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H.B. NO. 956

A Bill for an Act Relating to Elderly Abuse or Neglect.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER ELDERLY ABUSE OR NEGLECT

§ -1 **Definitions.** For the purposes of this chapter:

- (1) “Doctor” means any person licensed to practice medicine, osteopathy, dentistry, or any other healing art in the State;
- (2) “Elderly abuse or neglect” means actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, or maltreatment of an elderly person caused by another person; and
- (3) “Elderly person” means any person who is at least sixty-five years of age.

§ -2 **Reports.** Any doctor, registered nurse, social worker, police officer, other law enforcement officer, medical examiner, or coroner acting in the person’s professional capacity who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect shall promptly report the matter orally to the department of social services and housing. Any member of the staff of a hospital or medical facility examining, attending, or treating an elderly person who has reason to believe that the elderly person is or has been the subject of elderly abuse or neglect shall immediately notify the person in charge of the hospital or medical facility or the person’s designated representative. The person in charge of the hospital or medical facility or the designated representative shall immediately notify the department of social services and housing in accordance with this chapter.

The initial oral report shall be followed as soon as possible by a report in writing to the department of social services and housing; provided that where a police department is the initiating agency, a written report shall not be required unless the police department has declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of elderly abuse or neglect. All written reports shall contain the name and address of the elderly person and the person who is alleged to have committed or been responsible for the elderly abuse or neglect, if known, the nature and extent of the elderly person’s injury or harm, and any other information the reporter believes might be helpful in establishing the cause of the elderly abuse or neglect.

Any other person who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect may report the matter orally to the department of social services and housing.

§ -3 **Action on reporting.** The department of social services and housing, upon receiving an oral report under section -2, shall, where the department deems it appropriate, take action towards preventing further abuse or neglect. If the elderly person who is or has been the subject of elderly abuse or neglect has suffered injury or harm so serious that criminal prosecution of the person who committed the elderly abuse or neglect is warranted, the department shall report its findings to the

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appropriate police department or prosecuting attorney.

The department of social services and housing shall maintain a central registry of reported cases.

§ **-4 Immunity from liability.** Any person participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

§ **-5 Exemption.** No elderly person who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall be considered, for this reason alone, to be medically neglected under this chapter.

§ **-6 Admissibility of evidence.** Neither the doctor-patient privilege nor the husband-wife privilege shall be ground for excluding evidence regarding an elderly person's harm or injury, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this chapter.

§ **-7 Rules.** The department of social services and housing shall adopt rules under chapter 91 for the purposes of this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1981.)