



GOV. MSG. NO. 1305

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 5, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 5, 2016, the following bill was signed into law:

SB2317 SD2 HD1 CD1

RELATING TO HEALTH
ACT 203 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that comprehensive
2 multidisciplinary reviews of child deaths, as performed in the
3 past by the Hawaii child death review system that was
4 established by Act 369, Session Laws of Hawaii 1997, are needed
5 to understand risk factors, prevent future child deaths, and
6 keep children in the State of Hawaii safe and healthy. Child
7 death reviews provide in-depth, accurate, and timely information
8 to assist with the administration of child health and protection
9 programs and provide appropriate data reporting to federal and
10 state agencies.

11 However, the legislature finds that the system has been
12 inactive since 2011 and, consequently, these important child
13 death reviews are not currently being conducted in the State of
14 Hawaii. The legislature notes that the child death review
15 system is codified under chapter 321, part XXVII, Hawaii Revised
16 Statutes, and is not mandatory.

17 Similarly, comprehensive multidisciplinary reviews of
18 maternal deaths are needed to understand risk factors for and



1 prevent the deaths of mothers during pregnancy, labor, and the
2 year following the birth of a child. This information would
3 benefit policymakers and facilitate the establishment and
4 administration of relevant programs. However, the legislature
5 finds that Hawaii does not currently conduct such reviews of
6 maternal deaths.

7 The legislature additionally finds that comprehensive
8 reviews of child and maternal deaths are a matter of ongoing
9 concern. Because the program of reviews must be sustainable,
10 the legislature recognizes the need to provide funding to
11 conduct child and maternal death reviews not only in the current
12 biennium, but in subsequent biennia as well.

13 The purpose of this Act is to ensure that the legislature
14 receives appropriate information about child and maternal death
15 reviews and to provide funding to the department of health to
16 conduct child death reviews and to implement a program for the
17 performance of maternal death reviews.

18 PART I

19 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
20 amended by adding a new section to part XXVII to be
21 appropriately designated and to read as follows:



1 "§321- Child death reviews; reports. (a) The director
2 shall submit an annual written report to the legislature no
3 later than twenty days prior to the convening of each regular
4 session on the status of child death reviews conducted by the
5 department pursuant to this part. The annual report shall cover
6 the calendar year immediately prior to the year in which the
7 report is due and shall describe the total number of child
8 deaths in Hawaii and the causes of those deaths, the number of
9 deaths of children in state custody and the causes of those
10 deaths, any child death review activities conducted by the
11 department, trends in child deaths, and recommendations for
12 system changes, including any proposed legislation.

13 (b) Upon written request of the director, a state or
14 county agency shall report deaths of children in the custody of
15 the state or county agency to the department, including any
16 information on the circumstances of the child's death deemed
17 relevant by the director.

18 (c) The director shall submit a copy of any other child
19 death review report published by the department, including
20 findings and recommendations resulting from such a review, to
21 the legislature upon the report's publication."



1 SECTION 3. Section 321-343, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§321-343[+] Access to information[-]; use of child
4 death review information; protections. (a) Upon written
5 request of the director, all providers of [~~medical~~] health care,
6 social services, and state and county agencies shall disclose to
7 the department, and those individuals appointed by the director
8 to participate in the review of child deaths, child death review
9 information regarding the circumstances of a child's death so
10 that the department may conduct a multidisciplinary and
11 multiagency review of child deaths pursuant to section 321-31
12 and this part. All requested disclosures shall comply with
13 state and federal privacy statutes and regulations, including
14 the Health Insurance Portability and Accountability Act, and the
15 department shall not request records of any internal hospital
16 committee, peer review committee, or quality improvement review
17 process. The department may enter into a memorandum of
18 agreement with hospitals regarding requests for information to
19 be used for child death reviews.

1 (b) To the extent that this section conflicts with other
2 state confidentiality and disclosure laws, this section shall
3 prevail.

4 (c) Except as otherwise provided in this part, all child
5 death review information acquired by the department during its
6 review of child deaths pursuant to this part is confidential and
7 may only be disclosed as necessary to carry out the purposes of
8 this part.

