
A BILL FOR AN ACT

RELATING TO CHANGES TO RESPONSIBILITIES OF THE DEPARTMENT OF
HEALTH CONCERNING PATIENTS, THE COUNTY OF KALAWAO, AND THE
KALAUPAPA SETTLEMENT.

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

1 PART I

2 SECTION 1. The legislature finds that the population of
3 former Hansen's disease patients residing at Kalaupapa in the
4 county of Kalawao is aging. There are currently seven
5 individuals on the Kalaupapa Registry who receive services from
6 the State. Four of them are full-time residents at Kalaupapa.
7 All these patients are age eighty-three years or older.

8 The legislature finds that the county of Kalawao consists
9 of that portion of the island of Molokai commonly known as the
10 Kalaupapa Settlement and that the county of Kalawao is under the
11 jurisdiction and control of the department of health and
12 governed by the laws and rules relating to the department and
13 the care and treatment of persons affected with Hansen's
14 disease. After the passing of the last full- or part-time
15 patient resident at Kalaupapa, the department of health will no
16 longer provide patient care there but intends to complete
17 environmental remediation work.

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1 The legislature further finds that there are many
2 stakeholders that care about the future of the Kalaupapa
3 Settlement and the preservation of the historical, cultural, and
4 environmental significance of the county of Kalawao. This Act
5 reflects preliminary sentiments heard from some Maui county
6 residents that the county of Kalawao be reunited with the county
7 of Maui. A transparent process and opportunity for more
8 extensive public input regarding the transfer of jurisdiction
9 and control of Kalawao county is required.

10 Accordingly, the purposes of this Act are to:

- 11 (1) Prepare for changes of responsibilities of the
12 department of health upon the passing of the last
13 patient resident of the Kalaupapa Settlement;
- 14 (2) Commemorate and preserve the historical, cultural, and
15 environmental significance of the peninsula and its
16 residents in Hawaii's history with the establishment
17 of the Kalaupapa State Historical Area; and
- 18 (3) Provide the public the opportunity for input on the
19 future of the county of Kalawao via the legislative
20 process.

.B.NO.

1 cease to constitute a county by itself and shall be and form a
2 portion of the county of Maui."

3 SECTION 4. Section 326-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§326-1 [Establishment of facilities]~~ Services for the
6 treatment and care of persons with Hansen's disease. The
7 department of health, subject to the approval of the governor,
8 shall ~~[establish and maintain facilities and]~~ provide services
9 as are necessary for the care and treatment of persons with
10 Hansen's disease and persons who were institutionalized for
11 segregation by order of the department of health because of
12 Hansen's disease.

13 Every ~~[such facility or]~~ service provider shall exercise
14 every reasonable effort to effect a cure of ~~[those]~~ persons~~[.]~~
15 with Hansen's disease. All ~~[such]~~ persons with Hansen's disease
16 shall be cared for as well as circumstances will permit, in
17 accordance with accepted medical practices. ~~[Every patient~~
18 ~~shall be encouraged to take complete treatment so that prompt~~
19 ~~recovery can be attained. Isolation and treatment shall be~~
20 ~~compulsory only in those cases where, in the opinion of the~~
21 ~~department, that treatment is necessary to protect the health of~~
22 ~~the public, and the department may take such measures as may be~~

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1 ~~necessary to enforce this section, including the adoption of~~
2 ~~rules pursuant to chapter 91.]"~~

3 SECTION 5. Section 326-13, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§326-13 Expenses; rules.** [~~(a)~~] The department of health
6 shall bear all expenses of travel and other necessary expenses
7 incurred under sections 326-1 to 326-14 and may adopt all rules
8 and forms and perform all acts necessary and proper for carrying
9 out their provisions.

