

ACT 381

H.B. NO. 1844

A Bill for an Act Relating to Adult Protective Services.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . DEPENDENT ADULT PROTECTIVE SERVICES

§346- Purpose; construction. The legislature recognizes that citizens of the State who are elderly and mentally or physically impaired constitute a significant and identifiable segment of the population and are particularly subject to risks of abuse, neglect, and exploitation.

The legislature also recognizes that it is a person’s dependency status, not age, which is often encountered in cases of abuse, neglect, and exploitation. While advanced age alone is not sufficient reason to intervene in a person’s life, the legislature finds that many elderly have become subjects of abuse and neglect. Substantial public interest exists to ensure that this segment of the population receives protection.

The legislature declares that the State shall develop and promote community services for the economic, social, and personal well-being and protection of its elderly citizens who are mentally or physically impaired.

In taking this action, the legislature intends to place the fewest possible restrictions on personal liberty and to permit the exercise of constitutional rights by adults consistent with protection from abuse, neglect, and exploitation.

§346- Definitions.

"Abuse" means actual or imminent physical injury, psychological abuse or neglect, sexual abuse, financial exploitation, negligent treatment, or maltreatment as further defined in this chapter.

Abuse occurs where:

- (1) Any dependent adult exhibits evidence of:
 - (A) Substantial or multiple skin bruising or any other internal bleeding;
 - (B) Any injury to skin causing substantial bleeding;
 - (C) Malnutrition;
 - (D) A burn or burns;
 - (E) Poisoning;
 - (F) The fracture of any bone;
 - (G) A subdural hematoma;
 - (H) Soft tissue swelling;
 - (I) Extreme physical pain; or
 - (J) Extreme mental distress which includes a consistent pattern of actions or verbalizations including threats, insults, or harassment, that humiliates, provokes, intimidates, confuses, and frightens the dependent adult;

and the injury is not justifiably explained, or where the history given is at variance with the degree or type of injury, or circumstances indicate that the injury is not the product of an accidental occurrence;
- (2) Any dependent adult has been the victim of non-consensual sexual contact or conduct, including, but not limited to:
 - (A) Sexual assault, molestation, sexual fondling, incest, prostitution;
 - (B) Obscene or pornographic photographing, filming, or depiction; or
 - (C) Other similar forms of sexual exploitation;
- (3) Any dependent adult is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision;
- (4) Any dependent adult is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; however, this paragraph shall not apply when such drugs are provided to the dependent adult pursuant to the direction or prescription of a practitioner, as defined in section 712-1240;
- (5) There has been a failure to exercise that degree of care toward a dependent adult which a reasonable person with the responsibility of a caregiver would exercise, including, but not limited to, failure to:
 - (A) Assist in personal hygiene;
 - (B) Provide necessary food, shelter, and clothing;
 - (C) Provide necessary health care, access to health care, or prescribed medication;
 - (D) Protect a dependent adult from health and safety hazards; or
 - (E) Protect against acts of abuse by third parties;
- (6) Any dependent adult appears to lack sufficient understanding or capacity to make or communicate responsible decisions concerning the dependent adult's person, and appears to be exposed to a situation or

- condition which poses an imminent risk of death or risk of serious physical harm; or
- (7) There is financial and economic exploitation in addition to other manifestations of abuse as enumerated herein. For the purpose of this part, "financial and economic exploitation" means the wrongful or negligent taking, withholding, misappropriation, or use of a dependent adult's money, real property, or personal property. "Financial and economic exploitation" can include but is not limited to:
- (A) Breaches of fiduciary relationships such as the misuse of a power of attorney or the abuse of guardianship privileges, resulting in the unauthorized appropriation, sale, or transfer of property;
 - (B) The unauthorized taking of personal assets;
 - (C) The misappropriation, misuse, or transfer of moneys belonging to the dependent adult from a personal or joint account; or
 - (D) The intentional or negligent failure to effectively use a dependent adult's income and assets for the necessities required for the person's support and maintenance.