9 (d) No individual participating in the review of a child
10 death shall be questioned in any civil or criminal proceeding
11 regarding information presented in or opinions formed as a
12 result of a multidisciplinary review. Nothing in this
13 subsection shall be construed to prevent a person from
14 testifying to information obtained independently of the
15 department's request for child death review information or the
16 multidisciplinary team's review of the child death, or which is
17 public information, or where disclosure is required by a court
18 of law.

19 (e) Child death review information held by the department
20 as a result of child death reviews conducted under this part
21 shall not be subject to subpoena, discovery, or introduction



1 into evidence in any civil or criminal proceeding, except that
2 child death review information otherwise available from other
3 sources shall not be immune from subpoena, discovery, or
4 introduction into evidence through those sources solely because
5 they were provided to the department as required by this part."

6 SECTION 4. Section 321-345, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§321-345] Use of child death review information and~~
9 ~~records. (a) Except as otherwise provided in this part, all~~
10 ~~child death review information acquired by the department during~~
11 ~~its review of child deaths pursuant to this part, is~~
12 ~~confidential and may only be disclosed as necessary to carry out~~
13 ~~the purposes of this part.~~

14 ~~(b) Child death review information and statistical~~
15 ~~compilations of data that do not contain any information that~~
16 ~~would permit the identification of any person shall be public~~
17 ~~records.~~

18 ~~(c) No individual participating in the department's~~
19 ~~multidisciplinary and multiagency review of a child's death may~~
20 ~~be questioned in any civil or criminal proceeding regarding~~
21 ~~information presented in or opinions formed as a result of a~~



1 ~~child death review meeting. Nothing in this subsection shall be~~
2 ~~construed to prevent a person from testifying to information~~
3 ~~obtained independently of the department's multidisciplinary and~~
4 ~~multiagency review of a child's death, or which is public~~
5 ~~information, or where disclosure is required by law or court~~
6 ~~order.~~

7 ~~(d) Child death review information held by the department~~
8 ~~as a result of child death reviews conducted under this part are~~
9 ~~not subject to subpoena, discovery, or introduction into~~
10 ~~evidence in any civil or criminal proceeding, except that child~~
11 ~~death review information otherwise available from other sources~~
12 ~~is not immune from subpoena, discovery, or introduction into~~
13 ~~evidence through those sources solely because they were provided~~
14 ~~as required by this part."]~~

15 PART II

16 SECTION 5. Chapter 324, Hawaii Revised Statutes, is
17 amended by adding two new sections to part I to be appropriately
18 designated and to read as follows:

19 "§324-A Multidisciplinary and multiagency reviews. The
20 department of health may conduct multidisciplinary and



1 multiagency reviews of maternal deaths to reduce the incidence
2 of preventable maternal deaths.

3 §324-B Maternal death review reports. (a) The director
4 of health shall submit an annual written report to the
5 legislature no later than twenty days prior to the convening of
6 each regular session on the status of reviews of maternal deaths
7 conducted by the department. The annual report shall cover the
8 calendar year immediately prior to the year in which the report
9 is due and shall describe the total number of deaths of women
10 while pregnant or within one year after a pregnancy in Hawaii,
11 the causes of those deaths and whether the causes of death were
12 pregnancy related, any maternal mortality review activities
13 conducted by the department, trends in maternal deaths, and
14 recommendations for system changes, including any proposed
15 legislation.

16 (b) The director of health shall submit a copy of any
17 other maternal death review report published by the department
18 of health, detailing findings and recommendations resulting from
19 such a review, to the legislature upon the report's
20 publication."



