

JAN 20 2010

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# A BILL FOR AN ACT

RELATING TO MINORS.

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

1           SECTION 1. Chapter 346, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§346-       Consent to emergency shelter and related  
5 services. (a) A provider may provide emergency shelter and  
6 related services, including transportation services, to a minor  
7 who consents to the shelter and services if the provider  
8 reasonably believes that:

9           (1) The minor understands the significant benefits, risks,  
10           and limits of the emergency shelter and related  
11           services and can communicate an informed consent; and

12           (2) The emergency shelter and related services are for the  
13           minor's benefit.

14           (b) A minor may consent to emergency shelter and related  
15 services if:



1       (1) The provider has not been able to contact the minor's  
2       parent, legal guardian, or custodian to obtain consent  
3       for emergency shelter and related services;

4       (2) The provider has made contact with the minor's parent,  
5       legal guardian, or custodian, but the minor's parent,  
6       legal guardian, or custodian refuses to give consent  
7       for emergency shelter and related services; or

8       (3) The minor has refused to provide contact information  
9       for his or her parent, legal guardian, or custodian.

10       (c) Any consent given under this section shall be valid  
11       and binding as if the minor had reached the age of majority, and  
12       the minor shall be deemed to have, and shall have the same legal  
13       capacity to act, and the same legal obligations with regard to  
14       the giving of an informed consent, as a person of full legal age  
15       and capacity, the minority status of the minor and any contrary  
16       provisions of law notwithstanding.

17       (d) The consent given under this section shall not be  
18       subject to later disaffirmance by reason of the minor's  
19       minority.

20       (e) Any provider who renders emergency shelter and related  
21       services to a minor pursuant to subsection (a) after determining  
22       in good faith that the minor has met the requirements for giving



1 an informed and valid consent pursuant to subsections (a) and  
2 (b), shall have immunity from any civil or criminal liability  
3 based on the provider's determination; provided that a provider  
4 whose determination pursuant to subsections (a) and (b) is the  
5 result of gross negligence or wilful or wanton acts or omissions  
6 shall be liable for damages suffered by the minor resulting from  
7 the gross negligence or wilful or wanton acts or omissions.

8 (f) If a minor consents to receive emergency shelter and  
9 related services, the parent, legal guardian, or custodian of  
10 the minor shall not be liable for the legal obligations  
11 resulting from the emergency shelter and related services  
12 provided by a provider. Notwithstanding any other law to the  
13 contrary, a parent, legal guardian, or custodian whose consent  
14 has not been obtained or who has no prior knowledge that a minor  
15 has consented to the provision of emergency shelter and related  
16 services shall not be liable for the costs incurred by virtue of  
17 the minor's consent.

18 (g) The provider who renders emergency shelter and related  
19 services to a minor shall log efforts made to contact the  
20 minor's parent, legal guardian, or custodian.

21 (h) No provider shall be held liable for serving a minor  
22 without parental or guardian consent if the provider can



1 demonstrate that it has made a good faith effort to contact the  
2 minor's parent, guardian, or custodian to obtain consent.

3 (i) The provider shall report to the department any  
4 findings that the minor is subject to imminent harm, has been  
5 harmed, or is subject to threatened harm.

6 (j) For purposes of this section:

7 "Minor" means a person less than eighteen years of age.

8 "Provider" means any child placing organization, child  
9 caring institution, or foster boarding home authorized by the  
10 department under section 346-17 to receive or place minor  
11 children for care and maintenance and to provide related  
12 services, health care, or supplies to these minors."

13 SECTION 2. New statutory material is underscored.

14 SECTION 3. This Act shall take effect upon its approval.

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**Report Title:**

Minors; Emergency Shelter; Consent

**Description:**

Allows a minor to give informed consent for emergency shelter and related services.

