

JAN 28 2009

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## A BILL FOR AN ACT

RELATING TO PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.

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

1           SECTION 1. Chapter 587, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IX to be appropriately  
3 designated and to read as follows:

4           "§587- Reporting of prenatal exposure to controlled  
5 substances or alcohol. (a) Notwithstanding any state law to  
6 the contrary concerning confidentiality, the following persons  
7 shall immediately report orally to the department about possible  
8 drug or alcohol abuse by a pregnant woman if the person knows or  
9 has reason to believe that the woman is pregnant and has used a  
10 controlled substance, as defined in section 329-1, for a non-  
11 medical purpose during the pregnancy, including, but not limited  
12 to, tetrahydrocannabinol (including marijuana and hashish), or  
13 has consumed alcoholic beverages during the pregnancy in any way  
14 that is habitual or excessive:

15           (1) Any licensed or registered professional of the healing  
16 arts or any health-related occupation who examines,  
17 attends, treats, or provides other professional or



1 specialized services, including but not limited to  
2 physicians, including physicians in training,  
3 psychologists, dentists, nurses, osteopathic  
4 physicians and surgeons, optometrists, chiropractors,  
5 podiatrists, pharmacists, and other health-related  
6 professionals; and

7 (2) Employees or officers of any law enforcement agency,  
8 including but not limited to the courts, police  
9 departments, department of public safety, correctional  
10 institutions, and parole or probation offices;

11 (b) An oral report required to be made by a person  
12 enumerated under subsection (a) shall be followed as soon as  
13 possible by a report in writing to the department. The written  
14 report shall be of sufficient content to identify the pregnant  
15 woman, the nature and extent of the use, if known, and the name  
16 and address of the reporter.

17 No written report shall be required of any other person  
18 making a voluntary oral report if the oral report is  
19 sufficiently specific to identify the name and address of the  
20 pregnant woman and the name and address of the person making the  
21 voluntary oral report, their relationship if any, and a brief  
22 description of the reasons for the belief that the pregnant



1 woman is using a controlled substance for a non-medical purpose  
2 during the pregnancy, or is consuming alcohol in any way that is  
3 habitual or excessive during the pregnancy. A person making a  
4 voluntary oral report shall be immune from civil or criminal  
5 liability for making the report if the person is acting in good  
6 faith without regard to the veracity of the oral report.

7 (c) Upon receipt of a report under this section, the  
8 department shall immediately conduct an appropriate assessment  
9 and offer services indicated under the circumstances. Services  
10 offered shall include, but are not limited to, a referral for  
11 chemical dependency assessment, a referral for chemical  
12 dependency treatment if recommended, and a referral for prenatal  
13 care. The department may also take any appropriate action for  
14 an involuntary emergency admission to a hospital if the pregnant  
15 woman refuses recommended voluntary services or fails  
16 recommended treatment. The costs of providing the services  
17 under this subsection shall be borne primarily by the pregnant  
18 woman; provided that the department shall make appropriate  
19 funding available under applicable public assistance programs if  
20 necessary.

21 (d) As used in this section:





**Report Title:**

Prenatal Drug Abuse; Reporting; Services

**Description:**

Requires specified persons to report possible non-medical drug or alcohol abuse by a pregnant woman to the department of human services. Allows voluntary reporting by anyone else. Requires department of human services to make an assessment and offer services to the pregnant woman.