The exploitation may involve coercion, manipulation, threats, intimidation, misrepresentation, or exertion of undue influence.

"Capacity" means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person or to communicate such decisions.

"Court" means the family court having jurisdiction over a matter under this part.

"Department" means the department of human services and its authorized representatives.

"Dependent adult" means any adult who, because of mental or physical impairment is dependent upon another person for personal health, safety, or welfare.

"Emergency medical treatment" means those services necessary to maintain a person's physical health and without which there is a reasonable belief that the person will suffer irreparable harm or death.

"Imminent abuse" means that there exists reasonable cause to believe that abuse will occur or recur within the next ninety days.

"Party" means those persons entitled to notice of proceedings under sections 346- and 346- , including any state department or agency that is providing services and treatment to a dependent adult in accordance with a protective services plan.

"Protective services plan" means a specific written plan, prepared by the department, setting forth the specific services and treatment to be provided to a dependent adult.

§346- Jurisdiction; venue. The family court shall have jurisdiction in protective proceedings under this part concerning any dependent adult who was or is found within the circuit at the time such facts and circumstances occurred, were discovered, or were reported to the department, which constitute the basis for a finding that the person has been abused and is threatened with imminent abuse; provided that the protective proceedings under this part are not exclusive and shall not preclude the use of any other criminal, civil, or administrative remedy. The protective proceedings under this part shall be held in the judicial circuit in which the dependent adult resides at the time of the filing of the petition or in which the dependent adult has assets.

§346- Reports. (a) The following persons who, in the performance of their professional or official duties, know or have reason to believe that a dependent

adult has been abused and is threatened with imminent abuse shall promptly report the matter orally to the department of human services:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, treats, or provides other professional or specialized services to dependent adults, including, but not limited to, physicians, physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;
 - (2) Employees or officers of any public or private agency or institution providing social, medical, hospital or mental health services, including financial assistance;
 - (3) Employees or officers of any law enforcement including, but not limited to, the courts, police departments, correctional institutions, and parole or probation offices;
 - (4) Employees or officers of any adult residential care home, adult day care center, or similar institution; and
 - (5) Medical examiners or coroners.
- (b) The initial oral report required by subsection (a) shall be followed as soon as possible by a written report to the department; provided that where a police department is the initiating agency, a written report shall not be required unless the police department has declined to take further action and the department informs the police department that it intends to pursue the matter of the orally reported incident of abuse. All written reports shall contain the name and address of the dependent adult and the person who is alleged to have been responsible for the dependent adult abuse, if known; the nature and extent of the dependent adult's injury or harm; and any other information the reporter believes might be helpful in establishing the cause of the dependent adult abuse.
- (c) This section shall not prohibit any of the persons enumerated in subsection (a) from reporting incidents which those persons have reason to believe involve abuse which came to their attention in any private or nonprofessional capacity.
- (d) Any other person who has reason to believe that a dependent adult has been abused or is threatened with abuse may report the matter orally to the department.
- (e) Any person who knowingly fails to report as required by this section or who wilfully prevents another person from reporting pursuant to this part shall be guilty of a petty misdemeanor.
- (f) The department shall maintain a central registry of reported cases.

§346- Confidentiality of reports. All reports made pursuant to this part, including the identity of the reporting person, as well as all records of such reports, are confidential and any person who makes an unauthorized disclosure of a report or records of the court proceedings under this part shall be guilty of a misdemeanor. The director of human services may adopt, amend, or repeal rules, pursuant to chapter 91, to provide for the confidentiality of reports and records, and for the authorized disclosure of reports and records.

§346- Access to records. Records of a dependent adult shall be obtained by the department or the dependent adult's court-appointed guardian ad litem with the written consent of the dependent adult or that person's representative, or by court order. Any person who reports to the department under section 346- , upon demand of the department, shall provide all information related to the alleged incident of dependent adult abuse or neglect, including, but not limited to, financial records and medical reports, which were not included in the written report submitted pursuant to section 346- (b).

