

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO CHILD ABUSE REPORTING.

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

1           SECTION 1. The legislature finds that exempting members of  
2 the clergy from mandatory reporting of suspected current or  
3 future child abuse or neglect creates a danger that extreme  
4 cases of abuse and neglect may never be reported to appropriate  
5 authorities if details of those cases were revealed only in the  
6 context of a penitential communication with clergy. The  
7 legislature recognizes both the importance of ensuring the  
8 confidentiality of penitential communications and the societal  
9 obligation to protect vulnerable minors and prevent further harm  
10 in cases of suspected current or future abuse or neglect. The  
11 legislature believes that this measure's limited exception to  
12 the exemption from mandatory reporting by members of the clergy  
13 strikes an appropriate balance between these two competing  
14 interests.

15           Accordingly, the purpose of this Act is to specify that the  
16 exemption from mandatory reporting by members of the clergy does  
17 not apply when the clergy member believes that there exists a



1 substantial risk that child abuse or neglect that is especially  
2 heinous, atrocious, or cruel, manifesting exceptional depravity,  
3 may occur in the reasonably foreseeable future.

4 SECTION 2. Section 350-1.1, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Notwithstanding any other state law concerning  
7 confidentiality to the contrary, the following persons who, in  
8 their professional or official capacity, have reason to believe  
9 that child abuse or neglect has occurred or that there exists a  
10 substantial risk that child abuse or neglect may occur in the  
11 reasonably foreseeable future, shall immediately report the  
12 matter orally to the department or to the police department:

13 (1) Any licensed or registered professional of the healing  
14 arts or any health-related occupation who examines,  
15 attends, treats, or provides other professional or  
16 specialized services, including but not limited to  
17 physicians, including physicians in training,  
18 psychologists, dentists, nurses, osteopathic  
19 physicians and surgeons, optometrists, chiropractors,  
20 podiatrists, pharmacists, and other health-related  
21 professionals;



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- 1           (2) Employees or officers of any public or private school;
- 2           (3) Employees or officers of any public or private agency
- 3                 or institution, or other individuals, providing
- 4                 social, medical, hospital, or mental health services,
- 5                 including financial assistance;
- 6           (4) Employees or officers of any law enforcement agency,
- 7                 including but not limited to the courts, police
- 8                 departments, department of public safety, correctional
- 9                 institutions, and parole or probation offices;
- 10          (5) Individual providers of child care, or employees or
- 11                 officers of any licensed or registered child care
- 12                 facility, foster home, or similar institution;
- 13          (6) Medical examiners or coroners;
- 14          (7) Employees of any public or private agency providing
- 15                 recreational or sports activities;
- 16          (8) Commercial film and photographic print or image
- 17                 processors;
- 18          (9) Commercial computer technicians; and
- 19          (10) Members of the clergy or custodians of records
- 20                 therefor; provided that a member of the clergy shall
- 21                 not be required to report information gained solely



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1           during a penitential communication~~[7]~~, except when the  
2           clergy member believes that there exists a substantial  
3           risk that child abuse or neglect that is especially  
4           heinous, atrocious, or cruel, manifesting exceptional  
5           depravity, may occur in the reasonably foreseeable  
6           future. When a clergy member receives reportable  
7           information from any [~~other~~] source~~[7]~~ other than a  
8           penitential communication, the clergy member shall  
9           comply with the reporting requirements of this  
10          section, regardless of whether the clergy member  
11          received the same information during a penitential  
12          communication. For purposes of this paragraph~~[7]~~  
13          ~~"penitential communication"]:~~

14          (A) "Penitential communication" means a  
15          communication, including a sacramental  
16          confession, that is intended to be kept  
17          confidential and is made to a member of the  
18          clergy who, in the course of the discipline or  
19          practice of the applicable religious  
20          organization, is authorized or accustomed to hear  
21          those communications, and under the discipline,



1 tenets, customs, or practices of the applicable  
2 religious organization, has a duty to keep those  
3 communications secret.

4 (B) "Especially heinous, atrocious, or cruel,  
5 manifesting exceptional depravity" has the same  
6 meaning as in section 706-657."

7 SECTION 3. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: Kal Raab



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**Report Title:**

Department of Human Services; Child Abuse and Neglect; Mandatory Reporting; Penitential Communications; Exception

**Description:**

Establishes that the exemption from mandatory reporting by members of the clergy does not apply when the clergy member believes that there exists a substantial risk that child abuse or neglect that is especially heinous, atrocious, or cruel, manifesting exceptional depravity, may occur in the reasonably foreseeable future.

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