



GOV. MSG. NO. 712

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 8, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 8, 2009, the following bill was signed into law:

SB931 SD1 HD1 CD1

A BILL FOR AN ACT
RELATING TO EPIDEMIOLOGIC
INVESTIGATIONS.
ACT 095 (09)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 8 2009

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 095

S.B. NO. 931
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO EPIDEMIOLOGIC INVESTIGATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

3 "[+] §321-29 [+] **Epidemiologic investigations.** (a) The
4 department may conduct investigations to determine the nature
5 and extent of diseases and injuries deemed by the department to
6 threaten the public health and safety.

7 (b) Every person, health care provider, and medical
8 facility shall provide the patient's name, the name of a minor
9 patient's parent or guardian, address, telephone number, age,
10 sex, race or ethnicity, clinical signs and symptoms, laboratory
11 test results, diagnostic interview data, treatment provided, and
12 the disposition of the patient when requested by an authorized
13 representative of the director for the purpose of conducting
14 such an investigation. The authorized representative may [~~only~~]
15 view only the limited portion of the patient's medical record[~~7~~
16 ~~which~~] that is directly relevant in time and scope to the
17 subject of the investigation.



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

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

15 (d) When, in the written opinion of the director of health
16 reasonable cause exists for the investigation of a disease or
17 series of injuries that threatens public health or safety and
18 that the collection of plant, animal, food, or environmental
19 samples or specimens for immediate testing is necessary, an
20 authorized representative of the department, during regular
21 working hours or at other reasonable times may demand entry onto



1 any premises, public or private, for the purpose of conducting
2 an administrative investigation; provided that:

3 (1) (A) Entry shall only occur with the consent of the
4 owner, owner's agent, or person in lawful control
5 of the property to investigate and collect
6 relevant samples; or

7 (B) If consent is not obtained, entry shall only
8 occur after issuance of an administrative
9 investigation warrant pursuant to subsection (e),
10 specifying the area to be searched and the types
11 of samples and specimens sought;

12 (2) The investigation shall be limited to only those
13 samples, specimens, and investigative actions that are
14 necessary to confirm or deny the cause that prompted
15 the investigation;

16 (3) An authorized representative of the director shall be
17 liable only for damage caused by acts beyond the scope
18 of the representative's authority, or by the
19 representative's gross negligence or intentional
20 misconduct; and

21 (4) The director's authorized representative shall leave
22 an inventory describing any samples or specimens



1 obtained, and the department shall make split samples
2 available to the person whose premises are subject to
3 the investigation.

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

14 (e) If consent to entry is denied under subsection (d),
15 the department representative may apply to the district court in
16 the circuit in which the property is located for an
17 administrative investigation warrant to enter the premises to
18 effectuate the purposes of this section. The district court may
19 issue an administrative investigation warrant directing a police
20 officer of the county in the circuit to assist the department
21 representative in gaining entry onto the premises during regular
22 working hours or at other reasonable times. The warrant may



1 command the police officer to take sufficient aid, and being
 2 accompanied by a representative of the department, to go to the
 3 premises described in the warrant and search for, seize, secure,
 4 or collect, under the specific direction of the representative,
 5 or allow the representative to search for, seize, secure, or
 6 collect, plant, animal, food, or environmental samples or
 7 specimens deemed necessary to conduct the investigation
 8 successfully. A district court may issue an administrative
 9 investigation warrant if sufficient facts are presented to the
 10 court that would establish probable cause for the need for the
 11 search. Probable cause for the need for the search shall be
 12 established by affidavit demonstrating:

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

20 A copy of the administrative investigation warrant and all
 21 supporting affidavits shall be provided to the person served.

22 If a suitable person is not available to be served after



1 reasonable efforts to locate such a person, the administrative
2 investigation warrant may be left at the principal entry of the
3 investigated premises.

4 [~~d~~] (f) No person, company, organization, association,
5 health care provider, medical facility, or other source that
6 provides information requested by an authorized representative
7 of the director, for the purpose of conducting an investigation
8 under this section, shall be held civilly or criminally liable
9 for providing that information to the department.

10 [~~e~~] (g) All information provided to the department under
11 this section shall be kept strictly confidential, except as the
12 director determines is necessary to protect the public health
13 and safety. Access to confidential records shall be restricted
14 to those individuals specifically authorized to participate in
15 any given investigation. However, epidemiologic and statistical
16 information with no individual identifying information may be
17 released to the public. The identities of individuals whose
18 medical records are investigated shall be disclosed only to
19 those persons authorized by the director or the director's
20 representative to conduct a specific investigation under this
21 section or determined by the director to be necessary to protect
22 the health and safety of the public.



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

4 (1) Establish administrative remedies for the owner,
5 owner's agent, or person in lawful control of the
6 property to file a claim with the department for
7 damaged and seized property; provided that there shall
8 be no administrative remedy for the seizure of
9 de minimis samples;

10 (2) Provide notice to the owner, owner's agent, or person
11 in lawful control of the property of the
12 administrative remedies available for damaged and
13 seized property; and

14 (3) Provide penalties for the failure to comply with any
15 rule."

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

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

APPROVED this 8 day of JUN, 2009


GOVERNOR OF THE STATE OF HAWAII