

NEIL ABERCROMBIE
GOVERNOR



PATRICIA McMANAMAN
DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

March 14, 2011

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **SB 921, S.D.2 - RELATING TO MINORS**

Hearing: Monday, March 14, 2011; 9:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of S.B. 921, S.D.2 is to allow a provider to provide emergency shelter and related services to a minor under certain circumstances.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill but suggests revisions to address cost and programmatic implications generated by this bill in its current form.

Attached is a copy of the bill incorporating our suggested revisions. In summary, DHS is suggesting a time limit for shelter, language to ensure the minor understands and agrees to the providers rules, a requirement that the admission has been determined by the shelter to be necessary to ensure the minor's safety and well-being and a requirement that the shelter conduct an assessment to ensure the minor does not pose a risk to themselves or others. We have also recommended other revisions that we believe will clarify the bill and assist with implementation of the bill's intent.

The suggested revisions were shared with the Hawaii Youth Services Network and the Office of Youth Services who are in agreement with the suggested changes.

Thank you for the opportunity to testify.

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Suggested amendments to S.B. 921, S.D. 2

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

"§346- Consent to emergency shelter and related services. (a) A provider may provide emergency shelter and related services, including transportation services for no longer than 30 days, to a minor who consents to the emergency shelter and related services if the provider reasonably believes that:

- (1) The minor understands the significant benefits and limits of the emergency shelter and related services and can communicate an informed consent; and
- (2) The minor understands the requirements of the shelter program and agrees to adhere to the shelter's rules and cooperate and participate in services recommended by the shelter; and
- (2) The emergency shelter and related services [~~are for the minor's benefit.~~] have been determined by the shelter to be necessary to ensure the minor's safety and well-being.

(b) A minor may consent to emergency shelter and related services if a provider has offered the temporary

safe shelter and related services without charge and the minor understands the benefits, responsibilities, risks, and limits of the temporary safe shelter and related services; provided that:

- (1) The provider has [~~made a good faith effort to contact the minor's parent, legal guardian, or custodian] to obtain consent for the emergency shelter and related services [, but has been unable to do so] not, despite reasonable efforts, been able to identify and contact the minor's parent, legal guardian, or legal custodian;~~
- (2) The provider has made contact with the minor's parent, legal guardian, or legal custodian, [but] and the minor's parent, legal guardian, or legal custodian [refuses] has refused to give consent for emergency shelter and related services, and based on the information available to the provider, the provider reasonably believes that the minor would be harmed, or would be subject to threatened harm, if the minor returned immediately to the home of the parent, legal guardian or legal custodian; or
- (3) The minor has refused to provide contact information for the minor's parent, legal

guardian, or legal custodian and the provider,
based on the information available at the time
the minor gave consent reasonably believes that
the minor would incur harm, or would be subject
to threatened harm, if the minor returned
immediately to the home of the parent, legal
guardian or legal custodian; provided that:

- (4) The provider has conducted an assessment and to
the extent possible has determined that the minor
does not pose a risk to themselves or other
residents of the shelter. If the shelter
determines that admitting the minor is unsafe,
the shelter shall immediately report the matter
to an appropriate agency, subject to the
provider's assessment.

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

- (1) Any consent given by the minor under this section shall be valid and binding for the duration of
the minor's stay in the shelter; and
- (2) The minor shall be deemed to have the same legal capacity to act, and the same legal obligations with regard to the giving of an informed consent,

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

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

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

(f) If a minor consents to receive emergency shelter and related services, the parent, legal guardian, or legal custodian of the minor shall not be liable for the legal obligations resulting from the emergency shelter and related services provided by a provider. Notwithstanding

any other law to the contrary, a parent, legal guardian, or legal custodian whose consent has not been obtained or who has no prior knowledge that a minor has consented to the provision of emergency shelter and related services shall not be liable for the costs incurred by virtue of the minor's consent.

(g) No provider shall be held liable [~~servicing~~] for providing emergency shelter and related services to a minor without parental, legal guardian, or legal custodial consent if the provider can demonstrate that it has made a good faith effort to contact the minor's parent, legal guardian, or legal custodian to obtain consent, but was unable to contact the minor's parent, legal guardian, or legal custodian, as provided in subsection (b)(1); was able to contact the minor's parent, legal guardian, or legal custodian but was unable to obtain the contacted person's consent, as provided in subsection (b)(2); or was unable to obtain contact information for the minor's parent, legal guardian, or legal custodian, as provided in subsection (b)(3). The provider who renders emergency shelter and related services to a minor shall document in writing the efforts made to contact the minor's parent, legal guardian, or legal custodian.

(h) The provider shall report ~~[to the department any findings that the minor is subject to imminent harm, has been harmed, or is subject to threatened harm. If applicable, the provider shall also make a report]~~ any suspected child abuse or neglect to the department or the police department ~~[of child abuse or neglect under]~~ in accordance with section 350-1.1.

(i) For purposes of this section:

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

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

"Provider" means any child placing organization, or child caring institution~~[, or foster boarding home]~~

authorized by the department under section 346-17 to receive or place minor children for care and maintenance and to provide related services, health care, or supplies to these minors."

SECTION 2. New statutory material is underscored.

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



March 13, 2011

Representative John Mizuno
House of Representatives Human Services Committee
Hawaii State Legislature
415 South Beretania Street Honolulu HI, 96813

Re: Support for Senate Bill 921, Minor Consent for Emergency Shelter and Related Services

Dear Mr. Chair & Members of the Committee,

Thank you for the opportunity to present testimony in support of Bill 921. My name is Alex J. Logan and I am the Director of Philanthropic Development for Kids Hurt Too and the Associate Director for the Hawaii Foster Youth Coalition.

Young people hold the future of our social and global progress in their hands and therefore need the utmost support and protection from those of us responsible for their upbringing. We can all agree that a young person's development is fostered through providing them with consistency, love and security; additionally all youth have the ability to make decisions on their own and feel empowered when authority figures grant them the ability to do so.

The adoption of this bill into law would significantly support this positive youth development model by allowing young people to have the ability and right to gain safe haven upon their choice. Giving a young person the resource to seek safety from refuge without the need for authorities to become immediately involved would benefit child welfare and protection throughout the state by increasing the efficiency of operations for the Department of Human Services. Empowering young people to make the decision on their own would also support their feeling of independence that proves to be more and more important and we further our knowledge of youth development and engagement. This bill requires no financial expenditure from the state's budget and during a time of financial vigilance for our state a bill such as this one proves systematically effective and financially appropriate. Most importantly this bill guarantees safety for all youth within our state enabling any displaced youth a roof over their head and a warm meal at the end of every day based upon the available occupancy of the service provider's emergency shelter.

I strongly support this bill for the benefit our Hawaii's youth and the efficiency of our child welfare system.

Alex J. Logan
Associate Director & Director of Philanthropic Development
Cell: (808) 430-5551