

**ACT 261**

**H. B. 28.**

A Bill for an Act to Provide for Mandatory Reporting of Child Abuse with Immunity from Liability for Failure to Report.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to protect minors whose health and welfare are adversely affected by abuse or neglect by providing for the mandatory reporting of such cases to the appropriate public agency. It is intended that as a result of such reports, the protective services of the State shall be brought to bear on the situation in an effort to prevent further abuses, safeguard and enhance the welfare of such minors, and preserve family life wherever possible.

**SECTION 2. Reports.** Any doctor, which for the purposes of this Act shall mean any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect, shall promptly report the matter orally to the department of social services, provided that when examination, attendance, or treatment with respect to such minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, such staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with the provisions of this Act.

The initial oral report shall be followed as soon thereafter as possible by a report in writing. The report shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

**SECTION 3. Action on reporting.** The department of social services, upon receiving such report, shall immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible. If the injury or abuse to such minor is so serious that criminal prosecution is indicated, the department shall, in addition to taking such action under this section as it deems necessary, report its findings to the police or the office of the prosecuting attorney. The department shall maintain a central registry of reported cases and may adopt such rules and regulations as may be necessary in carrying out the provisions of this section.

**SECTION 4. Immunity from liability.** Anyone participating in good faith in the making of a report pursuant to this Act shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

**SECTION 5. Exemption.** No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, be considered to be medically neglected under any provision of this Act.

**SECTION 6. Admissibility of evidence.** Neither the doctor-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this Act.

**SECTION 7. Effective date.** This Act shall take effect upon its approval.

(Approved June 7, 1967.)