

# SB 2873

**Measure Title:** RELATING TO ORDERS FOR IMMEDIATE PROTECTION.

**Report Title:** Orders For Immediate Protection

**Description:** Amends section 346-231, Hawaii Revised Statutes, to address inconsistencies in statutory requirements regarding orders for immediate protection; and allows the Department of Human Services discretion when to seek an order for immediate protection of vulnerable adults.

**Companion:** [HB2344](#)

**Package:** Governor

**Current Referral:** HMS, JDL

**Introducer(s):** KOUCHI (Introduced by request of another party)

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January 30, 2016

TO: The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services

FROM: Rachael Wong, DrPH, Director

SUBJECT: **SB 2873 – RELATING TO ORDERS FOR IMMEDIATE PROTECTION**

Hearing: Tuesday, February 02, 2016, 1:15 p.m.  
Conference Room 016, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) strongly supports this measure.

**PURPOSE:** The purpose of the measure is to address the inconsistency between section 346-231, Hawaii Revised Statutes (HRS), regarding orders for immediate protection and section 346-228, HRS; and to allow DHS discretion as to when to seek an order for immediate protection.

The DHS mission is to promote the health and safety of vulnerable adults and to ensure that the vulnerable adult's right to self-determination is preserved. To promote effective and efficient use of government resources and capacity, DHS seeks a single-word change to section 346-231(a), HRS, pertaining to orders for immediate protection. The current statute requires DHS to petition the Family Court for the authority to provide necessary services when a vulnerable adult appears to have been abused or is in danger of abuse if immediate action is not taken. However, under section 346-228, HRS, DHS also has the authority to exercise other remedial options when a

vulnerable adult appears to have been abused or is in danger of abuse if immediate action is not taken; thus the inconsistency between sections 346-231 and 346-228, HRS.

The word "shall" in section 346-231(a), HRS, requires DHS to seek an order for immediate protection for all investigated cases in which DHS believes an adult has suffered or may suffer abuse. The change of the word "shall" to "may" in section 346-231(a), HRS, will allow DHS to use the other remedial options indicated in section 346-228, HRS, which do not require court intervention.

In FY 2015, DHS investigated 980 vulnerable adult abuse cases statewide. Of the 980 cases, orders for immediate protection were sought in approximately 25 cases. In those cases, court intervention was necessary because the vulnerable adult lacked the capacity to consent to the provision of services and immediate action was necessary to ensure the health and safety of the vulnerable adult. In the remaining 955 cases, the vulnerable adult or the adult's legal representative was able to give consent for the provision of services, therefore court intervention was not necessary.

If the word "shall" is not changed to "may" in section 346-231(a), DHS will be required to seek orders for immediate protection from the Family Court for every investigated vulnerable adult abuse case, even where court intervention is unnecessary. It would also conflict with the authority of DHS to perform a function already authorized by statute. Additionally, if the change is not made, and DHS is required to seek court intervention for every case, additional resources at the Department of the Attorney General and the Family Courts will be impacted to accommodate the nearly 1,000 petitions for orders for immediate protection DHS will have to file if current trends continue.

Thank you for the opportunity to provide testimony on this bill.