

JAN 21 2011

S.B. NO. 921

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:

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



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

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

7 (c) The minority status of the minor and any contrary
8 provisions of law notwithstanding:

9 (1) Any consent given by the minor under this section
10 shall be valid and binding; and

11 (2) The minor shall be deemed to have the same legal
12 capacity to act, and the same legal obligations with
13 regard to the giving of an informed consent;

14 as though the minor has reached the age of majority and is of
15 mental capacity sufficient to execute a consent.

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

19 (e) Any provider who renders emergency shelter and related
20 services to a minor under this section, after determining in
21 good faith that the minor has met the requirements for giving an
22 informed and valid consent pursuant to subsections (a), (b), and



1 (c), shall be immune from any civil or criminal liability based
2 on the provider's determination; provided that a provider whose
3 determination pursuant to subsections (a), (b), and (c) is the
4 result of the provider's gross negligence or wilful or wanton
5 acts or omissions shall be liable for damages suffered by the
6 minor resulting from the provider's gross negligence or wilful
7 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) No provider shall be held liable for serving a minor
19 without parental, guardian, or custodial consent if the provider
20 can demonstrate that it has made a good faith effort to contact
21 the minor's parent, guardian, or custodian to obtain consent.



1 The provider who renders emergency shelter and related services
2 to a minor shall document in writing the efforts made to contact
3 the minor's parent, legal guardian, or custodian.

4 (h) The provider shall report to the department any
5 findings that the minor is subject to imminent harm, has been
6 harmed, or is subject to threatened harm. If applicable, the
7 provider shall also make a report to the department or the
8 police department of child abuse or neglect under section
9 350-1.1.

10 (i) For purposes of this section:


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

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

17 SECTION 2. New statutory material is underscored.

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

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2011-0185 SB SMA.doc

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Report Title:

Minors; Emergency Shelter; Consent; Keiki Caucus

Description:

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

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