H.B. NO. 3128

A BILL FOR AN ACT

RELATING TO ADULT PROTECTIVE SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 346-222, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"<u>"Caregiver" means any person who has undertaken the care, custody, or physical control of, or who has a legal or contractual duty to care for the health, safety, and welfare of a dependent adult.</u>"

SECTION 2. Section 346-224, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§346-224**[~~]~~] **Reports.** (a) The following persons who in the performance of their professional or official duties, know or have reason to believe that a dependent adult has been abused and is threatened with imminent abuse shall promptly report the matter orally to the department of human services:

(1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, treats, or provides other professional or specialized services to dependent adults, including but not

limited to, physicians, physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;

(2) Employees or officers of any public or private agency or institution providing social, medical, hospital or mental health services, including financial assistance;

(3) Employees or officers of any law enforcement agency including, but not limited to, the courts, police departments, correctional institutions, and parole or probation offices;

(4) Employees or officers of any adult residential care home, adult day care center, or similar institution; [~~and~~]

(5) Medical examiners or coroners[~~.~~];

(6) Employees or officers of the entity or agency designated by the governor pursuant to section 333F-8.5 to provide advocacy services to persons with developmental disabilities and mental illness in order

to receive federal funds authorized by 42 U.S.C. sections 10801 and 15001; and

(7) Employees or officers of any entity or agency that provides advocacy services to persons with disabilities.

(b) In addition to the persons enumerated in subsection (a), persons meeting the definition of a "caregiver", as defined in section 346-222, who know or have reason to believe that a dependent adult has been abused and is threatened with imminent abuse shall promptly report the matter orally to the department.

[~~(b)~~] (c) The initial oral report required by subsection (a) shall be followed as soon as possible by a written report to the department; 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 informs the police department that it intends to pursue the matter of the orally reported incident of abuse. All written reports shall contain the name and address of the dependent adult and the person who or care organization or care facility which is alleged to have committed or been responsible for the dependent adult abuse, if known; the nature and extent of the dependent adult's injury or harm; and any other

information the reporter believes might be helpful in establishing the cause of the dependent adult abuse.

[~~(c)~~] (d) This section shall not prohibit any of the persons enumerated in subsection (a) from reporting incidents which those persons have reason to believe involve abuse which came to their attention in any private or nonprofessional capacity.

[~~(d)~~] (e) Any other person who has reason to believe that a dependent adult has been abused or is threatened with imminent abuse may report the matter orally to the department.

[~~(e)~~] (f) Any person who knowingly fails to report as required by this section or who wilfully prevents another person from reporting pursuant to this section shall be guilty of a petty misdemeanor.

[~~(f)~~] (g) The department shall maintain a central registry of reported cases."

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

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

JAN 22 2008

Report Title:
Social Services; Adult Protective Services

Description:
Expands the list of persons mandated to report known or suspected abuse of vulnerable adults to include caregivers and the entity or agency designated by the governor to provide advocacy services to persons with developmental disabilities and mental illness.

HB 3128

JUSTIFICATION SHEET

DEPARTMENT: Human Services.

TITLE: A BILL FOR AN ACT RELATING TO ADULT PROTECTIVE SERVICES.

PURPOSE: (1) To add a new definition for "caregiver" to section 346-222, Hawaii Revised Statutes; (2) to require persons meeting the definition of "caregiver" to promptly report to the department of human services (DHS) when the caregiver knows or has reason to believe a dependent adult has been abused and is threatened with imminent abuse; and (3) to require employees or officers of any entity or agency that provides advocacy services to persons with disabilities, including the employees or officers of the entity or agency designated by the Governor to advocate for persons with developmental disabilities and mental illness pursuant to section 333F-8.5, Hawaii Revised Statutes, to promptly report to DHS when those persons know of or have reason to believe a dependent adult has been abused and is threatened with imminent abuse.

MEANS: Amend sections 346-222 and 346-224, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The proposed changes will increase the department's opportunity to investigate and provide protective services, as deemed necessary, for vulnerable adults by expanding the list of persons mandated to report to the department when they know of or have reason to believe a dependent adult has been abused and is threatened with imminent abuse.

The proposed amendments to section 346-224, HRS, add the following persons, entities or agencies as mandated reporters of dependent adult abuse and neglect: (1) any entity or agency that provides advocacy services to

persons with disabilities, including the entity or agency designated by the Governor to provide advocacy services to persons with developmental disabilities and mental illness; and (2) persons who meet the proposed definition of "caregiver" in section 346-222.

Specifically, as to (1) above, section 346-224(a), HRS, will be amended to add these advocacy entities or agencies to report, as others are required to do, when, in the performance of their professional or official duties, they have knowledge of or have reason to believe a dependent adult has been abused and is threatened with imminent abuse.

Also, as to (2) above, a new subsection (b) will be required to add persons meeting the definition of a "caregiver", as defined in section 346-222, to the list of persons who are required by statute to report suspected dependent adult abuse and neglect to DHS. These persons are not persons reporting as required in their professional or official duties but, rather, required to report because they have chosen to accept the responsibility for the care, custody, or physical control of a dependent adult.

Impact on the public: There will be greater safety and well-being for elderly and disabled persons in Hawaii. An increased number of suspected dependent adult abuse and neglect reports, especially involving persons with developmental disabilities, any other disabilities, and mental illness, will be reported to DHS. This will give DHS the opportunity to investigate and provide protective services, as deemed necessary, for this vulnerable population.

Impact on the department and other agencies: DHS does not anticipate a need for additional staff to handle the increase in calls or the increase in adult protective

service investigations. The increases in workload are not expected to be large since the majority of calls regarding suspected dependent adult abuse and neglect originate from public and private agencies that have already been identified as mandated reporters.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 601

OTHER AFFECTED AGENCIES: Department of Health; Hawaii Disability Rights Center; advocacy agencies for persons with disabilities.

EFFECTIVE DATE: July 1, 2008.