

JAN 23 2020

A BILL FOR AN ACT

RELATING TO REPORTS OF CHILD ABUSE.

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

1 SECTION 1. The Child Abuse Prevention and Treatment Act
2 (CAPTA), as amended, provides federal funding to states for
3 prevention, assessment, investigation, prosecution, and
4 treatment activities for child abuse and neglect. On January 7,
5 2019, the Victims of Child Abuse Act Reauthorization Act of 2018
6 (P.L. 115-424), was enacted, further amending certain provisions
7 of CAPTA. The 2019 amendment provides immunity from civil and
8 criminal liability "for individuals making good faith reports of
9 suspected or known instances of child abuse or neglect, or who
10 otherwise provide information or assistance, including medical
11 evaluations or consultations, in connection with a report,
12 investigation, or legal intervention pursuant to a good faith
13 report of child abuse or neglect." 42 USCA
14 §5106a(b)(2)(B)(vii).

15 The purpose of this Act is to bring state law into
16 compliance with the most recent amendments to CAPTA by amending
17 section 350-3(a), Hawaii Revised Statutes.

18 SECTION 2. Section 350-3, Hawaii Revised Statutes, is

S.B. NO. 2892

1 amended by amending subsection (a) to read as follows:

2 "(a) Anyone participating in good faith in the making of a
3 report pursuant to this chapter shall have immunity from any
4 liability, civil or criminal, that might be otherwise incurred
5 or imposed by or as a result of the making of such report[~~-~~] and
6 this immunity shall also apply to persons who otherwise provide
7 information or assistance, including medical evaluations or
8 consultation, in connection with a report, investigation, or
9 legal intervention pursuant to a good faith report of child
10 abuse or neglect. Any such participant shall have the same
11 immunity with respect to participation in any judicial
12 proceeding resulting from such report."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 
BY REQUEST

S.B. NO. 2892

Report Title:

Reports of Child Abuse

Description:

Adds immunity from civil and criminal liability for individuals who provide information or assistance in child abuse investigations.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO REPORTS OF CHILD ABUSE.

PURPOSE: To bring the State into compliance with the Child Abuse and Prevention Treatment Act (CAPTA) as amended by the Victims of Child Abuse Act Reauthorization Act of 2018 (P.L. 115-424) enacted on January 7, 2019. The amendment expands the scope of the assurance found in section 106(b)(2)(B)(vii) of CAPTA to provide immunity from civil and criminal liability for people who provide information, or assistance, including medical evaluations or consultation, regarding a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

MEANS: Amend section 350-3(a), HRS.

JUSTIFICATION: The Child Abuse Prevention and Treatment Act (CAPTA) provides federal funding to states for prevention, assessment, investigation, prosecution, and treatment activities for child abuse and neglect.

This provision of CAPTA is one of several CAPTA assurances that must be embodied in state law, rather than just policy.

The amendment to CAPTA became effective upon enactment. Hawaii state law is not currently consistent with this CAPTA requirement, as amended, and must pass legislation to come into compliance. States that did not have the language embodied in state law by June 30, 2019, were required to submit a CAPTA Program Improvement Plan. Hawaii submitted its Program Improvement Plan to the Administration for Children and Families in June 2019 and the plan has been approved.

Impact on the public: The amendment to section 350-3(a), HRS, expands the civil and criminal immunity to include those persons who provide information or assistance, including medical evaluations or consultation, in connection with a report, investigation or legal intervention pursuant to a good faith report of child abuse or neglect.

Impact on the department and other agencies: This provides added protection to those individuals in other departments or agencies that provide information regarding a report, investigation, or other legal intervention pursuant to good faith report of child abuse and neglect.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 901.

OTHER AFFECTED
AGENCIES: Department of Education, Department of Health, medical and mental health professionals, law enforcement, child care providers, public and private schools.

EFFECTIVE DATE: Upon approval.