1 SECTION 6. Section 324-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§324-1 ~~[Sources]~~ Requests for information; sources of
4 information protected. ~~[Any person, hospital, sanitorium,~~
5 ~~nursing or rest home, or other similar medical facility may]~~ (a)
6 Upon written request from the director of health, all providers
7 of health care, social services, and county and state agencies
8 shall provide information, [interviews,] reports, statements,
9 memoranda, death and birth records, or other data or material
10 relating to the condition and treatment of any person to [the
11 ~~maternal and perinatal mortality study committee of the Hawaii~~
12 ~~Medical Association, any in-hospital staff committee, or]~~ the
13 department of health[~~]~~ or its designee, to be used in the
14 course of any study for the purpose of reducing maternal
15 morbidity or mortality.

16 (b) To the extent that this section conflicts with other
17 state confidentiality and disclosure laws, this section shall
18 prevail.

19 (c) The department of health may request information
20 regarding the deceased that is stored in electronic format or in



1 paper copies, or gathered through interviews, subject to certain
2 restrictions, which include but are not limited to:

- 3 (1) Social, medical, and legal histories;
- 4 (2) Death and birth certificates;
- 5 (3) Law enforcement investigative data;
- 6 (4) Medical examiner or coroner investigative data;
- 7 (5) Parole and probation information and records;
- 8 (6) Information and records of social service agencies;
- 9 (7) Educational records;
- 10 (8) Medical records; and
- 11 (9) Interviews with hospital employees that shall be
12 subject to approval from hospital management.

13 Furthermore, all requested disclosures shall comply with
14 state and federal privacy statutes and regulations, including
15 the Health Insurance Portability and Accountability Act, and the
16 department of health shall not request records of any hospital
17 review committee, peer review committee, or quality improvement
18 review process. The department may enter into a memorandum of
19 agreement with hospitals regarding requests for information to
20 be used for maternal mortality reviews.



1 No liability of any kind or character for damages or other
2 relief shall arise or be enforced against any person or
3 organization by reason of having provided the information or
4 material, or by reason of having released or published the
5 findings, conclusions, and summaries of the research or study
6 committees to advance medical research and medical education.

7 (d) Except as otherwise provided in this part, all
8 maternal mortality review information acquired by the department
9 during its review of maternal deaths pursuant to this part is
10 confidential and shall only be disclosed as necessary to carry
11 out the purposes of this part.

12 (e) No individual participating in the review of a
13 maternal death shall be questioned in any civil or criminal
14 proceeding regarding information presented in or opinions formed
15 as a result of a panel meeting. Nothing in this subsection
16 shall be construed to prevent a person from testifying to
17 information obtained independently of the department's request
18 for maternal mortality review information or the panel's review
19 of the maternal death, or which is public information, or where
20 disclosure is required by a court of law.



1 (f) Maternal mortality review information held by the
2 department as a result of maternal mortality reviews conducted
3 pursuant to this part shall not be subject to subpoena,
4 discovery, or introduction into evidence in any civil or
5 criminal proceeding, except that maternal mortality review
6 information otherwise available from other sources shall not be
7 immune from subpoena, discovery, or introduction into evidence
8 through those sources solely because they were provided to the
9 department as required by this part."

10 SECTION 7. Section 324-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§324-2 Identification of persons studied; restriction.
13 The [~~maternal and perinatal mortality study committee of the~~
14 ~~Hawaii Medical Association, the~~] department of health, or its
15 designee, or any in-hospital staff committee shall use or
16 publish this material only for the purpose of advancing medical
17 research, medical education, or education of the public in the
18 interest of reducing morbidity or mortality. In all events, the
19 identity, or any group of facts which tends to lead to the
20 identity, of any person whose condition or treatment has been



1 studied shall be confidential and shall not be revealed under
2 any circumstances."

3 PART III

4 SECTION 8. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$150,000 or so much
6 thereof as may be necessary for fiscal year 2016-2017 for the
7 department of health to conduct child death reviews in
8 accordance with chapter 321, part XXVII, Hawaii Revised
9 Statutes, and to implement a program for the performance of
10 maternal death reviews in accordance with part I of chapter 324,
11 Hawaii Revised Statutes.

12 The sum appropriated shall be expended by the department of
13 health for the purposes of this Act.

14 PART IV

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2016.

APPROVED this 5 day of JUL , 2016



GOVERNOR OF THE STATE OF HAWAII