
A BILL FOR AN ACT

RELATING TO REPORTS OF CHILD ABUSE.

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

1 SECTION 1. The legislature finds that the mandatory
2 reporting of child abuse by certain reporters should be expanded
3 to include reports on known or suspected child victims of sex
4 trafficking to bring the State in compliance with the Justice
5 for Victims of Trafficking Act of 2015, Public Law 114-22. The
6 legislature also finds that to comply with the Child Abuse
7 Prevention and Treatment Act of 2010, Public Law 111-320, it is
8 necessary to ensure that reports of child abuse and neglect,
9 which are expunged from the State's central registry of reported
10 child abuse and neglect cases, may be retained by the department
11 of human services for future risk and safety assessment
12 purposes.

13 The purpose of this Act is to:

14 (1) Amend the definition of "child abuse or neglect" to
15 ensure that mandated reporters of child abuse and
16 neglect report to the department of human services
17 known or suspected child victims of sex trafficking;



1 (2) Ensure that child abuse and neglect reports that are
2 expunged may be retained by the department of human
3 services for future risk and safety assessment
4 purposes; and

5 (3) Replace references to unsubstantiated reports with not
6 confirmed reports.

7 SECTION 2. Section 350-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding three new definitions to be appropriately
10 inserted and to read:

11 "Child" means a person who is born alive and is less than
12 eighteen years of age.

13 "Severe forms of trafficking in persons" means sex
14 trafficking in which a commercial sex act is induced by force,
15 fraud, or coercion, or in which the person induced to perform
16 such act has not attained eighteen years of age.

17 "Sex trafficking" means the recruitment, harboring,
18 transportation, provision, obtaining, patronizing, or soliciting
19 of a person for the purpose of a commercial sex act."

20 2. By amending the definition of "child abuse or neglect"
21 to read:



1 ""Child abuse or neglect" means ~~[the]~~ :

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

13 ~~[(1)]~~ (A) When the child exhibits evidence of:

14 ~~[(A)]~~ (i) Substantial or multiple skin bruising or any
15 other internal bleeding;

16 ~~[(B)]~~ (ii) Any injury to skin causing substantial
17 bleeding;

18 ~~[(C)]~~ (iii) Malnutrition;

19 ~~[(D)]~~ (iv) Failure to thrive;

20 ~~[(E)]~~ (v) Burn or burns;

21 ~~[(F)]~~ (vi) Poisoning;



1 ~~[(G)]~~ (vii) Fracture of any bone;

2 ~~[(H)]~~ (viii) Subdural hematoma;

3 ~~[(I)]~~ (ix) Soft tissue swelling;

4 ~~[(J)]~~ (x) Extreme pain;

5 ~~[(K)]~~ (xi) Extreme mental distress;

6 ~~[(L)]~~ (xii) Gross degradation; or

7 ~~[(M)]~~ (xiii) Death; and

8 such injury is not justifiably explained, or when

9 the history given concerning such condition or

10 death is at variance with the degree or type of

11 such condition or death, or circumstances

12 indicate that such condition or death may not be

13 the product of an accidental occurrence;

14 ~~[(2)]~~ (B) When the child has been the victim of sexual

15 contact or conduct, including~~[_]~~ but not limited

16 to~~[_]~~ sexual assault as defined in the Penal

17 Code, molestation, sexual fondling, incest, or

18 prostitution; obscene or pornographic

19 photographing, filming, or depiction; or other

20 similar forms of sexual exploitation, including

1 but not limited to acts that constitute an
2 offense pursuant to section 712-1202(1)(b);
3 ~~[(3)]~~ (C) When there exists injury to the psychological
4 capacity of a child as is evidenced by an
5 observable and substantial impairment in the
6 child's ability to function;
7 ~~[(4)]~~ (D) When the child is not provided in a timely manner
8 with adequate food, clothing, shelter,
9 psychological care, physical care, medical care,
10 or supervision;
11 ~~[(5)]~~ (E) When the child is provided with dangerous,
12 harmful, or detrimental drugs as defined by
13 section 712-1240; provided that this paragraph
14 shall not apply when such drugs are provided to
15 the child pursuant to the direction or
16 prescription of a practitioner, as defined in
17 section 712-1240; or
18 ~~[(6)]~~ (F) When the child has been the victim of labor
19 trafficking under chapter 707[-]; or



1 (2) The acts or omissions of any person that have resulted
2 in a child who is subjected to sex trafficking or
3 severe forms of trafficking in persons."

4 SECTION 3. Section 350-2, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) The department shall maintain a central registry of
7 reported child abuse or neglect cases and shall promptly expunge
8 the reports in cases if:

9 (1) The [~~department has found the reports to be~~
10 ~~unsubstantiated,~~] report is determined not confirmed
11 by the department, an administrative hearing officer,
12 or a Hawaii state court on appeal; or

13 (2) The petition arising from the report has been
14 dismissed by order of the family court after an
15 adjudicatory hearing on the merits pursuant to chapter
16 587A.

17 [~~For purposes of expungement under paragraph (1), a report~~
18 ~~is unsubstantiated only when the department has found the~~
19 ~~allegations to be frivolous or to have been made in bad faith.~~



1 ~~However, the department may retain records and information~~
2 ~~of alleged child abuse and neglect with respect to the child who~~
3 ~~is the subject of the alleged abuse.]~~

4 A report that is expunged may be retained by the department
5 for future risk and safety assessment purposes.

6 The department shall adopt rules as may be necessary in
7 carrying out this section."

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

10 SECTION 5. This Act shall take effect on May 29, 2017.

11



Report Title:

Child Abuse; Reports

Description:

Brings the State into compliance with the federal Justice for Victims of Trafficking Act of 2015 and the federal Child Abuse Prevention and Treatment Act of 2010. Amends the definition of "child abuse or neglect" to include sex trafficking. Clarifies that child abuse and neglect reports that are expunged from the State's central registry may be retained by the Department of Human Services for future risk and safety assessment purposes. Deletes the child abuse investigation disposition of "unsubstantiated" and replaces it with "not confirmed". Takes effect 5/29/2017. (SD1)

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