

JAN 20 2012

A BILL FOR AN ACT

RELATING TO MANDATORY REPORTING REQUIREMENTS.

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

1 SECTION 1. Section 350-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "child abuse or neglect"
3 to read as follows:

4 "Child abuse or neglect" means the acts or omissions of
5 any person [~~who,~~] or legal entity [~~which, is in any manner or~~
6 ~~degree related to the child, is residing with the child, or is~~
7 ~~otherwise responsible for the child's care,~~] that have resulted
8 in the physical or psychological health or welfare of the child,
9 who is under the age of eighteen, to be harmed, or to be subject
10 to any reasonably foreseeable, substantial risk of being harmed.
11 The acts or omissions are indicated for the purposes of reports
12 by circumstances that include but are not limited to:

- 13 (1) When the child exhibits evidence of:
- 14 (A) Substantial or multiple skin bruising or any
 - 15 other internal bleeding;
 - 16 (B) Any injury to skin causing substantial bleeding;
 - 17 (C) Malnutrition;
 - 18 (D) Failure to thrive;



- 1 (E) Burn or burns;
 - 2 (F) Poisoning;
 - 3 (G) Fracture of any bone;
 - 4 (H) Subdural hematoma;
 - 5 (I) Soft tissue swelling;
 - 6 (J) Extreme pain;
 - 7 (K) Extreme mental distress;
 - 8 (L) Gross degradation;
 - 9 (M) Death; and
- 10 such injury is not justifiably explained, or when the
- 11 history given concerning such condition or death is at
- 12 variance with the degree or type of such condition or
- 13 death, or circumstances indicate that such condition
- 14 or death may not be the product of an accidental
- 15 occurrence; or
- 16 (2) When the child has been the victim of sexual contact
- 17 or conduct, including, but not limited to, sexual
- 18 assault as defined in the Penal Code, molestation,
- 19 sexual fondling, incest, or prostitution; obscene or
- 20 pornographic photographing, filming, or depiction; or
- 21 other similar forms of sexual exploitation; or



- 1 (3) When there exists injury to the psychological capacity
2 of a child as is evidenced by an observable and
3 substantial impairment in the child's ability to
4 function; or
- 5 (4) When the child is not provided in a timely manner with
6 adequate food, clothing, shelter, psychological care,
7 physical care, medical care, or supervision; or
- 8 (5) When the child is provided with dangerous, harmful, or
9 detrimental drugs as defined by section 712-1240;
10 provided that this paragraph shall not apply when such
11 drugs are provided to the child pursuant to the
12 direction or prescription of a practitioner, as
13 defined in section 712-1240."

14 SECTION 2. Section 350-1.1, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Notwithstanding any other state law concerning
17 confidentiality to the contrary, the following persons who, in
18 their professional or official capacity, have [~~reason to~~
19 believe] a reasonable suspicion that child abuse or neglect has
20 occurred or that there exists a substantial risk that child
21 abuse or neglect may occur in the reasonably foreseeable future,



1 shall immediately report the matter orally to the department or
2 to the police department:

3 (1) Any licensed or registered professional of the healing
4 arts or any health-related occupation who examines,
5 attends, treats, or provides other professional or
6 specialized services, including but not limited to
7 physicians, including physicians in training,
8 psychologists, dentists, nurses, osteopathic
9 physicians and surgeons, optometrists, chiropractors,
10 podiatrists, pharmacists, and other health-related
11 professionals;

12 (2) Employees or officers of any public or private school;

13 (3) Employees or officers of any public or private agency
14 or institution, or other individuals, providing
15 social, medical, hospital, or mental health services,
16 including financial assistance;

17 (4) Employees or officers of any law enforcement agency,
18 including but not limited to the courts, police
19 departments, department of public safety, correctional
20 institutions, and parole or probation offices;



- 1 (5) Individual providers of child care, or employees or
- 2 officers of any licensed or registered child care
- 3 facility, foster home, or similar institution;
- 4 (6) Medical examiners or coroners; and
- 5 (7) Employees of any public or private agency providing
- 6 recreational or sports activities."

7 SECTION 3. Section 453-14, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§453-14 Duty of physician, osteopathic physician,**
10 **surgeon, hospital, clinic, etc., to report wounds.** (a) Every
11 physician, osteopathic physician, physician assistant, and
12 surgeon attending or treating a case of knife wound, bullet
13 wound, gunshot wound, powder burn, or any injury that would
14 seriously maim, produce death, or has rendered the injured
15 person unconscious, or any other injury reasonably believed to
16 have been caused by the use of violence or sustained in a
17 suspicious or unusual manner, including injuries suffered by a
18 victim of labor trafficking, injuries resulting from
19 prostitution, or in motor vehicle collisions resulting in
20 serious injury or death, or, whenever the case is treated in a
21 hospital, clinic, or other institution, the manager,
22 superintendent, or person in charge thereof, shall report the



1 case or provide requested information to the chief of police of
2 the county within which the person was attended or treated,
3 giving the name of the injured person, description of the
4 nature, type, and extent of the injury, together with other
5 pertinent information that may be of use to the chief of police.

6 As used herein[, ~~the term "chief of police"~~]:

7 "Chief of police" means the chief of police of each county
8 and any of the chief's authorized subordinates.

9 "Prostitution" has the same meaning as provided in section
10 712-1200.

11 "Victim" has the same meaning as provided in section
12 707-780.

13 (b) This section shall not apply to wounds, burns, or
14 injuries received by a member of the armed forces of the United
15 States or of the State while engaged in the actual performance
16 of duty.

17 (c) A person who makes a report called for under this
18 section shall be subject to the physician-patient privilege
19 under section 626-1, rule 504, with regard to confidential
20 communications made by the patient for the purpose of diagnosis
21 or treatment of that patient, but shall not apply to testimony
22 about the physician's observations of the patient.



1 [~~e~~] (d) Any person who fails to make the report called
 2 for herein within twenty-four hours after the attendance or
 3 treatment shall be fined not less than \$50 nor more than \$500."

4 SECTION 4. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Child Abuse or Neglect; Mandatory Reporting; Duty to Report

Description:

Amends the definition of child abuse or neglect to include acts or omissions of any person or legal entity. Requires mandatory reporting when there is reasonable suspicion of child abuse or neglect. Expands medical personnel's duty to report wounds to include injuries suffered by a victim of labor trafficking or injuries that result from prostitution. Subjects a person who reports wounds to physician-patient privilege regarding patient communications for the diagnosis or treatment of the patient but not regarding physician's observations of patient.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

