

ACT 62

S.B. NO. 2805

A Bill for an Act Relating to Dependent Adult Protective Services.

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

SECTION 1. Section 346-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The court shall maintain records of all adult protective proceedings under this chapter. All court documents and records pertaining to the action or proceeding shall be subject to inspection only by the dependent adult, and his or her guardian of the person, guardian of the property, their respective attorneys, [and] the guardian ad litem of the dependent adult, [with the consent of the court.] and the other parties and their respective attorneys or guardians ad litem.”

SECTION 2. Section 346-230, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§346-230]]~~ **Termination of services.** The department shall act only with the consent of the victim, unless the department obtains court authorization to provide necessary services, as provided in section 346-231. Investigation and services provided under this part shall be immediately terminated if:

- (1) [A] The dependent adult has the capacity to consent and either does not consent or withdraws consent to the receipt of protective services; or
- [(2)] The dependent adult withdraws the consent;
- [(3)] (2) The department determines that protection is no longer needed under this part; or
- [(4)] (3) The court so orders.

Upon the department's determination that protective services are no longer needed, the dependent adult shall be referred to the agency responsible for follow-up services. For the mentally ill [and], mentally retarded or developmentally disabled adult, the state agency designated to provide services shall be the department of health.”

SECTION 3. Section 346-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Unless waived by the parties who have entered an appearance, the] The department shall prepare a proposed protective order and a written protective services plan[,] and submit copies to the court and each of the parties or their counsel at least seven days prior to the disposition hearing.”

SECTION 4. Section 346-241, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The court shall conduct a disposition hearing concerning the terms and conditions set forth in the proposed protective order and proposed protective services plan unless each of the appropriate parties [has signed and fully understands and] accepts the order and plan, in which event, the court may approve the order and plan without a hearing. [If a party cannot or does not accept the terms and conditions set forth in the proposed order or proposed plan, and, after such

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hearing as the court deems to be appropriate, the court shall order such terms and conditions, as are deemed to be in the best interests of the dependent adult.]"

SECTION 5. Section 346-242, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§346-242]]~~ **Review hearings.** Except for good cause shown, the court shall set each case for a review hearing not later than six months after the date that a protective order and protective services plan are ordered by the court [and, ~~thereafter,~~]. ~~Thereafter,~~ the court shall [set subsequent] review [hearings] the matter at intervals of not longer than six months until the court's jurisdiction has been terminated. The department and the guardian ad litem, if any, shall submit a written report, with copies to the parties or their counsel, at least fifteen days prior to the date set for each review [hearing]. The report shall evaluate whether the parties have complied with the terms and conditions of the protective order and protective services plan; shall recommend any modification to the order or plan; and shall recommend whether the court shall retain jurisdiction or terminate the case. At each review, [hearing,] the court shall determine whether the parties have complied with the terms and conditions of the order and plan; enforce such sanctions for noncompliance as may be appropriate; and order such revisions to the existing order or plan as are in the best interests of the dependent adult. At each review, [hearing,] the court shall make an express finding as to whether it shall retain jurisdiction or terminate the case, and, in each instance, shall state the basis for its action."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1992.

(Approved April 29, 1992.)