

JAN 22 2016

A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 SECTION 1. The purpose of this Act is to repeal section
2 586-10.5, Hawaii Revised Statutes, which requires the family
3 courts to report to the department of human services in each
4 case where a temporary restraining order is sought for the
5 alleged abuse of a family or household member who is a minor or
6 incapacitated person. This section also, among other things,
7 requires the department to investigate each allegation of
8 domestic violence and submit a written report to the family
9 courts in advance of the hearing on the temporary restraining
10 order.

11 The legislature finds that section 350-1.1(a)(4) and (b),
12 Hawaii Revised Statutes, already requires employees or officers
13 of any law enforcement agency, including the courts, to
14 immediately report to the department of human services all cases
15 where they have reason to believe that child abuse or neglect
16 has occurred or that there exists a substantial risk that child
17 abuse or neglect may occur in the reasonably foreseeable future.



1 The legislature further finds that section 346-224(a)(3),
2 Hawaii Revised Statutes, requires employees or officers of any
3 law enforcement agency, including the courts, to promptly report
4 to the department of human services all cases where they have
5 reason to believe that a vulnerable adult has incurred abuse or
6 is in danger of abuse if immediate action is not taken.

7 Best practices suggest that families experiencing domestic
8 violence should have access to protective orders and other
9 domestic services without fear that they will automatically be
10 referred for investigation by child welfare or adult protective
11 services.

12 Allowing the courts to exercise discretion as provided by
13 section 350-1.1(a)(4) and (b) and section 346-224(a)(3), Hawaii
14 Revised Statutes, permits the courts to direct families to
15 appropriate services to meet their individual needs, does not
16 discourage parents or family members from seeking a protective
17 order, and does not unnecessarily overburden an already
18 overworked child welfare or adult protective services system.

19 The legislature finds that the reporting requirements as
20 set forth by section 586-10.5, Hawaii Revised Statutes, are
21 unnecessary in all cases where there are allegations of domestic



1 abuse involving a family or household member who is a minor or
2 incapacitated person.

3 SECTION 2. Section 586-10.5, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§586-10.5 Reports by the department of human services,~~
6 ~~court responsibilities. In cases where there are allegations of~~
7 ~~domestic abuse involving a family or household member who is a~~
8 ~~minor or an incapacitated person as defined in section 560:5-~~
9 ~~102, the employee or appropriate nonjudicial agency designated~~
10 ~~by the family court to assist the petitioner shall report the~~
11 ~~matter to the department of human services, as required under~~
12 ~~chapters 350 and 587A, and shall further notify the department~~
13 ~~of the granting of the temporary restraining order and of the~~
14 ~~hearing date. The department of human services shall provide~~
15 ~~the family court with a written report on the disposition of the~~
16 ~~referral. The court shall file the report and mail it to the~~
17 ~~petitioner and respondent at least two working days before the~~
18 ~~hearing date, if possible. If circumstances prevent the mailing~~
19 ~~of the report as required in this section, the court shall~~
20 ~~provide copies of the report to the petitioner and respondent at~~



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1 ~~the hearing. The report shall be noted in the order dismissing~~
2 ~~the petition or granting the restraining order."]~~

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Paul J. Bell
Michelle Kudrinski

Michelle
Lorraine R. Anonaga

Julia

Will Eyo
Donna Drevick

Jin



S.B. NO. 2311

Report Title:

Domestic Abuse; Department of Human Services; Family Court;
Report

Description:

Removes certain unnecessary and redundant reporting responsibilities of the family courts and the department of human services in cases where temporary restraining orders are sought for alleged domestic abuse involving a family or household member who is a minor or incapacitated person.

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