

JAN 27 2021

A BILL FOR AN ACT

RELATING TO REPORTS OF CHILD ABUSE.

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

1 SECTION 1. The Child Abuse Prevention and Treatment Act,
2 as amended, provides federal funding to states for prevention,
3 assessment, investigation, prosecution, and treatment activities
4 for child abuse and neglect. On January 7, 2019, the Victims of
5 Child Abuse Act Reauthorization Act of 2018 (P.L. 115-424), was
6 enacted, further amending certain provisions of the Child Abuse
7 Prevention and Treatment Act. The 2019 amendment provides
8 immunity from civil and criminal liability "for individuals
9 making good faith reports of suspected or known instances of
10 child abuse or neglect, or who otherwise provide information or
11 assistance, including medical evaluations or consultations, in
12 connection with a report, investigation, or legal intervention
13 pursuant to a good faith report of child abuse or neglect." 42
14 U.S.C. § 5106a(b)(2)(B)(vii).

15 Due to the impact of COVID 19 pandemic on the 2020 session
16 of the Hawaii State Legislature, the Children's Bureau of the
17 Administration for Children and Families, the United States
18 Department of Health and Human Services, granted the Department

S.B. NO. 1129

1 of Human Services an extension until June 30, 2021, to bring
2 Hawaii's law into compliance with federal law.

3 The purpose of this Act is to bring state law into
4 compliance with the most recent amendments to the Child Abuse
5 Prevention and Treatment Act by amending section 350-3(a),
6 Hawaii Revised Statutes, effective no later than June 30, 2021.

7 SECTION 2. Section 350-3, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Anyone participating in good faith in the making of a
10 report pursuant to this chapter shall have immunity from any
11 liability, civil or criminal, that might be otherwise incurred
12 or imposed by or as a result of the making of such report[-] and
13 this immunity shall also apply to persons who otherwise provide
14 information or assistance, including medical evaluations or
15 consultation, in connection with a report, investigation, or
16 legal intervention pursuant to a good faith report of child
17 abuse or neglect. Any such participant shall have the same
18 immunity with respect to participation in any judicial
19 proceeding resulting from such report."

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 Statutory material to be repealed is bracketed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

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1 SECTION 4. This Act shall take effect upon its approval
2 but shall take effect no later than June 30, 2021.

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INTRODUCED BY: *M. D. W.*

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BY REQUEST

S.B. NO. 1129

Report Title:

Reports of Child Abuse

Description:

Adds immunity from civil and criminal liability for individuals who provide information or assistance in child abuse investigations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO REPORTS OF CHILD ABUSE.

PURPOSE: To bring the State into compliance with the Child Abuse and Prevention Treatment Act (CAPTA) as amended by the Victims of Child Abuse Act Reauthorization Act of 2018 (P.L. 115-424) enacted on January 7, 2019. The amendment expands the scope of the assurance found in section 106(b)(2)(B)(vii) of CAPTA to provide immunity from civil and criminal liability for people who provide information, or assistance, including medical evaluations or consultation, regarding a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

MEANS: Amend section 350-3(a), HRS.

JUSTIFICATION: The Child Abuse Prevention and Treatment Act (CAPTA) provides federal funding to states for prevention, assessment, investigation, prosecution, and treatment activities for child abuse and neglect.

This provision of CAPTA is one of several CAPTA assurances that must be embodied in state law, rather than just policy.

The amendment to CAPTA became effective upon enactment. Hawaii state law is not currently consistent with this CAPTA requirement, as amended, and must be amended to become compliant with federal law. States that did not have the provision embodied in state law by June 30, 2019, were required to submit a CAPTA Program Improvement Plan. Hawaii submitted its Program Improvement Plan to the Administration for Children and Families in June 2019 and the plan was approved that required the state law change be effective

by June 30, 2020. A previous measure was pending during the 2020 session of the State Legislature. Due to the impact of COVID-19 on the 2020 session of the State Legislature, in June 2020 the Children's Bureau of the Administration for Children and Families, U.S. Department of Health and Human Services, granted Hawaii an additional extension to revise State law by June 30, 2021. Failure to revise State law may result in a reduction of federal funds.

Impact on the public: The amendment to section 350-3(a), HRS, expands the civil and criminal immunity to include those persons who provide information or assistance, including medical evaluations or consultation, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect.

Impact on the department and other agencies: This provides added protection to those individuals in other departments or agencies that provide information regarding a report, investigation, or other legal intervention pursuant to good faith report of child abuse and neglect.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 901.

OTHER AFFECTED AGENCIES: Department of Education, Department of Health, medical and mental health professionals, law enforcement, child care providers, public and private schools.

EFFECTIVE DATE: Upon approval, but no later than June 30, 2021.