

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO THE CHILDREN'S JUSTICE PROGRAM.

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

1           SECTION 1. Chapter 588, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§588-A Confidentiality. (a) The following documents and  
5 materials shall be confidential and shall not be disclosed,  
6 subject to the exceptions established in subsection (b):

7           (1) Documents and materials that pertain to  
8 specifically-identified cases or clients, including  
9 files, reports, notes, photographs, records,  
10 electronic and other communications, working papers,  
11 and recordings; and

12           (2) Documents and materials that comprise client interview  
13 guidelines and other interview-related material, as  
14 well as all materials used in training forensic  
15 interviewers.

16           (b) Confidential documents and materials may be disclosed  
17 only as follows:



- 1        (1) To persons employed by the program, or by agencies or  
2        providers, who are directly involved in the treatment  
3        of the child, or in the investigation, case  
4        management, or legal processing of cases under this  
5        chapter, including but not limited to law enforcement,  
6        prosecuting attorneys, health care providers,  
7        education officials, and child welfare officials;  
8        provided that access to confidential information shall  
9        be permitted on a need-to-know basis and limited to  
10       the minimal amount of confidential information  
11       necessary to accomplish the intended purpose of the  
12       use, disclosure, or request; or  
13       (2) Pursuant to a court order, after an in camera review  
14       of the documents or materials by the court, and upon a  
15       showing of good cause by the party seeking the release  
16       of the documents or materials."

17       SECTION 2. Section 588-1, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

- 19       "(b) The purpose of the program shall be to:  
20       (1) Develop, achieve, and maintain interagency and  
21       interprofessional cooperation and coordination in the



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1 investigation of and case management of [~~intrafamilial~~  
2 ~~and extrafamilial child sex abuse and serious physical~~  
3 ~~child abuse cases~~];

4 (A) Child abuse or neglect cases, with a priority for  
5 cases involving:

6 (i) Sexual exploitation of a child;

7 (ii) Serious physical child abuse; or

8 (iii) Child trafficking; and

9 (B) Cases involving child witnesses;

10 (2) Facilitate in an impartial manner the professional  
11 gathering of information by public and private  
12 agencies and their providers for court proceedings  
13 involving child abuse or neglect victims and child  
14 witnesses;

15 (3) [~~Reduce to the absolute minimum~~] Minimize the number  
16 of interviews of child [~~sex~~] abuse or neglect victims  
17 [~~so as~~] and child witnesses, to [~~minimize~~] avoid  
18 revictimization of the child;

19 (4) Coordinate [~~the~~] therapeutic and treatment [~~program~~]  
20 programs for child [~~sex~~] abuse or neglect victims and  
21 child witnesses, and their families;



- 1 (5) Provide for a multidisciplinary team and case  
2 management approach [~~which is focused~~] that focuses  
3 first, on the alleged or suspected child [~~sex~~] abuse  
4 or neglect victim's and child witness' needs and  
5 conditions; second, on the family members who are  
6 supportive of the child and whose interests are  
7 consistent with the best interests of the child; and  
8 third, on law enforcement and prosecutorial needs;
- 9 (6) Provide for the training and continuing education of  
10 skilled professional interviewers of child [~~sex~~] abuse  
11 or neglect victims[+] and child witnesses; and
- 12 (7) [~~Serve as the focus of~~] Provide information and  
13 referral for child [~~sex~~] abuse or neglect and child  
14 witness programs."

15 SECTION 3. Section 588-1.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§588-1.5[+] **Coordination function.** (a) The program  
18 shall promote the mutual sharing of information among the  
19 program and agencies providing services to the child and family,  
20 for purposes of implementing this chapter.



1           (b) ~~[All]~~ The program and all agencies and [their]  
2 providers that have information regarding the ~~[mental,]~~ physical  
3 or mental health[~~7~~] of the child, or other information relating  
4 to the best ~~[interest]~~ interests of the child, shall share ~~[the]~~  
5 this information ~~[among the agencies working with the child]~~  
6 with each other, unless otherwise prohibited by federal or state  
7 ~~[statute or rule. No agency shall further disclose any~~  
8 ~~confidential information received unless written consent~~  
9 ~~expressly authorizing further disclosure is obtained from the~~  
10 ~~person who is the subject thereof, or disclosure is permitted by~~  
11 ~~law.]~~ law; provided that further disclosure of shared  
12 information shall be permitted only to the extent reasonably  
13 necessary to carry out the purposes for which the information  
14 was provided, and subject to section 588-A."

15           SECTION 4. Section 588-2, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           1. By adding three new definitions to be appropriately  
18 inserted and to read:

19           "Child abuse or neglect" means an act or omission that  
20 results in "harm," as defined in section 587A-4, to a person  
21 under the age of eighteen years.



1 "Child witness" means a child who is a witness to a crime.

2 "Program" means the children's justice program."

3 2. By amending the title to read:

4 **"§588-2 Definitions [~~of child abuse~~]."**

5 3. By repealing the definition of "child sexual abuse."

6 [~~"Child sexual abuse" means any of the offenses described~~  
7 ~~under chapter 707, part V, when committed against a person under~~  
8 ~~the age of eighteen years or as set forth in paragraph (2) of~~  
9 ~~the definition of "harm" in section 587A-4."]~~

10 SECTION 5. Section 588-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§588-4 Duties of the director.** The director shall:

13 (1) Enter into agreements with police departments,  
14 departments of the prosecuting attorneys and county  
15 corporation counsels, the departments of the attorney  
16 general, health, and human services, and other public  
17 and private agencies, including agreements for the  
18 temporary assignment of appropriate personnel from  
19 each agency to the program;

20 (2) Enter into contracts for the provision of specialized  
21 training and continuing education for interviewers of



- 1 child [~~sex~~] abuse or neglect victims and child  
2 witnesses from both public and private agencies and  
3 providers;
- 4 (3) Arrange for interviews of child [~~sex~~] abuse or neglect  
5 victims and child witnesses in an appropriate setting;
- 6 (4) Promote interagency cooperation and coordination,  
7 including information sharing and gathering, among the  
8 public and private agencies and their providers that  
9 deliver investigative, case management, and  
10 therapeutic services;
- 11 (5) Coordinate the flow of information between the  
12 agencies responsible for criminal prosecution and the  
13 agencies responsible for protective action in civil  
14 proceedings, including those professionals providing  
15 services to children and their families;
- 16 (6) Arrange for the exchange of information, to include  
17 statistical data from public and private agencies  
18 involved in child [~~sex~~] abuse or neglect and child  
19 witness programs and issues;
- 20 (7) Develop recommendations and plans for action to assist  
21 [the] public and private agencies involved in cases of



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1 child [~~sex~~] abuse or neglect and [~~serious physical~~]  
2 child [~~abuse;~~] witnesses; and  
3 (8) Prepare and maintain records and reports for the  
4 program."

5 SECTION 6. In codifying the new section added by section 1  
6 of this Act, the revisor of statutes shall substitute an  
7 appropriate section number for the letter used in designating  
8 the new section in this Act.

9 SECTION 7. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY: *M.M.M.*  
**By Request**





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**Report Title:**

Judiciary Package; Children's Justice Program; Purpose;  
Confidentiality

**Description:**

Clarifies the purpose of the Children's Justice Program. Limits  
disclosure of confidential information.

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

