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# A BILL FOR AN ACT

RELATING TO CHILD ABUSE.

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

1           SECTION 1. The legislature finds that most experts agree  
2 child neglect occurs when the needs of a child are unmet by  
3 their primary caregivers. Inadequate clothing, food, shelter,  
4 medical and emotional care, along with unsafe environments,  
5 exposure to substance abuse, and lack of supervision, can  
6 constitute neglect. The legislature further finds that poverty  
7 and child neglect are highly correlated and often impact  
8 families simultaneously, but poverty does not cause neglect.  
9 Poverty may prevent a parent or legal guardian from providing  
10 adequate food, clothing, shelter, care, or supervision to their  
11 children; however, incapacity to provide is not the same as an  
12 unwillingness to provide. The legislature also finds that under  
13 existing law, the failure to provide a child with these needs  
14 qualifies as child abuse or neglect, even in cases where a  
15 parent or legal guardian may lack the financial ability to  
16 provide.



1           The legislature additionally finds that although the  
2 department of human services does not currently remove children  
3 from their homes solely on the basis of poverty, it is important  
4 to statutorily recognize that conditions of poverty alone do not  
5 fall within the definition of "child abuse or neglect".

6           Accordingly, the purpose of this Act is to amend the  
7 definition of "child abuse or neglect" by clarifying that the  
8 failure to provide certain needs to a child shall not constitute  
9 child abuse or neglect if the sole reason the person responsible  
10 for the care of the child is unable to adequately provide for  
11 the child's care is due to a lack of financial resources.

12           SECTION 2. Section 350-1, Hawaii Revised Statutes, is  
13 amended by amending the definition of "child abuse or neglect"  
14 to read as follows:

15           ""Child abuse or neglect" means:

16           (1) The acts or omissions of any person who, or legal  
17           entity which, is in any manner or degree related to  
18           the child, is residing with the child, or is otherwise  
19           responsible for the child's care, that have resulted  
20           in the physical or psychological health or welfare of  
21           the child, who is under the age of eighteen, to be



1           harmed, or to be subject to any reasonably  
2           foreseeable, substantial risk of being harmed. The  
3           acts or omissions are indicated for the purposes of  
4           reports by circumstances that include but are not  
5           limited to:

6           (A) When the child exhibits evidence of:

7                   (i) Substantial or multiple skin bruising or any  
8                   other internal bleeding;

9                   (ii) Any injury to skin causing substantial  
10                  bleeding;

11                  (iii) Malnutrition;

12                  (iv) Failure to thrive;

13                  (v) Burn or burns;

14                  (vi) Poisoning;

15                  (vii) Fracture of any bone;

16                  (viii) Subdural hematoma;

17                  (ix) Soft tissue swelling;

18                  (x) Extreme pain;

19                  (xi) Extreme mental distress;

20                  (xii) Gross degradation; or

21                  (xiii) Death; and



1 such injury is not justifiably explained, or when  
2 the history given concerning such condition or  
3 death is at variance with the degree or type of  
4 such condition or death, or circumstances  
5 indicate that such condition or death may not be  
6 the product of an accidental occurrence;

7 (B) When the child has been the victim of sexual  
8 contact or conduct, including but not limited to  
9 sexual assault as defined in the Penal Code,  
10 molestation, sexual fondling, incest, or  
11 prostitution; obscene or pornographic  
12 photographing, filming, or depiction; or other  
13 similar forms of sexual exploitation, including  
14 but not limited to acts that constitute an  
15 offense pursuant to section 712-1202(1)(b);

16 (C) When there exists injury to the psychological  
17 capacity of a child as is evidenced by an  
18 observable and substantial impairment in the  
19 child's ability to function;

20 (D) When the child is not provided in a timely manner  
21 with adequate food, clothing, shelter,



1                   psychological care, physical care, medical care,  
 2                   or supervision[+] and the reason the person  
 3                   responsible for providing those things fails,  
 4                   refuses, or is unable to do so is not due solely  
 5                   to the lack of the person's financial means;

6                   (E) When the child is provided with dangerous,  
 7                   harmful, or detrimental drugs as defined by  
 8                   section 712-1240; provided that this subparagraph  
 9                   shall not apply when such drugs are provided to  
 10                  the child pursuant to the direction or  
 11                  prescription of a practitioner, as defined in  
 12                  section 712-1240; or

13                  (F) When the child has been the victim of labor  
 14                  trafficking under chapter 707; or

15                  (2) The acts or omissions of any person that have resulted  
 16                  in sex trafficking or severe forms of trafficking in  
 17                  persons; provided that no finding by the department  
 18                  pursuant to this chapter shall be used as conclusive  
 19                  evidence that a person has committed an offense under  
 20                  part VIII of chapter 707 or section 712-1202."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Child Abuse; Neglect; Child Welfare; Financial Ability

**Description:**

Amends the definition of "child abuse or neglect" by clarifying that the failure to provide certain needs to a child shall not constitute child abuse or neglect if the sole reason the person responsible for the care of the child is unable to adequately provide for the child's care is due to a lack of financial resources. Effective 7/1/3000. (HD1)

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

