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# 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 records and information contained in child  
2 abuse and neglect reports that are expunged may be  
3 retained by the department of human services solely  
4 for future risk and safety assessment purposes; and

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

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

9 1. By adding two 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 "Sex trafficking" means the offense as defined in section  
14 712-1202(1)(b)."

15 2. By amending the definition of "child abuse or neglect"  
16 to read:

17 "Child abuse or neglect" means [the]:

18 (1) The acts or omissions of any person who, or legal  
19 entity which, is in any manner or degree related to  
20 the child, is residing with the child, or is otherwise  
21 responsible for the child's care, that have resulted



1 in the physical or psychological health or welfare of  
2 the child, who is under the age of eighteen, to be  
3 harmed, or to be subject to any reasonably  
4 foreseeable, substantial risk of being harmed. The  
5 acts or omissions are indicated for the purposes of  
6 reports by circumstances that include but are not  
7 limited to:

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

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

11 ~~[(B)]~~ (ii) Any injury to skin causing substantial  
12 bleeding;

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

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

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

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

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

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

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

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

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



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

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

3           such injury is not justifiably explained, or when  
4           the history given concerning such condition or  
5           death is at variance with the degree or type of  
6           such condition or death, or circumstances  
7           indicate that such condition or death may not be  
8           the product of an accidental occurrence;

9           ~~[(2)]~~ (B) When the child has been the victim of sexual  
10          contact or conduct, including~~[\_]~~ but not limited  
11          to~~[\_]~~ sexual assault as defined in the Penal  
12          Code, molestation, sexual fondling, incest, or  
13          prostitution; obscene or pornographic  
14          photographing, filming, or depiction; or other  
15          similar forms of sexual exploitation, including  
16          but not limited to acts that constitute an  
17          offense pursuant to section 712-1202(1)(b);

18          ~~[(3)]~~ (C) When there exists injury to the psychological  
19          capacity of a child as is evidenced by an  
20          observable and substantial impairment in the  
21          child's ability to function;



1        ~~[(4)]~~ (D)    When the child is not provided in a timely manner  
2                    with adequate food, clothing, shelter,  
3                    psychological care, physical care, medical care,  
4                    or supervision;

5        ~~[(5)]~~ (E)    When the child is provided with dangerous,  
6                    harmful, or detrimental drugs as defined by  
7                    section 712-1240; provided that this [paragraph]  
8                    subparagraph shall not apply when such drugs are  
9                    provided to the child pursuant to the direction  
10                   or prescription of a practitioner, as defined in  
11                   section 712-1240; or

12        ~~[(6)]~~ (F)    When the child has been the victim of labor  
13                    trafficking under chapter 707[-]; or

14        (2)    The acts or omissions of any person that have resulted  
15                    in sex trafficking."

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

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

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

5           (2) The petition arising from the report has been  
6           dismissed by order of the family court after an  
7           adjudicatory hearing on the merits pursuant to chapter  
8           587A.

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

12          ~~However, the department may retain records and information~~  
13          ~~of alleged child abuse and neglect with respect to the child who~~  
14          ~~is the subject of the alleged abuse.]~~

15          Records and information contained in a report that is  
16          expunged may be retained by the department solely for future  
17          risk and safety assessment purposes.

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

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



1 SECTION 5. This Act shall take effect on January 7, 2059.

2



**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 records and information contained in child abuse and neglect reports that are expunged from the State's central registry may be retained by the Department of Human Services solely for future risk and safety assessment purposes. Deletes the child abuse investigation disposition of "unsubstantiated" and replaces it with "not confirmed". Takes effect 1/7/2059.  
(SD2)

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