



GOV. MSG. NO. 741

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 23, 2008

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

Dear Madam President and Members of the Senate:

This is to inform you that on May 23, 2008, the following bill was signed into law:

SB3069 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO RECORDS OF
DEFENDANTS COMMITTED TO A HOSPITAL
CONTROLLED BY THE DIRECTOR OF HEALTH OR
TO CUSTODY OF DIRECTOR OF HEALTH.
(ACT 99)

Sincerely,

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

LINDA LINGLE

Approved by the Governor

on MAY 23 2008

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

ACT 099

S.B. NO. 3069
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO RECORDS OF DEFENDANTS COMMITTED TO A HOSPITAL
CONTROLLED BY THE DIRECTOR OF HEALTH OR TO CUSTODY OF
DIRECTOR OF HEALTH.

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

1 SECTION 1. Section 704-404, Hawaii Revised Statutes, is
2 amended by amending subsection (8) to read as follows:

3 "(8) The court shall obtain all existing[7] medical,
4 mental health, social, police, and juvenile records, including
5 those expunged, and other pertinent records in the custody of
6 public agencies, notwithstanding any other statutes, and make
7 such records available for inspection by the examiners. If,
8 pursuant to this section, the court orders the defendant
9 committed to a hospital or other suitable facility under the
10 control of the director of health, then the county police
11 departments shall provide to the director of health and the
12 defendant copies of all police reports from cases filed against
13 the defendant which have been adjudicated by the acceptance of a
14 plea of guilty or no contest, a finding of guilt, acquittal,
15 acquittal pursuant to section 704-400, or by the entry of plea
16 of guilty or no contest made pursuant to chapter 853, so long as
17 the disclosure to the director of health and the defendant does



1 not frustrate a legitimate function of the county police
2 departments, with the exception of expunged records, records of
3 or pertaining to any adjudication or disposition rendered in the
4 case of a juvenile, or records containing data from the United
5 States National Crime Information Center. The county police
6 departments shall segregate or sanitize from the police reports
7 information that would result in the likelihood or actual
8 identification of individuals who furnished information in
9 connection with its investigation, or who were of investigatory
10 interest. Records shall not be re-disclosed except to the
11 extent permitted by law."

12 SECTION 2. Section 704-406, Hawaii Revised Statutes, is
13 amended by amending subsection (1) to read as follows:

14 "(1) If the court determines that the defendant lacks
15 fitness to proceed, the proceeding against the defendant shall
16 be suspended, except as provided in section 704-407, and the
17 court shall commit the defendant to the custody of the director
18 of health to be placed in an appropriate institution for
19 detention, care, and treatment. If the court is satisfied that
20 the defendant may be released on condition without danger to the
21 defendant or to the person or property of others, the court
22 shall order the defendant's release, which shall continue at the



1 discretion of the court on conditions the court determines
2 necessary. A copy of the report filed pursuant to section
3 704-404 shall be attached to the order of commitment or order of
4 release on conditions. When the defendant is committed to the
5 custody of the director of health for detention, care, and
6 treatment, the county police departments shall provide to the
7 director of health and the defendant copies of all police
8 reports from cases filed against the defendant which have been
9 adjudicated by the acceptance of a plea of guilty or no contest,
10 a finding of guilt, acquittal, acquittal pursuant to section
11 704-400, or by the entry of a plea of guilty or no contest made
12 pursuant to chapter 853, so long as the disclosure to the
13 director of health and the defendant does not frustrate a
14 legitimate function of the county police departments, with the
15 exception of expunged records, records of or pertaining to any
16 adjudication or disposition rendered in the case of a juvenile,
17 or records containing data from the United States National Crime
18 Information Center. The county police departments shall
19 segregate or sanitize from the police reports information that
20 would result in the likelihood or actual identification of
21 individuals who furnished information in connection with the
22 investigation of who were of investigatory interest. Records



1 shall not be re-disclosed except to the extent permitted by
2 law."

3 SECTION 3. Section 704-411, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) When a defendant is acquitted on the ground of
6 physical or mental disease, disorder, or defect excluding
7 responsibility, the court, on the basis of the report made
8 pursuant to section 704-404, if uncontested, or the medical or
9 psychological evidence given at the trial or at a separate
10 hearing, shall make an order as follows:

11 (a) The court shall order the defendant to be committed to
12 the custody of the director of health to be placed in
13 an appropriate institution for custody, care, and
14 treatment if the court finds that the defendant:

15 (i) Is affected by a physical or mental disease,
16 disorder, or defect;

17 (ii) Presents a risk of danger to self or others; and

18 (iii) Is not a proper subject for conditional release;

19 provided that the director of health shall place
20 defendants charged with misdemeanors or felonies not
21 involving violence or attempted violence in the least
22 restrictive environment appropriate in light of the



1 defendant's treatment needs and the need to prevent
2 harm to the person confined and others [7]. The county
3 police departments shall provide to the director of
4 health and the defendant copies of all police reports
5 from cases filed against the defendant which have been
6 adjudicated by the acceptance of a plea of guilty or
7 no contest, a finding of guilt, acquittal, acquittal
8 pursuant to section 704-400, or by the entry of a plea
9 of guilty or no contest made pursuant to chapter 853,
10 so long as the disclosure to the director of health
11 and the defendant does not frustrate a legitimate
12 function of the county police departments, with the
13 exception of expunged records, records of or
14 pertaining to any adjudication or disposition rendered
15 in the case of a juvenile, or records containing data
16 from the United States National Crime Information
17 Center. The county police departments shall segregate
18 or sanitize from the police reports information that
19 would result in the likelihood or actual
20 identification of individuals who furnished
21 information in connection with the investigation of



1 who were of investigatory interest. Records shall not
2 be re-disclosed except to the extent permitted by law;


3 (b) The court shall order the defendant to be released on
4 such conditions as the court deems necessary if the
5 court finds that the defendant is affected by physical
6 or mental disease, disorder, or defect and that the
7 defendant presents a danger to self or others, but
8 that the defendant can be controlled adequately and
9 given proper care, supervision, and treatment if the
10 defendant is released on condition; or

11 (c) The court shall order the defendant discharged if the
12 court finds that the defendant is no longer affected
13 by physical or mental disease, disorder, or defect or,
14 if so affected, that the defendant no longer presents
15 a danger to self or others and is not in need of care,
16 supervision, or treatment."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 23 day of MAY, 2008



GOVERNOR OF THE STATE OF HAWAII