10 ~~[(b) Expenses related to patients shall be tracked~~
11 ~~separately from nonpatient costs, whenever appropriate and~~
12 ~~possible.]"~~

13 SECTION 6. Section 326-24, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§326-24 Rules.** The director of health may adopt rules
16 pursuant to chapter 91 necessary for the conduct of all matters
17 pertaining to Hansen's disease, the treatment and care thereof,
18 and other services provided to persons affected with Hansen's
19 disease~~[, and the full and complete governance of the county of~~
20 ~~Kalawao, except as limited by this chapter]."~~

21 SECTION 7. Section 326-25.5, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "**§326-25.5 Annual report.** (a) The department of health
2 shall submit a report to the legislature no later than twenty
3 days prior to the convening of each regular session that
4 addresses the following with regard to Kalaupapa Settlement:

5 (1) The department's provision of medical and basic living
6 needs of the patients;

7 (2) The department's progress toward defining and
8 addressing the nonmedical needs of patients;

9 (3) The department's progress toward promoting a positive
10 living environment;

11 (4) The department's management of state resources,
12 including benefits given to employees that are not
13 statutorily defined;

14 (5) The department's progress toward establishing written
15 policies and procedures for Kalaupapa store;

16 (6) The department's progress toward establishing and
17 maintaining a complaint file and adequately addressing
18 complaints;

19 (7) The performance of the administrator, including
20 compliance with job duties;

21 (8) The department's progress toward adequate
22 accountability of state property;

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- 1 (9) Details and justification of approved employee air
- 2 travel requests and trail pay;
- 3 (10) Details and updated information, as available,
- 4 regarding the permanent transfer to other governmental
- 5 or qualified non-governmental entities of the powers
- 6 and duties of the department and any other state
- 7 agency over Kalaupapa Settlement; and
- 8 (11) Details including efforts of engagement by the
- 9 department with Molokai community groups, including
- 10 the addition of Ka Ohana O Kalaupapa and a non-
- 11 governmental organization from the non-peninsular area
- 12 of Molokai to be selected by the department in
- 13 consultation with the non-peninsular area of the
- 14 Molokai community.

15 (b) Annual reporting shall continue until the earlier of
16 the year in which the passing of the last patient resident
17 occurs or Kalaupapa settlement is no longer under the
18 jurisdiction and control of the department of health."

19 SECTION 8. Section 326-1.3, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§326-1.3]— Liberty, autonomy, and dignity of patient~~
22 ~~residents. (a) In recognition of the disruptions and hardships~~

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1 ~~experienced over the course of their lives by former Hansen's~~
2 ~~disease patients residing at Kalaupapa, the legislature declares~~
3 ~~its intent to ensure that all residents at Kalaupapa are treated~~
4 ~~with dignity, respect, courtesy, and sensitivity and that the~~
5 ~~protections extended by this chapter to the patient residents at~~
6 ~~Kalaupapa are honored and upheld by the department of health to~~
7 ~~the extent possible within their purview.~~

8 ~~(b) Notwithstanding any other law to the contrary, the~~
9 ~~department of health shall promote and protect the personal~~
10 ~~liberty, autonomy, and dignity of all patient residents at~~
11 ~~Kalaupapa."]~~

12 SECTION 9. Section 326-2, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§326-2 Equal treatment of patients. Every Hansen's~~
15 ~~disease sufferer at Hale Mohalu and Kalaupapa shall be accorded~~
16 ~~as nearly equal care and privileges as is practicable under the~~
17 ~~different operating conditions of the two institutions."]~~

18 SECTION 10. Section 326-11, Hawaii Revised Statutes, is
19 repealed.

20 [~~"§326-11 Voluntary transfer to and from Kalaupapa. Any~~
21 ~~person undergoing treatment and receiving care for Hansen's~~
22 ~~disease at Hale Mohalu on June 30, 1969, may be transferred to~~

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1 ~~Kalaupapa for care and treatment if the person desires. Any~~
2 ~~person who may undergo treatment and receive care for Hansen's~~
3 ~~disease at Hale Mohalu after June 30, 1969, may apply to the~~
4 ~~director of health for transfer to Kalaupapa. Any person~~
5 ~~undergoing treatment and receiving care for Hansen's disease at~~
6 ~~Kalaupapa may be transferred to Hale Mohalu for care and~~
7 ~~treatment if the person desires. A person transferred may be~~
8 ~~retransferred to Kalaupapa if the person desires."]~~

9 SECTION 11. Section 326-21, Hawaii Revised Statutes, is
10 repealed.

11 ["~~§326-21 Employment of patients. At any facility for the~~
12 ~~care and treatment of persons with Hansen's disease, the~~
13 ~~department of health, with the consent of a patient, may employ~~
14 ~~that patient to perform labor or service.~~

