
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" to clarify that:

8 (1) The failure to provide certain needs to a child shall
9 not constitute child abuse or neglect if the sole
10 reason the person responsible for the care of the
11 child is unable to adequately provide for the child's
12 care is lack of financial resources; and

13 (2) Evidence of parental request for support shall not be
14 deemed as evidence of child abuse and neglect.

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

18 ""Child abuse or neglect" means:

19 (1) The acts or omissions of any person who, or legal
20 entity which, is in any manner or degree related to
21 the child, is residing with the child, or is otherwise



1 responsible for the child's care, that have resulted
2 in the physical or psychological health or welfare of
3 the child, who is under the age of eighteen, to be
4 harmed, or to be subject to any reasonably
5 foreseeable, substantial risk of being harmed. The
6 acts or omissions are indicated for the purposes of
7 reports by circumstances that include but are not
8 limited to:

9 (A) When the child exhibits evidence of:

10 (i) Substantial or multiple skin bruising or any
11 other internal bleeding;

12 (ii) Any injury to skin causing substantial
13 bleeding;

14 (iii) Malnutrition;

15 (iv) Failure to thrive;

16 (v) Burn or burns;

17 (vi) Poisoning;

18 (vii) Fracture of any bone;

19 (viii) Subdural hematoma;

20 (ix) Soft tissue swelling;

21 (x) Extreme pain;



- 1 (xi) Extreme mental distress;
- 2 (xii) Gross degradation; or
- 3 (xiii) Death; and
- 4 such injury is not justifiably explained, or when
- 5 the history given concerning such condition or
- 6 death is at variance with the degree or type of
- 7 such condition or death, or circumstances
- 8 indicate that such condition or death may not be
- 9 the product of an accidental occurrence;
- 10 (B) When the child has been the victim of sexual
- 11 contact or conduct, including but not limited to
- 12 sexual assault as defined in the Penal Code,
- 13 molestation, sexual fondling, incest, or
- 14 prostitution; obscene or pornographic
- 15 photographing, filming, or depiction; or other
- 16 similar forms of sexual exploitation, including
- 17 but not limited to acts that constitute an
- 18 offense pursuant to section 712-1202(1)(b);
- 19 (C) When there exists injury to the psychological
- 20 capacity of a child as is evidenced by an



- 1 observable and substantial impairment in the
2 child's ability to function;
- 3 (D) When the child is not provided in a timely manner
4 with adequate food, clothing, shelter,
5 psychological care, physical care, medical care,
6 or supervision[+] and the reason the person
7 responsible for the provision thereof fails,
8 refuses, or is unable to do so is not solely the
9 lack of the person's financial means. Evidence
10 of parental request for support shall not be
11 deemed as evidence of child abuse and neglect;
- 12 (E) When the child is provided with dangerous,
13 harmful, or detrimental drugs as defined by
14 section 712-1240; provided that this subparagraph
15 shall not apply when such drugs are provided to
16 the child pursuant to the direction or
17 prescription of a practitioner, as defined in
18 section 712-1240; or
- 19 (F) When the child has been the victim of labor
20 trafficking under chapter 707; or



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

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 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" to clarify 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 lack of financial resources; and evidence of parental request for support shall not be deemed as evidence of child abuse and neglect. Effective 7/1/3000. (SD1)

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