§346- Investigation. Upon receiving a report that abuse of a dependent adult has occurred and is imminent, the department shall cause an investigation to be commenced in accordance with this part as the department deems appropriate.

§346- Action upon investigation. Upon investigation the department shall take action toward preventing further abuse and shall have the authority to do any or all of the following:

- (1) Resolve the matter in an informal fashion as is appropriate under the circumstances;
- (2) Exercise its right of entry under section 346- ;
- (3) Seek an order for immediate protection;
- (4) Seek a temporary restraining order;
- (5) File a petition with the court under this part; and
- (6) Seek any protective or remedial actions authorized by law.

§346- Right of entry. (a) An employee of the department engaged in an investigation under this part shall be authorized to visit and communicate with the dependent adult who is the subject of the report. Any person intentionally or knowingly obstructing or interfering with the department's access to or communication with the dependent adult shall be guilty of a misdemeanor.

(b) Any employee of the department engaged in an investigation under this part, having probable cause to believe that a dependent adult will be physically injured through abuse before a court order for entry can be obtained, without a warrant, may enter upon the premises where the dependent adult may be found for the purpose of ascertaining that person's welfare. Where a warrantless entry is authorized under this section, the employee of the department may request the assistance of a police officer to gain entrance.

§346- Termination of services. The department shall act only with the consent of the victim, unless the department obtains court authorization to provide necessary services, as provided in section 346- . Investigation and services provided under this part shall be immediately terminated if:

- (1) A dependent adult does not consent to the receipt of protective services;
- (2) The dependent adult withdraws the consent;
- (3) The department determines that protection is no longer needed under this part; or
- (4) The court so orders.

Upon the department's determination that protective services are no longer needed, the dependent adult shall be referred to the agency responsible for follow-up services. For the mentally ill and developmentally disabled adult, the state agency designated to provide services shall be the department of health.

§346- Order for immediate protection. (a) If the department believes that a person is a dependent adult and it appears probable that the dependent adult has been abused and is threatened with imminent abuse unless immediate action is taken; and the dependent adult consents, or if the dependent adult does not consent and there is probable cause to believe that the dependent adult lacks the capacity to make decisions concerning the dependent adult's person, the department shall seek an order for immediate protection in accordance with section 346- .

(b) A finding of probable cause may be based in whole or in part upon hearsay evidence when direct testimony is unavailable or when it is demonstrably inconvenient to summon witnesses who will be able to testify to facts from personal knowledge.

(c) Upon finding that the person is a dependent adult and that there is probable cause that the dependent adult has been abused and is threatened with imminent

abuse unless immediate action is taken; and the dependent adult consents, or if the dependent adult does not consent and there is probable cause to believe that the dependent adult lacks the capacity to make decisions concerning the dependent adult's person, the court shall issue an order for immediate protection. This order may include, but is not limited to:

- (1) An authorization for the department to transport the person to an appropriate medical or care facility;
- (2) An authorization for medical examination;
- (3) An authorization for emergency medical treatment; and
- (4) Such other matters as may prevent imminent abuse, pending a hearing under section 346- .
- (d) The court may also make orders as may be appropriate to third persons, including temporary restraining orders, enjoining them from:
 - (1) Removing the dependent adult from the care or custody of another;
 - (2) Abusing the dependent adult;
 - (3) Living at the dependent adult's residence;
 - (4) Contacting the dependent adult in person or by telephone;
 - (5) Selling, removing, or otherwise disposing of the dependent adult's personal property;
 - (6) Withdrawing those funds from any bank, savings and loan association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest;
 - (7) Negotiating any instruments payable to the dependent adult;
 - (8) Selling, mortgaging, or otherwise encumbering any interest that the dependent adult has in real property;
 - (9) Exercising any powers on behalf of the dependent adult by representatives of the department, any court-appointed guardian or guardian ad litem or any official acting on their behalf;
 - (10) Engaging in any other specified act which, based upon the facts alleged, would constitute harm or present a threat of imminent harm to the dependent adult or would cause the loss of the dependent adult's property.

