

ACT 77

S.B. NO. 2401-82

A Bill for an Act Relating to Child Abuse and Neglect.

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

SECTION 1. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§350-1 Definitions.** For the purposes of this chapter, unless the context specifically indicates otherwise:

- (1) “Child abuse and neglect” means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age by a parent, legal guardian, or person responsible for that child’s care under circumstances which indicate that the minor’s health or welfare has been or is harmed or threatened with harm.

- (2) "Department" means the department of social services and housing.
- (3) "Professional" means a person engaged in a specific occupation who examines, treats, attends, or otherwise provides specialized services to children.
- (4) "Report" means the oral or written disclosure, to the department of social services and housing, that a minor is believed to have been harmed or threatened with harm by a parent, legal guardian, or person responsible for that child's care."

SECTION 2. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

"§350-[1]1.1 Reports. [(a) Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, police officer, law enforcement officer, medical examiner, or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect by parents or those responsible for that child's care shall promptly report the matter orally to the department of social services and housing; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

Abuse or neglect of a minor for the purposes of this chapter means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

The initial oral report shall be followed as soon as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department of social services and housing 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 child abuse or neglect. All written reports shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the department of social services and housing.

(b) All reports concerning child abuse and neglect, as well as all records of such reports are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records of reports and for the authorized disclosure of reports and records.

(c) The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to further define the specific forms of child abuse and neglect enumerated by subsection (a) for use in implementing this chapter; provided that rules adopted under this section shall be limited to such definitions.]

(a) The following persons who, in the performance of their professional or official duties, know or have reason to believe that a child has been abused or neglected or is threatened with abuse or neglect shall promptly report the matter orally to the department of social services and housing or to the police department:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services to a minor, including but not limited to physicians, psychologists, dentists, nurses, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, correctional institutions, and parole or probation offices;
- (5) Employees or officers of any licensed day care center, foster care home, group child care center, or similar institution;
- (6) Medical examiners or coroners.

(b) Whenever a person designated in this section is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately notify the person in charge, or a designated delegate, who shall promptly report, or cause reports to be made, in accordance with this chapter. Nothing in this section is intended to require more than one report from any school, agency, or institution.

(c) This section does not prohibit any of the persons enumerated in subsection (a) from reporting incidents which such persons have reason to believe involve abuse or neglect which come to their attention in any private or nonprofessional capacity.

(d) Any other person who has reason to believe that a minor has been abused or neglected or is threatened with abuse or neglect may report the matter orally to the department.

(e) The initial oral report shall be followed as soon thereafter as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department of social services and housing unless the police department had 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 child abuse or neglect. All written reports shall contain the name and address of the minor and the minor's parents or other persons responsible for the minor's care, if known, the minor's age, the nature and extent of the minor's injuries and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

(f) The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to further define or clarify the specific forms of child abuse and neglect enumerated in section 350-1 for use in implementing this chapter; provided that rules adopted under this subsection shall be limited to such further or clarifying definitions."

SECTION 3. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§350- Confidentiality of reports. All reports concerning child abuse and neglect made pursuant to this chapter, as well as all records of such reports, are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records."

SECTION 4. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§350- Nonreporting; penalty. Any person subject to section 350-1.1(a) who knowingly fails to report an incident which the person has reason to believe involves child abuse or neglect as required by this chapter or wilfully prevents another person from reporting such an incident pursuant to this chapter shall be guilty of a petty misdemeanor."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1982.)