
A BILL FOR AN ACT

RELATING TO CHILD ABUSE REPORTING.

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

1 SECTION 1. The legislature finds that in 2017, the child
2 welfare services branch of the State's department of human
3 services received 3,702 reports of child abuse. More than half
4 of these reports were made by mandated reporters working in
5 fields such as medicine, law enforcement, and social services.
6 Unfortunately, despite the extent of reporting that does occur,
7 many other instances of child abuse go unreported.

8 The legislature further finds that Hawaii is one of only a
9 handful of states that do not include members of the clergy as
10 mandatory reporters of child abuse and neglect. Additionally,
11 the legislature finds that sexual exploitation of children often
12 occurs online, making it easier for some predators to avoid
13 detection and arrest. By requiring commercial computer
14 technicians and commercial film and photographic print or image
15 processors to report computer files containing child pornography
16 to law enforcement, the State can protect more children from
17 exploitation and abuse.



1 The purpose of this Act is to update Hawaii's child abuse
2 and neglect mandated reporting law by adding members of the
3 clergy, commercial computer technicians, commercial film and
4 photographic print or image processors, and administrators and
5 employees of any public or private organization whose duties
6 require direct contact with or supervision of children, to the
7 categories of persons who are required to report, consistent
8 with California's Child Abuse and Neglect Reporting Act.

9 SECTION 2. Section 350-1, Hawaii Revised Statutes, is
10 amended by adding a new definition to be appropriately inserted
11 and to read as follows:

12 "Electronic medium" means any recording, synthetic media,
13 magnetic disc memory, magnetic tape memory, compact disk,
14 digital video disk, thumb drive, or any other data recording
15 hardware or media used with a computer."

16 SECTION 3. Section 350-1.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§350-1.1 Reports.** (a) Notwithstanding any other state
19 law concerning confidentiality to the contrary, the following
20 persons who, in their professional or official capacity, have
21 reason to believe that child abuse or neglect has occurred or



1 that there exists a substantial risk that child abuse or neglect
2 may occur in the reasonably foreseeable future, shall
3 immediately report the matter orally to the department or to the
4 police department:

- 5 (1) Any licensed or registered professional of the healing
6 arts or any health-related occupation who examines,
7 attends, treats, or provides other professional or
8 specialized services, including but not limited to
9 physicians, including physicians in training,
10 psychologists, dentists, nurses, osteopathic
11 physicians and surgeons, optometrists, chiropractors,
12 podiatrists, pharmacists, and other health-related
13 professionals;
- 14 (2) Employees or officers of any public or private school;
- 15 (3) Employees or officers of any public or private agency
16 or institution, or other individuals, providing
17 social, medical, hospital, or mental health services,
18 including financial assistance;
- 19 (4) Employees or officers of any law enforcement agency,
20 including but not limited to the courts, police



- 1 departments, department of public safety, correctional
2 institutions, and parole or probation offices;
- 3 (5) Individual providers of child care, or employees or
4 officers of any licensed or registered child care
5 facility, foster home, or similar institution;
- 6 (6) Medical examiners or coroners; [~~and~~]
- 7 (7) Employees of any public or private agency providing
8 recreational or sports activities[-];
- 9 (8) Commercial film and photographic print or image
10 processors;
- 11 (9) Commercial computer technicians; and
- 12 (10) Members of the clergy or custodians of records
13 therefor.
- 14 (b) Whenever a person designated in subsection (a) is a
15 member of the staff of any public or private school, agency, or
16 institution, that staff member shall immediately report the
17 known or suspected child abuse or neglect directly to the
18 department or to the police department and also shall
19 immediately notify the person in charge or a designated delegate
20 of the report made in accordance with this chapter.



1 (c). The initial oral report shall be followed as soon as
2 possible by a report in writing to the department[-]; provided
3 that:

4 (1) If a police department or the department of public
5 safety is the initiating agency, a written report
6 shall be filed with the department for cases that the
7 police or the department of public safety takes
8 further action on or for active cases in the
9 department under this chapter[-];

10 (2) All written reports shall contain the name and address
11 of the child and the child's parents or other persons
12 responsible for the child's care, if known, the
13 child's age, the nature and extent of the child's
14 injuries, and any other information that the reporter
15 believes might be helpful or relevant to the
16 investigation of the child abuse or neglect[-]; and

17 (3) This subsection shall not be construed to serve as a
18 cause of action against the department, the police, or
19 the department of public safety.

20 (d) Any person subject to subsection (a) [~~shall~~], upon
21 demand of the department or any police department, shall provide



1 all information related to the alleged incident of child abuse
2 or neglect, including [7] but not limited to [7] medical records
3 and medical reports [~~7~~, ~~which~~] and any image, film, video, or
4 other electronic medium, that was not included in the written
5 report submitted pursuant to subsection (c).

6 (e) The director may adopt, amend, or repeal rules,
7 subject to chapter 91, to further define or clarify the specific
8 forms of child abuse or neglect enumerated in section 350-1 for
9 use in implementing this chapter; provided that rules adopted
10 under this subsection shall be limited to such further or
11 clarifying definitions."

12 SECTION 4. Before January 1, 2021, a member of the clergy
13 or a custodian of records thereof, may report to the department
14 of human services or a county police department that the clergy
15 member or custodian of records, in the person's professional
16 capacity or within the scope of the person's employment, has
17 acquired knowledge or has a reasonable suspicion that a child
18 was a victim of abuse or neglect and that the clergy member or
19 custodian of records did not previously report the abuse or
20 neglect. A report may be made regardless of whether the victim
21 of the known or suspected abuse or neglect has reached the age



1 of eighteen at the time the report is made. A person who makes
2 a report pursuant to this section shall not be subject to the
3 penalty for nonreporting under section 350-1.2, Hawaii Revised
4 Statutes.

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

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on January 1, 2050.



Report Title:

DHS; Child Abuse and Neglect; Mandatory Reporting

Description:

Adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police. Provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported. Effective January 1, 2050. (SD1)

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

