

ACT 246

H.B. NO. 1187

A Bill for an Act Relating to Human Trafficking.

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

PART I

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Human Trafficking Awareness Month. The month of January shall be known and designated as “Human Trafficking Awareness Month” to promote public awareness of human trafficking as a significant societal and public health crisis. This month is not and shall not be construed to be a state holiday.”

PART II

SECTION 2. The purpose of this part is to recognize the vulnerability of children who are victims of sex and labor trafficking and to ensure the provision of necessary and appropriate services within the scope of the department of human services for children served by the child welfare services branch.

The amendment to the definition of “harm” in chapter 587A, Hawaii Revised Statutes, clarifies that “harm” includes children who are victims of sex and labor trafficking and will ensure that these children will receive appropriate services, treatment, and permanent plans.

To be consistent with the amendment to the definition of “harm”, an amendment to the definition of what constitutes reportable child abuse and ne-

glect as required in chapter 350, Hawaii Revised Statutes, will clarify that sex and labor trafficking are also reportable acts.

SECTION 3. Section 350-1, Hawaii Revised Statutes, is amended by amending the definition of “child abuse or neglect” to read as follows:

““Child abuse or neglect” means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

- (1) When the child exhibits evidence of:
  - (A) Substantial or multiple skin bruising or any other internal bleeding;
  - (B) Any injury to skin causing substantial bleeding;
  - (C) Malnutrition;
  - (D) Failure to thrive;
  - (E) Burn or burns;
  - (F) Poisoning;
  - (G) Fracture of any bone;
  - (H) Subdural hematoma;
  - (I) Soft tissue swelling;
  - (J) Extreme pain;
  - (K) Extreme mental distress;
  - (L) Gross degradation; or
  - (M) Death; and

such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or
- (2) When the child has been the victim of sexual contact or conduct, including, but not limited to, sexual assault as defined in the Penal Code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation~~[-or]~~, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b);  
or
- (3) When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child’s ability to function; or
- (4) When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240~~[-];~~ or
- (6) When the child has been the victim of labor trafficking under chapter 707.”

SECTION 4. Section 587A-4, Hawaii Revised Statutes, is amended by amending the definition of “harm” to read as follows:

““Harm” means damage or injury to a child’s physical or psychological health or welfare, where:

- (1) The child exhibits evidence of injury, including, but not limited to:
  - (A) Substantial or multiple skin bruising;
  - (B) Substantial external or internal bleeding;
  - (C) Burn or burns;
  - (D) Malnutrition;
  - (E) Failure to thrive;
  - (F) Soft tissue swelling;
  - (G) Extreme pain;
  - (H) Extreme mental distress;
  - (I) Gross degradation;
  - (J) Poisoning;
  - (K) Fracture of any bone;
  - (L) Subdural hematoma; or
  - (M) Death;

and the injury is not justifiably explained, or the history given concerning the condition or death is not consistent with the degree or type of the condition or death, or there is evidence that the condition or death may not be the result of an accident;
- (2) The child has been the victim of sexual contact or conduct, including sexual assault; sodomy; molestation; sexual fondling; incest; prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation[;], including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b);
- (3) The child’s psychological well-being has been injured as evidenced by a substantial impairment in the child’s ability to function;
- (4) The child is not provided in a timely manner with adequate food; clothing; shelter; supervision; or psychological, physical, or medical care; [or]
- (5) The child is provided with dangerous, harmful, or detrimental drugs as defined in section 712-1240, except when a child’s family administers drugs to the child as directed or prescribed by a practitioner as defined in section 712-1240[-]; or
- (6) The child has been the victim of labor trafficking under chapter 707.”

PART III

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.