

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
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To: House Committee on Health, Human Services, & Homelessness

From: Cheryl Kakazu Park, Director

Date: February 16, 2021, 10:00 a.m.
Via Videoconference

Re: Testimony on H.B. No. 991
Relating to the Disclosure of Vital Statistics Records

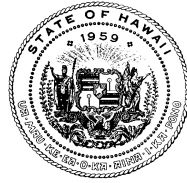
Thank you for the opportunity to submit testimony on this bill, which would amend statutes relating to disclosure of vital statistics records. The Office of Information Practices (OIP) offers comments.

Disclosure of vital statistics records is an area that in the past has been determined by the specific statutory authority being amended in this measure, with details being to some degree left to the Director of Health to determine. Thus, disclosure of vital statistics records has not been determined by the Uniform Information Practices Act standards applicable to government records in general. However, OIP notes that this proposal would delete current subsection 338-18(d), which provides for public access to index information taken from vital records. The justification for this bill states that deleted sections are being removed because they are no longer relevant, but the bill by itself does not show where public access to index information is provided for elsewhere such that it is no longer relevant to include in section 338-18. Thus, to avoid the appearance of diminishing public access to information, OIP recommends the Committee Report specifically explain

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why current subsection 338-18(d) is no longer relevant, and defers to the Department of Health for that explanation.

Thank you for considering OIP's comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in SUPPORT of HB991
RELATING TO THE DISCLOSURE OF VITAL STATISTICS RECORDS.

REP. RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: February 16, 2021 Room Number: N/A

1 **Department Testimony:** The Department of Health (DOH) strongly supports this measure but
2 requests amendments. The purpose of which is to give the Director of Health greater discretion
3 to share confidential data for legitimate government and research functions. This bill is budget
4 neutral.

5 Vital records include but are not limited to data about births, deaths, and marriage/civil unions
6 and contain information such as race and ethnicity, cause of death, relative health at birth, and
7 other qualitative data that is found in very few other places. The department considers
8 appropriate sharing of vital records to be in the public interest, particularly to expedite law
9 enforcement or judicial proceedings but also research to help define unique issues in Hawaii.

10 The proposed process of review by the DOH Institutional Review Committee is consistent with
11 protocols and standards in academic and scientific human subject research, and assures that
12 requests serve an ethical public good, that individual privacy is maintained, and that records are
13 transmitted, stored, and disposed of appropriately. Examples of research requiring vital records
14 include investigations on workplace deaths, cancer prevalence, and consumer product safety.

15 Current statute sets a high standard for access to vital records that should be maintained but
16 flexibility to disclose for situations not explicitly articulated in chapter 338, HRS, is required.

17 With regard to rationale for the proposal to repeal subsection 338-18(d), as prompted by an
18 inquiry from the Office of Information Practices, the value of "index data" made to the public is

1 greatly outweighed by risks of identity theft and computerization. Prior to modern information
2 technology systems, indices of this sort would have been printed on index cards to search bound
3 volumes or other hard copy sources for manual research or published as a matter of routine in
4 newspapers. These indices are no longer produced but may be on file in DOH archives.
5 Evolving social attitudes regarding individual privacy and increasing risk of identity theft make
6 public access to index data undesirable, and thus the proposal to repeal. Currently,
7 announcement of births and marriages in newspapers of major circulation is voluntary and it can
8 be surmised that those electing to opt out wish to maintain their privacy.

9 Thank you for the opportunity to testify.

10 **Offered Amendments:**

11 Page 1, Line 14-15

12 STRIKE proposed amendment “[~~or by~~] and in a manner consistent with to read “(a) To protect
13 the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and
14 proper administration of the vital records system, it shall be unlawful for any person to permit
15 inspection of, or to disclose information contained in the vital statistics records, or to copy or
16 issue a copy of all or part of any such records, except as authorized by this part or in a manner
17 consistent with rules adopted by the department of health.”

18 Rational: Rulemaking may take several years to accomplish and the department sees value in
19 new data sharing conditions sooner rather than later. The switch from “and” back to “or” will
20 allow the measure’s general provisions to take effect more immediately. Subsequent rule-
21 making may occur to provide greater specificity as needed.

22 Page 2, Line 3

23 STRIKE proposed amendment “exclusive list of” to read “The following persons or agencies
24 shall be considered to have a direct and tangible interest in a public health statistics record:”

1 Rationale: Upon further reflection, DOH considers “exclusive list” to be unnecessarily limiting,
2 and instead will rely on discretion authorized in subsequent amendments.

3 Page 3, Line 2

4 STRIKE proposed amendment “real” to read “A person or agency who needs to determine the
5 death of a [~~nonrelated~~] co-owner of property; [~~purchased under a joint tenancy agreement; and~~”

6 Rationale: Upon further reflection, limitation only to real property inadvertently leaves
7 applicability to other personal and non-real property in question.

8 Page 3, Line 9

9 AMEND proposed amendment to read: “(13) A person or agency who needs vital statistics
10 records for a public health purpose, as reviewed by the department institutional review
11 committee and approved by the director of health; and”

12 Rationale: To clarify the role of the IRC and assure the public health and public interest or value
13 of the proposed research or study.

14 Page 3, Lines 15-16

15 REPEAL “but no identifying use thereof shall be made” to read “(c) The department may permit
16 the use [{}of{}] the data contained in public health [~~statistical~~] statistics records for research
17 purposes only. [~~but no identifying use thereof shall be made.~~] Research purposes under this
18 section are limited to those that have been reviewed by the department institutional review
19 committee and approved by the department’s institutional review committee and the director of
20 health.”

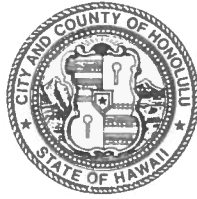
21 Rationale: To clarify the role of the IRC and assure the public health and public interest or value
22 of the proposed research or study.

23 Thank you for the opportunity to testify.

24

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE MK-KK

February 16, 2021

The Honorable Ryan I. Yamane, Chair
and Members
Committee on Health, Human Services,
and Homelessness
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

SUBJECT: House Bill No. 991, Relating to the Disclosure of Vital Statistics Records

I am Mikel Kunishima, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 991, Relating to the Disclosure of Vital Statistics Records.

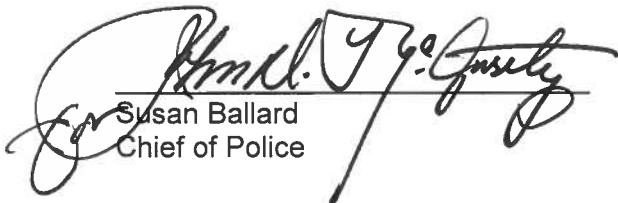
The HPD supports the amendments for the Department of Health to disclose vital statistical records for public health and law enforcement purposes. The HPD would be able to access vital statistic records and expedite criminal investigations without the need of a subpoena. Law enforcement would be able to move investigations forward with access to those records.

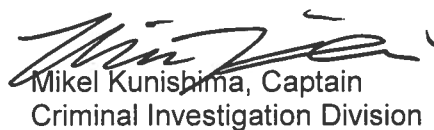
The HPD urges you to support House Bill No. 991, Relating to the Disclosure of Vital Statistics Records.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Susan Ballard
Chief of Police


Mikel Kunishima, Captain
Criminal Investigation Division