timely basis to the system shall be deemed to satisfy the obligations of:

- (1) The department to notify the victim of changes in the offender's custodial status pursuant to section 801D-4(a)(7); and
- (2) The police and prosecuting attorney to notify the victim of the offender's release from custody pursuant to section 801D-4(a)(1).

§353-D Compliance by department; no cause of action. The department shall ensure that the offender information contained within the system is updated on a regular basis sufficient to timely notify a victim or a concerned member of the community of the offender's release, discharge, or escape. However, failure of the system to provide notice to the victim or a concerned member of the community shall not establish a separate cause of action by the victim or a concerned member of the community against the State, any county, or any state or county agency, officer, or employee.

§353-E Law enforcement cooperation. The attorney general, and the chief of police and prosecuting attorney of each county, shall cooperate with the department in establishing and maintaining the system.

§353-F Automated victim information and notification system special fund; authorization of payment. (a) There is established a special fund to be known as the automated victim information and notification system special fund, to be administered by the department. Interest and investment earnings credited to the assets of the fund shall become part of the fund. Any remaining balance in the fund at the end of any fiscal year shall be carried over to the next fiscal year.

(b) Any item purchased by an in-state or out-of-state inmate from a correctional facility commissary shall be subject to a four per cent surcharge on the item's price. The proceeds from the surcharge shall be deposited into the automated victim information and notification system special fund.

(c) All proceeds or revenues that are derived from any commission that is realized pursuant to a telephone service agreement executed by the department for the provision of telephone services for inmates shall be deposited into the automated victim information and notification system special fund.

(d) Moneys received pursuant to subsections (b) and (c) shall be used for the development and operating expenses, including salaries and benefits of positions as authorized by the legislature, of the system.

(e) The sum total of all moneys expended for development and operating expenses, including salaries and benefits of positions as authorized by the legislature, shall not exceed the special fund ceiling related to the fund established by the legislature; provided that the total moneys expended for these purposes shall not exceed \$600,000 in any one fiscal year.

(f) Federal funds shall not be transferred to, or deposited into, the automated victim information and notification system special fund.

§353-G Automated victim information and notification system governance committee. (a) There is established within the department of public safety, an automated victim information and notification system governance committee. The members of the governance committee shall be appointed by the director of public safety from a list submitted by the governance committee; provided that the initial members of the committee shall be selected by the director from a list of members provided by the statewide automated victim information and notification governance committee currently serving in that capacity under a grant from the federal Bureau of Justice Assistance establishing the victim notification system.

(b) The terms of the members shall be for four years and shall commence on July 1 and expire on June 30; provided that the governance committee may elect to reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. No person shall be appointed consecutively to more than two terms on the governance committee; provided that membership shall not exceed eight consecutive years. Any member whose term has expired and who is not disqualified for membership under this subsection may continue in office as a holdover member until a successor is nominated and appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.

(c) A vacancy occurring in the membership of the governance committee during a term shall be filled for the unexpired term thereof as provided in subsection (a). The director of public safety may remove or suspend for cause any member after due notice and public hearing.

(d) The governance committee members shall include:

- (1) A victim;
- (2) One representative from a victim assistance program in each county;
- (3) One representative from the police department of each county; and
- (4) One representative from each of the following:
 - (A) Mothers Against Drunk Driving shall be requested to serve;
 - (B) The Hawaii State Coalition Against Domestic Violence shall be requested to serve;
 - (C) Sex Abuse Treatment Center shall be requested to serve;
 - (D) Crime victim compensation commission;
 - (E) The Hawaii paroling authority;
 - (F) The judiciary;
 - (G) The crime prevention and justice assistance division of the department of the attorney general; and
 - (H) The information technology section of the department.

The committee members shall elect a member who shall serve as the chairperson.

(e) The governance committee may advise the department on the following issues:

- (1) The implementation and operation of the system;

- (2) The establishment of performance measures;
 - (3) Specifications and configuration parameters for the operation of the system;
 - (4) Management of the system; and
 - (5) Policies and procedures governing the use of the system, including policies to safeguard the safety, confidentiality, and autonomy of victims.
- (f) Meetings of the governance committee shall be held on a quarterly basis during the system's first year of implementation and no less than twice a year thereafter.
- (g) The members of the governance committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.
- (h) Members of the governance committee acting in good faith and within the scope of their duties under this chapter shall be immune from any civil or criminal liability arising from these acts, except where the member's conduct would constitute gross negligence, wilful and wanton misconduct, or intentional misconduct."

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under section 269-42;
- (16) Emergency and budget reserve fund under section 328L-3;
- (17) Public schools special fees and charges fund under section 302A-1130;
- (18) Sport fish special fund under section 187A-9.5;
- (19) Glass advance disposal fee established by section 342G-82;
- (20) Center for nursing special fund under section 304A-2163;
- (21) Passenger facility charge special fund established by section 261-5.5;
- (22) Court interpreting services revolving fund under section 607-1.5;
- (23) Hawaii cancer research special fund;

- (24) Community health centers special fund;
- (25) Emergency medical services special fund;
- (26) Rental motor vehicle customer facility charge special fund established under section 261-5.6; [and]
- (27) Shared services technology special fund under section 27-43[.]; and
- (28) Automated victim information and notification system special fund established under section 353-F.

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 3. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - (5) State educational facilities improvement special fund;
 - (6) Special funds established by section 206E-6;
 - (7) Aloha Tower fund created by section 206J-17;
 - (8) Funds of the employees’ retirement system created by section 88-109;
 - (9) Unemployment compensation fund established under section 383-121;
 - (10) Hawaii hurricane relief fund established under section 431P-2;
 - (11) Convention center enterprise special fund established under section 201B-8;
 - (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
 - (13) Tourism special fund established under section 201B-11;
 - (14) Universal service fund established under section 269-42;
 - (15) Emergency and budget reserve fund under section 328L-3;
 - (16) Public schools special fees and charges fund under section 302A-1130;
 - (17) Sport fish special fund under section 187A-9.5;
 - (18) Center for nursing special fund under section 304A-2163;
 - (19) Passenger facility charge special fund established by section 261-5.5;
 - (20) Court interpreting services revolving fund under section 607-1.5;
 - (21) Hawaii cancer research special fund;
 - (22) Community health centers special fund;
 - (23) Emergency medical services special fund;
 - (24) Rental motor vehicle customer facility charge special fund established under section 261-5.6; [and]
 - (25) Shared services technology special fund under section 27-43[.]; and

(26) Automated victim information and notification system special fund established under section 353-F.

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 4. The department of public safety shall continue to operate the statewide automated victim information and notification system pursuant to the funding structure under which it operated on June 30, 2012, which may include the use of federal funds, until such time as the automated victim information and notification system special fund has accumulated sufficient moneys to carry out the purposes of this Act.

SECTION 5. There is appropriated out of the automated victim information and notification system special fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2012-2013 to operate the automated victim information and notification system established by this Act; provided that funds shall be made available upon the accumulation of sufficient moneys in the automated victim information and notification system special fund to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 6. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

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

SECTION 8. This Act shall take effect on July 1, 2012; provided that the amendments to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 2 and 3 of this Act shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 28, 2012.)