



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**House Committee on Judiciary**

**S.B. 931, S.D. 1 Relating to Epidemiologic Investigations**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**April 2, 2009, 3:45 pm**

1 **Department's Position:** The Department strongly supports this Administration proposal.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This Administration measure amends section 321-29, Hawaii Revised  
4 Statutes (HRS), to grant the Department of Health (DOH) the specific authority to access premises and  
5 secure samples or specimens if during the course of an investigation of a disease or a series of injuries,  
6 the Director of Health deems that the threat to public health and/or safety requires the collection of plant,  
7 animal, food or environmental samples for testing.

8 If entry to the premises for the purpose of conducting the epidemiological investigation and/or  
9 the collection of relevant samples during the investigation is refused, the "Department member or agent"  
10 may apply to the appropriate district court through the Department of the Attorney General for an  
11 administrative investigation warrant to enter the premises. If necessary, the warrant may also command  
12 a police officer to assist the Department in collecting the samples needed to conduct the investigation.

13 The Department has existing broad authority to conduct epidemiological investigations to  
14 determine the nature and extent of diseases and injuries deemed to threaten public health and safety.  
15 This measure provides specific statutory authority and the standards under that statutory authority to  
16 guide the Judiciary in issuing such a warrant to collect samples critical to a disease-outbreak

1 investigation. This supports consistency in Judiciary decision-making and supports the need to collect  
2 samples as quickly as possible.

3 Protection of the public's privacy is a high priority within the Department and would be ensured  
4 via the administrative warrant process, as well as by existing statutory requirements regarding the  
5 treatment of confidential information received by the Department during the course of an epidemiologic  
6 investigation (HRS §321-29e). If entry onto a property is refused, and an administrative search warrant  
7 is sought, judicial oversight would ensure that there is sufficient cause to allow for the collection of only  
8 those samples indicated before the warrant is granted.

9 The Department believes this measure is necessary for the protection of public health. The  
10 interruption, containment, and prevention of outbreaks of dangerous diseases depend on timely  
11 epidemiological investigations that often include the collection of samples to assist in determining the  
12 source and tracking the spread of disease. Outbreaks of food borne disease in Hawaii are one of the  
13 most common reasons that epidemiologic investigations are conducted by the DOH.

14 Epidemiological investigations have been impeded by individuals who refused to allow DOH  
15 investigators to access their property or to obtain samples necessary to determine the source of an  
16 outbreak. Specific examples include an April through July 2007 epidemiologic investigation of an *E.*  
17 *coli* O157:H7 outbreak on the island of Kaua'i. This investigation was impeded by the reluctance and  
18 refusal of small business owners to allow the Department to collect samples critical to the public health  
19 investigation. In 2001, a similar situation in which access to environmental samples was denied  
20 occurred during the investigation of a *Salmonella* disease outbreak. The lack of timely access to samples  
21 compromised public health in that it resulted in a lengthier investigation and potentially additional cases  
22 of disease.

23 The following correction is provided for the chair's consideration. Page 7, line 10: ~~de minimus~~  
24 de minimis.

25 Thank you for the opportunity to testify on this important measure.