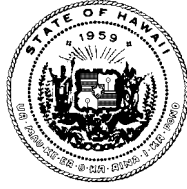


DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 24, 2020

TO: The Honorable Representative Sylvia Luke, Chair
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2336 HD1 – RELATING TO CHILD ABUSE**

Hearing: February 25, 2020, 12:30 p.m.
Conference Room 308, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure. The House Committee on Human Services defected the effective date; however, to remain compliant with federal law, Hawaii law must reflect federal law changes by June 30, 2020. Respectfully, we request that the measure be amended to an effective date of June 30, 2020.

PURPOSE: The purpose of this bill is to add immunity from civil and criminal liability for individuals who provide information or assistance in child abuse investigations. This measure will bring Hawaii's law into compliance with recent amendments to federal law.

On January 7, 2019, the federal Victims of Child Abuse Act Reauthorization Act of 2018 (P.L. 115-24), was enacted, further amending the Child Abuse and Prevention Act (CAPTA). The amendment grants immunity from civil and criminal prosecution to people who provide information or assistance to a good faith report of child abuse and/or neglect. This includes medical evaluations and professional consultations.

Hawaii's child abuse and neglect mandated reporting law, section 350, et seq., Hawaii Revised Statutes (HRS), requires amendment to be consistent with this CAPTA requirement. The bill adds language to section 350-3(a), HRS, that will ensure that Hawaii is compliant with CAPTA.

As part of the approval of the State's CAPTA Program Improvement Plan received in November 2019, the federal Administration for Children and Families informed DHS that the State's failure to come into compliance with the amended section of CAPTA by June 30, 2020, will result in withholding of FY 2021 CAPTA State Grant funding. As such, the effective date of this measure must be on or before June 30, 2020.

Thank you for the opportunity to testify on this bill.

**TESTIMONY OF NAHELANI WEBSTER FOR THE HAWAII ASSOCIATION
FOR JUSTICE (HAJ) REGARDING H.B. 2336 HD1**

Tuesday February 25, 2020
12:30 PM
Room 308



To: Chair Luke and Members of the House Committee on Finance:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. 2336 HD1, Relating to Reports of Child Abuse.

While we understand the need to be in compliance with federal law in order to receive funding, we would like to highlight our concerns with the language and how it is overly broad.

There are two basic underlying reasons of tort law in the American legal system. One is to compensate a person for their injuries as a result of another and the other is to serve as a deterrent to prevent negligent and irresponsible behavior. When a person or entity realizes that they may be held liable, there is a strong incentive to prevent the occurrence of harm. One reason for imposing liability is the deliberate purpose of providing that incentive. Said another way, tort law encourages responsible behavior.

This bill would expand immunity to include those persons providing medical evaluations and consultation. This includes, professionally licensed individuals, such as physicians, who would be immune from their responsibility when they examine and evaluate the medical condition of a child potentially suffering from abuse or neglect. We understand the immunity for reporting and want to encourage providers to report any potential case of child abuse but do not support expanding immunity for medical

examination or consultation which is part of the licensed professional's duty to treat the patient in a safe and reasonable manner.

While the primary purpose behind this act is compelling, and the financing is much needed, the means by which this bill would place children in an increasingly vulnerable position should not be overlooked.

Recommendation to the committee to amend the language to read as shown below:

Page 2, lines 7-11:

"The immunity under this subsection shall also apply to persons who otherwise provide information or assistance, including medical evaluations or consultation, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect."

HAI supports the intent to provide immunity to those who report, however, those conducting medical evaluations and consultation should not be immune from all responsibility to provide safe and reasonable care to our children.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

HB-2336-HD-1

Submitted on: 2/25/2020 12:40:04 PM

Testimony for FIN on 2/25/2020 12:30:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne	Individual	Oppose	No

Comments: