
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 for no
7 longer than thirty days, to a minor who consents to the
8 emergency shelter and related services if the provider
9 reasonably believes that:

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

13 (2) The minor understands the requirements of the shelter
14 program and agrees to adhere to the shelter's rules
15 and cooperate and participate in services recommended
16 by the shelter; and



1 (3) The emergency shelter and related services have been
2 determined by the shelter to be necessary to ensure
3 the minor's safety and well-being.

4 (b) A minor may consent to emergency shelter and related
5 services if a provider has offered the temporary safe shelter
6 and related services without charge and the minor understands
7 the benefits, responsibilities, risks, and limits of the
8 temporary safe shelter and related services; provided that:

9 (1) The provider has not, despite reasonable efforts, been
10 able to identify and contact the minor's parent, legal
11 guardian, or legal custodian;

12 (2) The provider has made contact with the minor's parent,
13 legal guardian, or legal custodian, and the minor's
14 parent, legal guardian, or legal custodian has refused
15 to give consent for emergency shelter and related
16 services, and based on the information available to
17 the provider, the provider reasonably believes that
18 the minor would be harmed, or would be subject to
19 threatened harm, if the minor returned immediately to
20 the home of the parent, legal guardian, or legal
21 custodian; or



- 1 (3) The minor has refused to provide contact information
2 for the minor's parent, legal guardian, or legal
3 custodian, and the provider, based on the information
4 available at the time the minor gave consent
5 reasonably believes that the minor would incur harm,
6 or would be subject to threatened harm, if the minor
7 returned immediately to the home of the parent, legal
8 guardian, or legal custodian; and
- 9 (4) The provider has conducted an assessment and to the
10 extent possible has determined that the minor does not
11 pose a risk to self or other residents of the shelter.
12 If the shelter determines that admitting the minor is
13 unsafe, the shelter shall immediately report the
14 matter to an appropriate agency, subject to the
15 provider's assessment.
- 16 (c) The minority status of the minor and any contrary
17 provisions of law notwithstanding:
- 18 (1) Any consent given by the minor under this section
19 shall be valid and binding for the duration of the
20 minor's stay in the shelter; and
- 21 (2) The minor shall be deemed to have the same legal
22 capacity to act, and the same legal obligations with



1 regard to the giving of an informed consent, as though
2 the minor has reached the age of majority and is of
3 mental capacity sufficient to execute a consent.

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

7 (e) Any provider who renders emergency shelter and related
8 services to a minor under this section, after determining in
9 good faith that admitting the minor to the shelter does not pose
10 an unacceptable or uncontrollable safety concern to the other
11 residents of the shelter and has met the requirements for giving
12 an informed and valid consent pursuant to subsections (a), (b),
13 and (c), shall be immune from any civil or criminal liability
14 based on the provider's determination; provided that a provider
15 whose determination pursuant to subsections (a), (b), and (c) is
16 the result of the provider's gross negligence or wilful or
17 wanton acts or omissions shall be liable for damages suffered by
18 the minor resulting from the provider's gross negligence or
19 wilful or wanton acts or omissions.

20 (f) If a minor consents to receive emergency shelter and
21 related services, the parent, legal guardian, or legal custodian
22 of the minor shall not be liable for the legal obligations



1 resulting from the emergency shelter and related services
2 provided by a provider. Notwithstanding any other law to the
3 contrary, a parent, legal guardian, or legal custodian whose
4 consent has not been obtained or who has no prior knowledge that
5 a minor has consented to the provision of emergency shelter and
6 related services shall not be liable for the costs incurred by
7 virtue of the minor's consent.

8 (g) No provider shall be held liable for providing
9 emergency shelter and related services to a minor without
10 parental, legal guardian, or legal custodial consent if the
11 provider can demonstrate that it has made a reasonable effort to
12 contact the minor's parent, legal guardian, or legal custodian
13 to obtain consent, but was unable to contact the minor's parent,
14 legal guardian, or legal custodian, as provided in subsection
15 (b) (1); was able to contact the minor's parent, legal guardian,
16 or legal custodian but was unable to obtain the contacted
17 person's consent, as provided in subsection (b) (2); or was
18 unable to obtain contact information for the minor's parent,
19 legal guardian, or legal custodian, as provided in subsection
20 (b) (3). The provider who renders emergency shelter and related
21 services to a minor shall document in writing the efforts made



1 to contact the minor's parent, legal guardian, or legal
2 custodian.

3 (h) The provider shall report any suspected child abuse or
4 neglect to the department or the police department in accordance
5 with section 350-1.1.

6 (i) For purposes of this section:

7 "Emergency shelter and related services" includes
8 short-term residential care on an emergency basis that includes
9 voluntary housing, with private shower facilities, beds, and
10 meals; assistance with reunification with family or a legal
11 guardian when required or appropriate; referral to safe housing;
12 individual, family, and group counseling; assistance in
13 obtaining clothing; access to medical and dental care and mental
14 health counseling; education and employment services;
15 recreational activities; case management, advocacy, and referral
16 services; independent living skills training; and aftercare
17 services and transportation.

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

19 "Provider" means any child placing organization, or child
20 caring institution authorized by the department under section
21 346-17 to receive or place minor children for care and



1 maintenance and to provide related services, health care, or
2 supplies to these minors."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Minors; Emergency Shelter; Consent

Description:

Allows a child services provider authorized by the Department of Human Services to provide emergency shelter and related services to a minor under certain circumstances. Effective July 1, 2050. (SB921 HD1)

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