

Honolulu, Hawaii

Ag: 16, 2006

RE: S.B. No. 2327  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2327, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHILD ABUSE OR NEGLECT REPORTING,"

begs leave to report as follows:

The purpose of this bill is to require any public or private school, agency, or institution staff who have reason to believe that child abuse or neglect has occurred, or that there exists a substantial risk that it will occur in the foreseeable future, to immediately report the abuse or neglect directly to the Department of Human Services (DHS) or the police.

DHS, Kapiolani Child At-Risk Evaluation Program, Kapiolani Child Protection Center, and The Sex Abuse Treatment Center supported this bill. The Department of Education (DOE) supported the intent of this measure.

Your Committee has amended this bill by:

- (1) Changing the effective date to January 1, 2006, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



Your Committee fully supports efforts to assure prompt reporting of known or suspected child abuse or neglect. However, your Committee's concern is that the existing child abuse reporting statute may adequately provide for reporting and does not need to be strengthened to assure compliance.

In section 350-1, Hawaii Revised Statutes (HRS), the term "report" includes both oral and written components. "Report" is defined in statute as follows:

"The initial oral statement and, if required by section 350-1.1(c), the subsequent written account concerning the facts and circumstances which cause a person to have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future."

Section 350-1.1, HRS, lists seven categories of "persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future" and requires the seven categories of individuals to "immediately report the matter orally to the department [of human services] or to the police department." The list includes "[e]mployees or officers of any public or private school" as stated in Section 350-1.1(a)(3), HRS.

Section 350-1.1(b), HRS, requires "a person designated in subsection (a)" who is "a member of the staff of any public or private school, agency, or institution" to "immediately notify the person in charge, or a designated delegate, who shall immediately report, or cause reports to be made, in accordance with this chapter."

Section 350-1.1(c), HRS, requires the "initial oral report" to be followed "as soon as possible" by a "report in writing to the department [of human services]."

In oral testimony before your Committee, DHS recalled a situation where a public school staff member notified the person-in-charge, as required under section 350-1.1(b), HRS, of an alleged occurrence of child sexual abuse, and the person-in-charge persuaded the staff member not to report the matter orally to DHS or to the police department, as required under section 350-1.1(a), HRS.



Your Committee finds that although the statutory provisions may adequately provide for the reporting of child abuse, differing interpretations between state agencies may need to be resolved to prevent future instances such the one mentioned by DHS.

Although your Committee received written testimony from DOE, no representative was present at the hearing to respond to questions. Your Committee strongly requests DOE to come forward with their interpretation of the child abuse reporting requirements under section 350-1.1(a)(3) and (b), HRS, including the legal basis for any "prescreening" policies and procedures that could discourage staff members from reporting alleged abuse orally to DHS or the police department.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2327, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2327, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

for   
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SYLVIA LUKE, Chair



