

---

---

# A BILL FOR AN ACT

RELATING TO CHILD ABUSE REPORTING.

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

1           SECTION 1. The legislature finds that in 2017, the child  
2 welfare services branch of the State's department of human  
3 services received 3,702 reports of child abuse. More than half  
4 of these reports were made by mandated reporters working in  
5 fields such as medicine, law enforcement, and social services.  
6 Unfortunately, despite the extent of reporting that does occur,  
7 many other instances of child abuse go unreported.

8           The legislature further finds that Hawaii is one of only a  
9 handful of states that do not include members of the clergy as  
10 mandatory reporters of child abuse and neglect. Additionally,  
11 the legislature finds that sexual exploitation of children often  
12 occurs online, making it easier for some predators to avoid  
13 detection and arrest. By requiring commercial computer  
14 technicians and commercial film and photographic print or image  
15 processors to report computer files containing child pornography  
16 to law enforcement, the State can protect more children from  
17 exploitation and abuse.



1           The purpose of this Act is to update Hawaii's child abuse  
2 and neglect mandated reporting law by adding members of the  
3 clergy, commercial computer technicians, commercial film and  
4 photographic print or image processors, and administrators and  
5 employees of any public or private organization whose duties  
6 require direct contact with or supervision of children, to the  
7 categories of persons who are required to report, consistent  
8 with California's Child Abuse and Neglect Reporting Act.

9           SECTION 2. Section 350-1, Hawaii Revised Statutes, is  
10 amended by adding a new definition to be appropriately inserted  
11 and to read as follows:

12           "Electronic medium" means any recording, synthetic media,  
13 magnetic disc memory, magnetic tape memory, compact disk,  
14 digital video disk, thumb drive, or any other data recording  
15 hardware or media used with a computer."

16           SECTION 3. Section 350-1.1, Hawaii Revised Statutes, is  
17 amended to read as follows:

18           "**§350-1.1 Reports.** (a) Notwithstanding any other state  
19 law concerning confidentiality to the contrary, the following  
20 persons who, in their professional or official capacity, have  
21 reason to believe that child abuse or neglect has occurred or



1 that there exists a substantial risk that child abuse or neglect  
2 may occur in the reasonably foreseeable future, shall  
3 immediately report the matter orally to the department or to the  
4 police department:

- 5 (1) Any licensed or registered professional of the healing  
6 arts or any health-related occupation who examines,  
7 attends, treats, or provides other professional or  
8 specialized services, including but not limited to  
9 physicians, including physicians in training,  
10 psychologists, dentists, nurses, osteopathic  
11 physicians and surgeons, optometrists, chiropractors,  
12 podiatrists, pharmacists, and other health-related  
13 professionals;
- 14 (2) Employees or officers of any public or private school;
- 15 (3) Employees or officers of any public or private agency  
16 or institution, or other individuals, providing  
17 social, medical, hospital, or mental health services,  
18 including financial assistance;
- 19 (4) Employees or officers of any law enforcement agency,  
20 including but not limited to the courts, police



1 departments, department of public safety, correctional  
2 institutions, and parole or probation offices;  
3 (5) Individual providers of child care, or employees or  
4 officers of any licensed or registered child care  
5 facility, foster home, or similar institution;  
6 (6) Medical examiners or coroners; [~~and~~]  
7 (7) Employees of any public or private agency providing  
8 recreational or sports activities[~~-~~];  
9 (8) Commercial film and photographic print or image  
10 processors;  
11 (9) Commercial computer technicians; and  
12 (10) Members of the clergy or custodians of records  
13 therefor; provided that a member of the clergy shall  
14 not be required to report information gained solely  
15 during a penitential communication. When a clergy  
16 member receives reportable information from any other  
17 source, the clergy member shall comply with the  
18 reporting requirements of this section, regardless of  
19 whether the clergy member received the same  
20 information during a penitential communication. For  
21 purposes of this paragraph, "penitential



1           communication" means a communication, including a  
2           sacramental confession, that is intended to be kept  
3           confidential and is made to a member of the clergy  
4           who, in the course of the discipline or practice of  
5           the applicable religious organization, is authorized  
6           or accustomed to hear those communications, and under  
7           the discipline, tenets, customs, or practices of the  
8           applicable religious organization, has a duty to keep  
9           those communications secret.

10           (b) Whenever a person designated in subsection (a) is a  
11 member of the staff of any public or private school, agency, or  
12 institution, that staff member shall immediately report the  
13 known or suspected child abuse or neglect directly to the  
14 department or to the police department and also shall  
15 immediately notify the person in charge or a designated delegate  
16 of the report made in accordance with this chapter.

17           (c) The initial oral report shall be followed as soon as  
18 possible by a report in writing to the department [↔]; provided  
19 that:

20           (1) If a police department or the department of public  
21 safety is the initiating agency, a written report



1 shall be filed with the department for cases that the  
2 police or the department of public safety takes  
3 further action on or for active cases in the  
4 department under this chapter[-];

5 (2) All written reports shall contain the name and address  
6 of the child and the child's parents or other persons  
7 responsible for the child's care, if known, the  
8 child's age, the nature and extent of the child's  
9 injuries, and any other information that the reporter  
10 believes might be helpful or relevant to the  
11 investigation of the child abuse or neglect[-]; and

12 (3) This subsection shall not be construed to serve as a  
13 cause of action against the department, the police, or  
14 the department of public safety.

15 (d) Any person subject to subsection (a) [~~shall~~], upon  
16 demand of the department or any police department, shall provide  
17 all information related to the alleged incident of child abuse  
18 or neglect, including[-] but not limited to[-] medical records  
19 and medical reports[-~~which~~] and any image, film, video, or  
20 other electronic medium, that was not included in the written  
21 report submitted pursuant to subsection (c).



1 (e) The director may adopt, amend, or repeal rules,  
2 subject to chapter 91, to further define or clarify the specific  
3 forms of child abuse or neglect enumerated in section 350-1 for  
4 use in implementing this chapter; provided that rules adopted  
5 under this subsection shall be limited to such further or  
6 clarifying definitions."

7 SECTION 4. Before March 1, 2021, a member of the clergy or  
8 a custodian of records thereof, may report to the department of  
9 human services or a county police department that the clergy  
10 member or custodian of records, in the person's professional  
11 capacity or within the scope of the person's employment, has  
12 acquired knowledge or has a reasonable suspicion that a child  
13 was a victim of abuse or neglect and that the clergy member or  
14 custodian of records did not previously report the abuse or  
15 neglect; provided that a member of the clergy shall not report  
16 information gained solely during a penitential communication. A  
17 report may be made regardless of whether the victim of the known  
18 or suspected abuse or neglect has reached the age of eighteen at  
19 the time the report is made. A person who makes a report  
20 pursuant to this section shall not be subject to the penalty for  
21 nonreporting under section 350-1.2, Hawaii Revised Statutes.



1 For purposes of this section, "penitential communication"  
2 means a communication, including a sacramental confession, that  
3 is intended to be kept confidential and is made to a member of  
4 the clergy who, in the course of the discipline or practice of  
5 the applicable religious organization, is authorized or  
6 accustomed to hear those communications, and under the  
7 discipline, tenets, customs, or practices of the applicable  
8 religious organization, has a duty to keep those communications  
9 secret.

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

13 SECTION 6. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.





H.B. NO. 1942  
H.D. 2  
S.D. 2

**Report Title:**

Department of Human Services; Child Abuse and Neglect; Mandatory Reporting

**Description:**

Adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police. Provides a "safe harbor" through February 28, 2021, for reporting by clergy of known or suspected child abuse that was previously unreported. (SD2)

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