15 ~~When there are vacancies in positions, classified under~~
16 ~~chapter 76, at a facility exclusively for the care and treatment~~
17 ~~of persons with Hansen's disease, employment preference shall be~~
18 ~~given to temporary release patients and discharged patients from~~
19 ~~those facilities provided that the persons so hired shall be~~
20 ~~otherwise qualified under chapter 76.~~

21 ~~Discharged patients who have been employed prior to~~
22 ~~December 30, 1960, under chapter 76 in accordance with the~~

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1 ~~second paragraph of this section shall be eligible to receive~~
2 ~~the same rights and privileges as those enjoyed by temporary~~
3 ~~release patients employed under the second paragraph of this~~
4 ~~section."]~~

5 SECTION 12. Section 326-22, Hawaii Revised Statutes, is
6 repealed.

7 [~~"§326-22 Compensation of patient employees. The~~
8 ~~compensation for patients employed under section 326-21 shall be~~
9 ~~set by the department of health; provided that in no case shall~~
10 ~~the compensation be less than the minimum wage as established by~~
11 ~~section 387-2.~~

12 Each ~~patient employee of the department shall be entitled~~
13 ~~to and granted sick leave with pay and a vacation with pay each~~
14 ~~calendar year, each calculated at the following rate:~~

15 For ~~patients working six hours a day, one and one half days~~
16 ~~for each month of service;~~

17 For ~~patients working five hours a day, one and one quarter~~
18 ~~days for each month of service;~~

19 For ~~patients working four hours a day, one day for each~~
20 ~~month of service.~~

21 A ~~month of service is defined as eighty or more hours of~~
22 ~~work which may be accumulated over any period of time to total~~

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1 ~~eighty hours. No more than twelve months of service may be~~
2 ~~earned and credited in any calendar year, even if the total~~
3 ~~number of hours worked should exceed nine hundred sixty hours."]~~

4 SECTION 13. Section 326-23, Hawaii Revised Statutes, is
5 repealed.

6 [~~"§326-23 Pensions for patient employees at facilities.~~

7 ~~(a) All patient employees or patient laborers at every facility~~
8 ~~maintained for the treatment and care of persons with Hansen's~~
9 ~~disease shall be entitled, upon retirement after twenty years or~~
10 ~~more service with the department of health, to a pension in an~~
11 ~~amount which shall be equal to sixty-six and two-thirds per cent~~
12 ~~of the monthly wage or salary which the patient was receiving at~~
13 ~~the time of retirement, or to a pension in an amount which shall~~
14 ~~be equal to sixty-six and two-thirds per cent of the average~~
15 ~~monthly wage or salary which the patient employee was receiving~~
16 ~~during the last twelve months of employment at the department of~~
17 ~~health, whichever is higher. For the period from July 1, 2007,~~
18 ~~to June 30, 2008, the pension amounts shall be adjusted as~~
19 ~~follows:~~

20 ~~(1) Retired patient employees receiving less than \$4,000~~
21 ~~annually shall be granted a five per cent increase;~~

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1 ~~(2) Retired patient employees receiving \$4,000 or more but~~
2 ~~less than \$5,000 annually shall be granted a four per~~
3 ~~cent increase; and~~

4 ~~(3) Retired patient employees receiving \$5,000 or more~~
5 ~~annually shall be granted a 2.5 per cent increase.~~

6 ~~For the period from July 1, 2008, to June 30, 2009, all retired~~
7 ~~patient employees shall be granted a 2.5 per cent increase.~~

8 ~~Thereafter, the pension amounts shall remain as adjusted~~
9 ~~effective for the period ending June 30, 2009.~~

10 ~~(b) Patient employees may use service with any state~~
11 ~~department or agency not exceeding five years which has not been~~
12 ~~credited under the state retirement system in lieu of service~~
13 ~~with a facility maintained for the treatment and care of persons~~
14 ~~with Hansen's disease to satisfy the requirements of subsection~~
15 ~~(a); provided that the service shall be authenticated by~~
16 ~~official records of the department where service was performed.~~

