

JAN 22 2016

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Chapter 325, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:
4 "§325- Communicable diseases; occupational exposure;
5 required testing of source person or decedent. (a)
6 Notwithstanding section 325-16, any law enforcement officer,
7 correctional officer, emergency medical services personnel,
8 firefighter, medical examiner or coroner, employee or volunteer
9 of a medical examiner or coroner, employee or volunteer of a
10 criminal justice agency, or employee or volunteer of a public
11 agency who, in the course of duties, may have been exposed to a
12 communicable disease through contact with human blood or bodily
13 fluids, or the employer or volunteer agency of such a person,
14 may petition a court for an order requiring the medical testing
15 of a person or decedent who is the source of the potential
16 exposure.



1 (b) When possible, before filing a petition pursuant to
2 subsection (a), the petitioner shall submit, in writing or in a
3 manner specified by the department of health, information
4 concerning the possible exposure to the department of health to
5 document the possible exposure to a communicable disease and for
6 verification that there was substantial exposure. The
7 department of health shall establish criteria based on current
8 scientific information to determine substantial exposure.

9 (c) A court shall promptly hear a petition filed pursuant
10 to subsection (a) and determine whether there is probable cause
11 to believe that a possible exposure to a communicable disease
12 occurred through the transfer of blood or other bodily fluids
13 between the petitioner and a person or decedent who is the
14 source of the potential exposure. If the court determines that
15 probable cause exists to believe that a possible transfer of
16 blood or other bodily fluids occurred and that a positive result
17 from the test for the presence of a communicable disease would
18 require the petitioner to seek medical intervention, the court
19 shall:

20 (1) Order the person who possibly exposed the petitioner
21 to a communicable disease to submit two appropriate



1 specimens to a hospital or medical laboratory for
2 testing; or

3 (2) Order that two appropriate specimens be taken from the
4 decedent who possibly exposed the petitioner to a
5 communicable disease and submitted to a hospital or
6 medical laboratory for testing.

7 The hospital or medical laboratory shall perform the test in
8 accordance with generally accepted medical practices and shall
9 disclose the results of the test to the petitioner and in
10 accordance with section 325-101.

11 (d) If a judge enters an order pursuant to this section,
12 the judge may authorize the department of health to sign the
13 name of the judge on a duplicate order, which shall include the
14 printed name of the issuing judge on its face. Such a duplicate
15 order shall be deemed to be an order of the court. As soon as
16 practicable after the duplicate order is signed, the duplicate
17 order shall be returned to the judge who authorized the signing
18 of it. The judge, upon receiving the returned order, shall
19 endorse the order with the judge's signature and enter the date
20 on which the order was returned. Any failure of the judge to



1 make such an endorsement and entry shall not in and of itself
2 invalidate the order.

3 (e) Except for disclosure to the petitioner and as
4 otherwise provided in section 325-101, all records submitted to
5 the court in connection with a petition filed pursuant to this
6 section and any proceedings concerning the petition shall be
7 confidential and the judge shall order the records and any
8 record of the proceedings to be sealed and to be opened for
9 inspection only upon an order of the court for good cause shown.

10 (f) A court may adopt rules to allow a judge to conduct a
11 hearing or issue an order pursuant to this section by electronic
12 or telephonic means.

13 (g) The petitioner's employer or the agency for which the
14 petitioner volunteers, or the employer or agency's insurer,
15 shall pay the cost of performing any test ordered pursuant to
16 subsection (c).

17 (h) As used in this section:

18 "Communicable disease" means a disease declared to be
19 communicable by the director of health pursuant to section 325-
20 1.



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1 "Criminal justice agency" shall have the same meaning as
2 defined in section 846-1.

3 "Emergency medical services personnel" shall have the same
4 meaning as defined in section 321-222.

5 "Law enforcement officer" includes any police officer,
6 public safety officer, parole or probation officer, or any other
7 officer of any county, state, federal, or military agency
8 authorized to exercise law enforcement or police powers."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Joseph H Baker
Michelle Kidani
Mike Gebhard

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S.B. NO. 2391

Report Title:

Communicable Disease; Required Testing; Disclosure

Description:

Authorizes public sector employees and volunteers who may have been exposed to a communicable disease through contact with bodily fluids in the course of their duties to petition a court for an order requiring testing of the person or decedent who is the source of the possible exposure. Limits disclosure of test results.

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