

HB-975-HD-1

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Testimony for JHA on 2/23/2021 2:00:00 PM

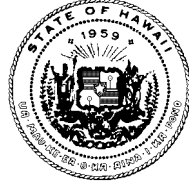
Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Comments	No

Comments:

Comments:

This should give foundation to and help mandatory reporters, I think.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
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JOSEPH CAMPOS II
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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

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February 22, 2021

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 975 HD1 – RELATING TO REPORTS OF CHILD ABUSE.**

Hearing: February 23, 2021, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure. The Committee on Health, Human Services, and Homelessness amended the measure by defecting the effective date and making technical amendments.

DHS respectfully requests that the effective date of this measure be on or before June 30, 2021 to avoid the loss of federal funds.

PURPOSE: The purpose of this bill adds immunity from civil and criminal liability for individuals who provide information or assistance in child abuse investigations. Effective 7/1/2060. (HD1)

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. Clarifying this extension of immunity is aimed to reduce the fear of liability for providing information, consultation, or other evaluation

that assists with a good faith report of child abuse and or neglect. The proposed language does not provide immunity for individuals who provide information and assistance in bad faith.

The U.S. Department of Health and Human Services, Administration for Children and Families (ACF) requires that this CAPTA provision be embodied in state law to be compliant with CAPTA and to receive federal funds. This bill adds language to section 350-3(a), HRS, that will conform Hawaii's law.

Congressional legislative history for this CAPTA amendment is found in the report of the Congressional Senate Committee on Judiciary, dated December 12, 2018:

"This bill will also provide protections for people who in good faith report suspected child abuse, including professionals who are called upon to consult in a child abuse case, or provide a medical diagnosis. Under current law, individuals who report suspected child abuse in good faith are protected from lawsuits. However, it is unclear whether such protection also extends to secondary reporters, such as professionals who consult on a child abuse case. For example, a pediatrician may be asked for their opinion by a colleague regarding a child's injury resulting from possible neglect or abuse. Providing this opinion is not currently protected in the same way as primary reporters of child abuse, and some pediatricians are now being sued in civil court for assisting in abuse cases. The lack of protection may deter pediatricians from assisting with child abuse cases."¹ (Highlighted emphasis added.)

As part of the approval of the State's CAPTA Program Improvement Plan (PIP), in November 2019, ACF informed the State that failure to amend State law to become compliant with the amended section of CAPTA by June 30, 2020, would result in withholding of FY 2021 CAPTA State Grant funding.

Last session, DHS submitted administrative proposals SB2892 (2020) and HB2336 (2020) requesting the same amendments to State law. However, due to the pandemic and suspension of the 2020 legislative session, the measures were stalled in respective Senate and House subject matter committees. In May 2020, Hawaii submitted a request to ACF for a one-year extension to June 30, 2021 to implement this provision. ACF granted Hawaii an extension to June 2021 to conform Hawaii's law. ACF again warned the State that failure to come into compliance with the amended section of CAPTA by June 30, 2021, may result in withholding approval of the State's CAPTA State Grant funding for federal fiscal year 2022 until such time as

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the State comes into compliance. As such, to avoid the loss of federal funds, the effective date of this measure must be on or before June 30, 2021.

Thank you for the opportunity to testify in support of this bill.



Hawai'i Psychological Association

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COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

Tuesday, February 23, 2021 - 2:00pm - Conference Room 325 - videoconference

Support of HB975 HD1 RELATING TO REPORTS OF CHILD ABUSE

The Hawai'i Psychological Association (HPA) strongly supports HB975 HD1, which would protect mental health care professionals, among others, from civil and criminal liability for providing information or assistance in a child abuse investigation.

This bill is very important – not only because it would bring Hawaii into compliance with federal law – a requirement to draw down much-needed federal funds for state programming; it will also protect service providers, who are dutifully performing their professional duties. Ensuring such immunity will reduce the chilling effect that is created by a practitioner's fear of liability - lowering barriers so individuals can provide needed services and come forward with essential information to better protect and treat these children.

Accordingly, HPA would like to highlight the legislative history of the 2018 amendment to the federal Child Abuse and Prevention Act, shared by the Department of Human Services in their earlier testimony, which recognized that:

"it is unclear whether such protection also extends to secondary reporters, such as professionals who consult on a child abuse case. For example, a pediatrician may be asked for their opinion by a colleague regarding a child's injury resulting from possible neglect or abuse. Providing this opinion is not currently protected in the same way as primary reporters of child abuse, and some pediatricians are now being sued in civil court for assisting in abuse cases. The lack of protection may deter pediatricians from assisting with child abuse cases."
(From the December 12, 2018 Report of the Congressional Senate Committee on Judiciary.)

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Alex Lichten, Ph.D.

Chair, HPA Legislative Action Committee