17 ~~(c) When work is available at Kalaupapa which may be~~
18 ~~fulfilled by patient residents of the facility under section~~
19 ~~326-21 and there are no applicants for those positions from~~
20 ~~among the eligible patients, pensioned patients who are in~~
21 ~~residence at Kalaupapa may be reemployed, not to exceed nineteen~~
22 ~~hours per week, without relinquishing the pension granted to~~

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1 ~~them under this section. Furthermore, notwithstanding any other~~
2 ~~law relating to this subject, that reemployment shall not result~~
3 ~~in suspension or termination of payment of the pension granted~~
4 ~~originally or serve to increase, decrease, or alter the pension~~
5 ~~in any way."]~~

6 SECTION 14. Section 326-26, Hawaii Revised Statutes, is
7 repealed:

8 ["~~§326-26 Persons allowed at places for Hansen's disease~~
9 ~~patients.~~ (a) ~~No person, not having Hansen's disease, shall be~~
10 ~~allowed to visit or remain upon any land, place, or inclosure~~
11 ~~set apart by the department of health for the domiciles and~~
12 ~~community facilities of persons affected with Hansen's disease,~~
13 ~~without the written permission of the director of health, or~~
14 ~~some officer authorized thereto by the department, under any~~
15 ~~circumstances whatever, and any person found upon such land,~~
16 ~~place, or inclosure without a written permission shall be fined~~
17 ~~not less than \$10 nor more than \$100 for such offense; provided~~
18 ~~that any patient resident of Kalaupapa desiring to remain at the~~
19 ~~facility shall be permitted to do so for as long as the person~~
20 ~~may choose, regardless of whether the person has been~~
21 ~~successfully treated.~~

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1 ~~(b) Notwithstanding subsection (a), upon the request of a~~
2 ~~patient, the non-patient-spouse of a patient residing at~~
3 ~~Kalaupapa shall be allowed to reside with the patient-spouse at~~
4 ~~Kalaupapa. The non-patient-spouse shall not be entitled to~~
5 ~~receive any services or benefits accorded specifically to~~
6 ~~Hansen's disease patients at Kalaupapa."]~~

7 SECTION 15. Section 326-27, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§326-27 Kalaupapa store; loans for operation and~~
10 ~~**maintenance.** (a) All moneys to enable the department of health~~
11 ~~to operate and maintain the Kalaupapa store, situated in~~
12 ~~Kalaupapa, Molokai, shall be allocated by the legislature~~
13 ~~through appropriations out of the state general fund.~~

14 ~~(b) The department shall include in its budgetary request~~
15 ~~for each upcoming fiscal period, the amounts necessary to~~
16 ~~effectuate the purposes of this section.~~

17 ~~(c) All moneys received in reimbursement of payments made~~
18 ~~under this section shall be deposited to the credit of the state~~
19 ~~general fund."]~~

20 SECTION 16. Section 326-28, Hawaii Revised Statutes, is
21 repealed.

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1 ~~["§326-28 Kalaupapa store prices; penalty. It shall be~~
2 ~~unlawful for the department of health or its agents to sell or~~
3 ~~offer for sale any merchandise at the Kalaupapa store at prices~~
4 ~~exceeding the actual cost thereof, free on board steamer or any~~
5 ~~other means of transportation at Honolulu. Any person violating~~
6 ~~this section shall be fined \$25 and in addition thereto shall,~~
7 ~~in the discretion of the department, be subject to removal from~~
8 ~~office."]~~

9 SECTION 17. Section 326-29, Hawaii Revised Statutes, is
10 repealed.

11 ~~["§326-29 Fishing laws exemption; Kalaupapa.~~
12 ~~Notwithstanding any provision of law to the contrary, state laws~~
13 ~~on fishing shall not be applicable to Hansen's disease patients~~
14 ~~of Kalaupapa, provided the patients engage in fishing along the~~
15 ~~shorelines and in waters immediately adjacent to the county of~~
16 ~~Kalawao.~~

17 ~~No fish or other marine products obtained by patients may~~
18 ~~be sold outside of the county of Kalawao.~~

19 ~~The department of health shall adopt rules pursuant to~~
20 ~~chapter 91 necessary to control all fishing and acquisition of~~
21 ~~marine products by Hansen's disease patients."]~~

.B. NO.

1 SECTION 18. Section 326-30, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§326-30 Making or taking of pictures without permission~~
4 ~~prohibited.~~ (a) No person shall photograph, film, or videotape
5 any patient at any facility maintained by the department of
6 health for the care and treatment of persons with Hansen's
7 disease, without the written permission of the patient.

8 ~~(b) Any person violating this section shall be fined not~~
9 ~~more than \$1,000 per incident."]~~

10 SECTION 19. Section 326-34, Hawaii Revised Statutes, is
11 repealed.

12 [~~"§326-34 County of Kalawao; governance.~~ (a) The county
13 of Kalawao shall consist of that portion of the island of
14 Molokai known as Kalaupapa, Kalawao, and Waikolu, and commonly
15 known or designated as the Kalaupapa Settlement, and shall not
16 be or form a portion of the county of Maui, but is constituted a
17 county by itself. As a county it shall have only the powers
18 especially conferred and given by sections 326-34 to 326-38 and,
19 except as provided in those sections, none of the provisions of
20 the Hawaii Revised Statutes regarding counties shall be deemed
21 to refer to or shall be applicable to the county of Kalawao.

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1 ~~(b) The county of Kalawao shall be under the jurisdiction~~
2 ~~and control of the department of health and be governed by the~~
3 ~~laws, and rules relating to the department and the care and~~
4 ~~treatment of persons affected with Hansen's disease, except as~~
5 ~~otherwise provided by law."]~~

6 SECTION 20. Section 326-35, Hawaii Revised Statutes, is
7 repealed.

8 ~~["**§326-35 Sheriff, appointment, removal.** There shall be~~
9 ~~no county officer in the county other than a sheriff, who shall~~
10 ~~be a patient resident of and be appointed in the county by the~~
11 ~~department of health and who shall hold office at the pleasure~~
12 ~~of the department or until a successor is appointed by the~~
13 ~~department. When a qualified patient resident is not available,~~
14 ~~the department may appoint a staff employee or other qualified~~
15 ~~person to serve as sheriff."]~~

16 SECTION 21. Section 326-36, Hawaii Revised Statutes, is
17 repealed.

18 ~~["**§326-36 Sheriff, salary.** The salary of the sheriff~~
19 ~~shall be fixed and paid by the department of health out of the~~
20 ~~appropriation allowed by the legislature for the care and~~
21 ~~treatment of persons affected with Hansen's disease."]~~

.B. NO.

1 SECTION 22. Section 326-37, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§326-37 Sheriff, duties. The sheriff of the county of~~
4 ~~Kalawao shall preserve the public peace and shall arrest and~~
5 ~~take before the district judge for examination all persons who~~
6 ~~attempt to commit or who have committed a public offense and~~
7 ~~prosecute the same to the best of the sheriff's ability."]~~

8 SECTION 23. Section 326-38, Hawaii Revised Statutes, is
9 repealed.

10 [~~"§326-38 Sheriff, powers. The sheriff may appoint and~~
11 ~~dismiss and reappoint as many police officers as may be~~
12 ~~authorized by the department of health for the county. Patient~~
13 ~~residents, for the services rendered as police officers, shall~~
14 ~~receive pay as the department determines and which pay shall be~~
15 ~~taken out of and from the appropriation made by the legislature~~
16 ~~for the care and treatment of persons affected with Hansen's~~
17 ~~disease. The sheriff shall have other powers and duties within~~
18 ~~the county of Kalawao and appropriate thereto as are prescribed~~
19 ~~by law for the chiefs of police or police officers of the~~
20 ~~several counties respectively."]~~

21 SECTION 24. Section 326-40, Hawaii Revised Statutes, is
22 repealed.

_____ .B. NO. _____

Report Title:

DOH; Kalaupapa State Historical Area; Hansen's Disease; Expenses; Rules; Annual Report; Transfer to the County of Maui

Description:

Establishes the Kalaupapa State Historical Area. Authorizes the Department of Health to continue providing services statewide to Hansen's disease patients living in the community. Repeals sections of chapter 326, Hawaii Revised Statutes, upon the one-year anniversary of the passing of the last patient resident of Kalaupapa as affirmed in the Governor's proclamation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.