
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 exempting members of
2 the clergy from mandatory reporting of suspected future child
3 abuse or neglect creates a danger that extreme cases of abuse
4 and neglect may never be reported to appropriate authorities if
5 details of those cases were revealed only in the context of a
6 penitential communication with clergy. The legislature
7 recognizes both the importance of ensuring the confidentiality
8 of penitential communications and the societal obligation to
9 protect vulnerable minors and prevent further harm in cases of
10 suspected future child abuse or neglect. The legislature
11 believes that this Act's limited exception to the exemption from
12 mandatory reporting by members of the clergy strikes an
13 appropriate balance between these two competing interests.

14 Accordingly, the purpose of this Act is to specify that the
15 exemption from mandatory reporting by members of the clergy does
16 not apply when the clergy member believes that there exists a
17 substantial risk that child abuse or neglect that is especially



1 heinous, atrocious, or cruel, manifesting exceptional depravity,
2 may occur in the reasonably foreseeable future.

3 SECTION 2. Section 350-1.1, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Notwithstanding any other state law concerning
6 confidentiality to the contrary, the following persons who, in
7 their professional or official capacity, have reason to believe
8 that child abuse or neglect has occurred or that there exists a
9 substantial risk that child abuse or neglect may occur in the
10 reasonably foreseeable future, shall immediately report the
11 matter orally to the department or to the police department:

12 (1) Any licensed or registered professional of the healing
13 arts or any health-related occupation who examines,
14 attends, treats, or provides other professional or
15 specialized services, including but not limited to
16 physicians, including physicians in training,
17 psychologists, dentists, nurses, osteopathic
18 physicians and surgeons, optometrists, chiropractors,
19 podiatrists, pharmacists, and other health-related
20 professionals;

21 (2) Employees or officers of any public or private school;



- 1 (3) Employees or officers of any public or private agency
- 2 or institution, or other individuals, providing
- 3 social, medical, hospital, or mental health services,
- 4 including financial assistance;
- 5 (4) Employees or officers of any law enforcement agency,
- 6 including but not limited to the courts, police
- 7 departments, department of public safety, correctional
- 8 institutions, and parole or probation offices;
- 9 (5) Individual providers of child care, or employees or
- 10 officers of any licensed or registered child care
- 11 facility, foster home, or similar institution;
- 12 (6) Medical examiners or coroners;
- 13 (7) Employees of any public or private agency providing
- 14 recreational or sports activities;
- 15 (8) Commercial film and photographic print or image
- 16 processors;
- 17 (9) Commercial computer technicians; and
- 18 (10) Members of the clergy or custodians of records
- 19 therefor; provided that a member of the clergy shall
- 20 not be required to report information gained solely
- 21 during a penitential communication~~[-]~~, except when the



1 clergy member believes that there exists a substantial
 2 risk that child abuse or neglect that is especially
 3 heinous, atrocious, or cruel, manifesting exceptional
 4 depravity, may occur in the reasonably foreseeable
 5 future. When a clergy member receives reportable
 6 information from any [~~other~~] source[~~7~~] other than a
 7 penitential communication, the clergy member shall
 8 comply with the reporting requirements of this
 9 section, regardless of whether the clergy member
 10 received the same information during a penitential
 11 communication. For purposes of this paragraph[~~7~~
 12 "~~penitential~~]:

13 "Especially heinous, atrocious, or cruel,
 14 manifesting exceptional depravity" has the same
 15 meaning as in section 706-657.

16 "Penitential communication" means a
 17 communication, including a sacramental confession,
 18 that is intended to be kept confidential and is made
 19 to a member of the clergy who, in the course of the
 20 discipline or practice of the applicable religious
 21 organization, is authorized or accustomed to hear



1 those communications, and under the discipline,
2 tenets, customs, or practices of the applicable
3 religious organization, has a duty to keep those
4 communications secret."

5 SECTION 3. 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 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Department of Human Services; Child Abuse and Neglect; Mandatory Reporting; Penitential Communications; Exception

Description:

Establishes that the exemption from mandatory reporting by members of the clergy does not apply when the clergy member believes that there exists a substantial risk that child abuse or neglect that is especially heinous, atrocious, or cruel, manifesting exceptional depravity, may occur in the reasonably foreseeable future. (SD1)

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