

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1           SECTION 1. The legislature finds that child abuse victims  
2 have as much a right to a speedy trial as does the defendant.  
3 The speedy trial clause of the sixth amendment to the United  
4 States Constitution provides in pertinent part as follows: "In  
5 all criminal prosecutions, the accused shall enjoy the right to  
6 a speedy and public trial . . . ." This is to protect the  
7 defendant from delay between the presentation of the indictment  
8 or similar charging instrument and the beginning of trial.

9           The website of the family courts in Hawaii states,  
10 "Established by statute in 1965, the Family Court's mission is  
11 to provide a fair, *speedy*, economical, and accessible forum for  
12 the resolution of matters involving families and children."

13 (Emphasis added) The legislature further finds that the term  
14 "speedy" in the statute is not limited to the right to a speedy  
15 trial for adult perpetrators of child abuse, but the term also  
16 confers a right to a speedy trial for child victims of abuse.



1       The legislature further finds that the failure to provide a  
2   speedy trial to child abuse victims further traumatizes the  
3   child, who may develop childhood memories of a haunting assault,  
4   particularly sexual assault. Undue delays in family court  
5   hearings may exacerbate traumatizing memories for the child,  
6   prolong the healing process, and cause permanent emotional  
7   damage. Additionally, over time and as a coping mechanism, a  
8   child may suppress details of the abuse, which are critical in  
9   the child's testimony.

10       The legislature further finds that an independent state law  
11   enforcement agency is needed to investigate certain child abuse  
12   cases. Locally, the murder of Peter "Peter Boy" Kema after  
13   enduring many years of physical abuse from his parents is a  
14   prime example of the failure of the child protective services.  
15   The case serves as one of Hawaii's most egregious child abuse  
16   cases. It was reported that Peter Boy and his siblings suffered  
17   years of extreme and prolonged child abuse and neglect.

18       The purpose of this Act is to:

- 19       (1) Establish in the department of the attorney general a  
20       child abuse investigation unit; and



(2) Require an expedited disposition of cases in all criminal proceedings involving abuse of minors.

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . CHILD ABUSE INVESTIGATION UNIT**

**§28- Child abuse investigation unit.** (a) There is established in the department of the attorney general a child abuse investigation unit. The unit shall employ such attorneys, investigators, and other personnel as necessary to promote the effective and efficient conduct of the unit's activities. Except for the attorneys, all other employees of the child abuse investigation unit shall be subject to chapter 76.

(b) The child abuse investigation unit shall investigate child abuse cases under chapter 587A upon referral from a court, law enforcement agency, county prosecutor, or state department.

(c) As used in this section, "child abuse" shall have the same meaning as "harm" under section 587A-4."

SECTION 3. Chapter 587A, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:



1        "§587A-      Authority of the attorney general to  
2 investigate.    The department of the attorney general may  
3 intervene to investigate the circumstances in any adjudication."

4        SECTION 4. Chapter 806, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7        "§806-      Expedited proceedings; continuances; trial.    (a)  
8 In all criminal proceedings involving an offense under section  
9 707-730, 707-731, 707-732, 707-733, or 707-733.6 perpetrated  
10 against a minor, or any other proceedings involving a minor  
11 victim or witness of any physical abuse, the court and the  
12 prosecution shall take appropriate action, including setting the  
13 case for priority in the court docket, to ensure a prompt trial  
14 in order to minimize the length of time a minor must endure the  
15 stress of the minor's involvement in the proceedings.

16        (b) In deciding whether to grant a continuance, the court  
17 shall take into consideration the age of the minor and the  
18 potential adverse impact the delay may have on the minor's well-  
19 being; provided that no more than three continuances shall be  
20 permissible by either party; provided further that a trial shall  
21 commence within twelve months of the charge or indictment.



1        (c) The court shall impose sanctions against an attorney  
2        for the defense who is unprepared to commence trial."

3        SECTION 5. This Act does not affect rights and duties that  
4        matured, penalties that were incurred, and proceedings that were  
5        begun before its effective date.

6        SECTION 6. New statutory material is underscored.

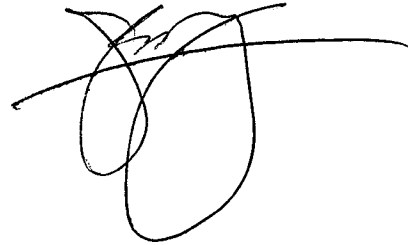
7        SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2443

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# S.B. NO. 2443

**Report Title:**

Child Abuse; Investigation Unit; Expedited Criminal Proceedings

**Description:**

Requires the court and the prosecution to take appropriate action to ensure a prompt trial in order to minimize the length of time a child victim or witness must endure the stress of the child's involvement in the proceedings. Establishes in the department of the attorney general a child abuse investigation unit. Allows the department of the attorney general to intervene in adjudications in family court.

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

