
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 legislature finds that the reporting of
2 child abuse by mandated reporters should be expanded to include
3 reports on known or suspected child victims of sex trafficking
4 to bring the State in compliance with the Justice for Victims of
5 Trafficking Act of 2015, Public Law 114-22. The legislature
6 also finds that to comply with the Child Abuse Prevention and
7 Treatment Act of 2010, Public Law 111-320, it is necessary to
8 ensure that reports of child abuse and neglect, which are
9 expunged from the State's central registry of reported child
10 abuse and neglect cases, may be retained by the department for
11 future risk and safety assessment purposes.

12 The purpose of this Act is to:

13 (1) Amend the definition of "child abuse or neglect" to
14 ensure that mandated reporters of child abuse and
15 neglect report to the department known or suspected
16 child victims of sex trafficking;



1 (2) Ensure that child abuse and neglect reports that are
2 expunged may be retained by the department of human
3 services for future risk and safety assessment
4 purposes;

5 (3) Replace references to unsubstantiated reports with not
6 confirmed reports; and

7 (4) Clarify that depending on the circumstances, child
8 abuse reports may proceed either through the
9 administrative procedure act or the family court.

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

12 1. By adding three new definitions to be appropriately
13 inserted and to read:

14 "Child" means a person who is born alive and is less than
15 eighteen years of age.

16 "Severe forms of trafficking in persons" means sex
17 trafficking in which a commercial sex act is induced by force,
18 fraud, or coercion, or in which the person induced to perform
19 such act has not attained eighteen years of age.



1 "Sex trafficking" means the recruitment, harboring,
2 transportation, provision, obtaining, patronizing, or soliciting
3 of a person for the purpose of a commercial sex act."

4 2. By amending the definition of "child abuse or neglect"
5 to read:

6 "Child abuse or neglect" means [~~the~~]:

7 (1) The acts or omissions of any person who, or legal
8 entity which, is in any manner or degree related to
9 the child, is residing with the child, or is otherwise
10 responsible for the child's care, that have resulted
11 in the physical or psychological health or welfare of
12 the child, who is under the age of eighteen, to be
13 harmed, or to be subject to any reasonably
14 foreseeable, substantial risk of being harmed. The
15 acts or omissions are indicated for the purposes of
16 reports by circumstances that include but are not
17 limited to:

18 [~~(1)~~] (A) When the child exhibits evidence of:

19 [~~(A)~~] (i) Substantial or multiple skin bruising or
20 any other internal bleeding;



1 to, sexual assault as defined in the Penal Code,
2 molestation, sexual fondling, incest, or
3 prostitution; obscene or pornographic
4 photographing, filming, or depiction; or other
5 similar forms of sexual exploitation, including
6 but not limited to acts that constitute an
7 offense pursuant to section 712-1202(1)(b);
8 [~~3~~] (C) When there exists injury to the
9 psychological capacity of a child as is evidenced
10 by an observable and substantial impairment in
11 the child's ability to function;
12 [~~4~~] (D) When the child is not provided in a timely
13 manner with adequate food, clothing, shelter,
14 psychological care, physical care, medical care,
15 or supervision;
16 [~~5~~] (E) When the child is provided with dangerous,
17 harmful, or detrimental drugs as defined by
18 section 712-1240; provided that this paragraph
19 shall not apply when such drugs are provided to
20 the child pursuant to the direction or



1 prescription of a practitioner, as defined in
2 section 712-1240; or

3 ~~[(6)]~~ (F) When the child has been the victim of labor
4 trafficking under chapter 707~~[-]~~; or

5 (2) The acts or omissions of any person that have resulted
6 in a child who is subjected to sex trafficking or
7 severe forms of trafficking in persons."

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

10 "(d) The department shall maintain a central registry of
11 reported child abuse or neglect cases and shall promptly expunge
12 the reports in cases if:

13 (1) The ~~[department has found the reports to be~~
14 ~~unsubstantiated,]~~ report is determined not confirmed
15 by the department, an administrative hearing officer,
16 or a Hawaii state court on appeal; or

17 (2) The petition arising from the report has been
18 dismissed by order of the family court after an
19 adjudicatory hearing on the merits pursuant to chapter
20 587A.



1 ~~[For purposes of expungement under paragraph (1), a report~~
2 ~~is unsubstantiated only when the department has found the~~
3 ~~allegations to be frivolous or to have been made in bad faith.~~

4 ~~However, the department may retain records and information~~
5 ~~of alleged child abuse and neglect with respect to the child who~~
6 ~~is the subject of the alleged abuse.]~~

7 A report that is expunged may be retained by the department
8 for future risk and safety assessment purposes.

9 The department shall adopt rules as may be necessary in
10 carrying out this section."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2075.



Report Title:

Child Abuse; Reports

Description:

Brings the State into compliance with the federal Justice for Victims of Trafficking Act of 2015 and the federal Child Abuse Prevention and Treatment Act of 2010. Amends the definition of "child abuse or neglect" to include sex trafficking. Clarifies that child abuse and neglect reports that are expunged from the State's central registry may be retained by the Department of Human Services for future risk and safety assessment purposes. Deletes the child abuse investigation disposition of "unsubstantiated" and replaces it with "not confirmed". (HB1099 HD1)

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