(e) Court orders under section 346- and this section may be obtained upon oral or written application by the department, without notice and without a hearing. Any oral application shall be reduced to writing within twenty-four hours. The court shall issue its order orally, provided that it shall reduce the order to writing as soon as possible thereafter and in any case not later than twenty-four hours after the court received the written application. Certified copies of the application and order shall be personally served upon the dependent adult and any other person or entity affected by the order together with notice of the order to show cause hearing in section 346- .

(f) If a written order for immediate protection is issued, the department shall file a petition invoking the jurisdiction of the court under this part within twenty-four hours.

§346- Order to show cause hearing. (a) When a written order for immediate protection is issued, the court shall hold a hearing on the application for immediate protection, no later than seventy-two hours after issuance of the oral order excluding any Saturday or Sunday, requiring cause to be shown why the order or orders should not continue. The department shall make arrangements to have the dependent adult attend the hearing or show cause why the dependent adult cannot attend.

(b) When the court finds that there is probable cause to believe that a dependent adult has been abused and is threatened with imminent abuse, and the

dependent adult consents, or if the dependent adult does not consent and the court finds that there is probable cause to believe that the dependent adult lacks the capacity to make decisions concerning the dependent adult's person, the court may continue or modify any order pending an adjudicatory hearing on the petition. These orders may include orders for the dependent adult's temporary placement and ordinary medical care.

(c) The parties personally or through counsel may stipulate to the entry or continuance of such orders as the court deems to be in the best interest of the dependent adult, and the court shall set the case for an adjudicatory hearing as soon as it is practical.

§346- Petition. (a) A petition invoking the jurisdiction of the court under this part shall be entitled "In the matter of the protection of _____," and shall be verified.

(b) The petition shall set forth with specificity the:

- (1) Reasons the person is considered to be a dependent adult;
- (2) Facts which bring the dependent adult within this part;
- (3) Name, birth date, sex, and residence address of the dependent adult;
- (4) Names and addresses of any living persons, or entities required to be notified pursuant to section 346- ; and
- (5) If appropriate, allegations describing any lack of capacity of the dependent adult.

§346- Guardian ad litem; counsel. (a) In any case where the court has reason to believe that a dependent adult or any other party lacks the capacity to effectively make decisions concerning the party's person, it may appoint a guardian ad litem to represent the interests of that party throughout the pendency of proceedings under this part. The court shall appoint counsel for the dependent adult at any time where it finds that the dependent adult requires a separate legal advocate and is unable to afford private counsel.

(b) The court may order reasonable costs and fees of the guardian ad litem to be paid by the party for whom the guardian ad litem is appointed, if that party has sufficient financial resources to pay such costs and fees. The court may also order the appropriate parties to pay or reimburse reasonable costs and fees of the guardian ad litem and counsel appointed for the dependent adult.

§346- Consolidation with guardianship proceedings. A proceeding for the appointment of a guardian of the person or property under article V of chapter 560 may be consolidated with the proceedings under this part as the applicable circuit court and the family court in the exercise of their discretion shall permit.

§346- Permanent changes. Permanent changes in the living situation of an abused dependent adult shall not ordinarily be made under authority of this part. If permanent changes in the living situation or nonemergency medical treatment are necessary, the appropriate guardianship, or civil commitment action shall be initiated pursuant to applicable state law.

§346- Notice of proceedings. After a petition has been filed, the matter shall be set for hearing and a notice of hearing shall be issued to all parties to the proceeding. The parties to the proceeding shall include:

- (1) The dependent adult;
- (2) Any caregiver or facility in which the dependent resides or is a patient;

- (3) The spouse and adult children of the dependent adult;
- (4) The parents of the dependent adult, unless waived by the court for good cause;
- (5) Any guardian of the person or property who may have been appointed; and
- (6) Any person or entity affected by an order for immediate protection which has been sought or issued including any alleged perpetrator of abuse.

Where the name or whereabouts of a potential party is unknown, the court may require the petitioner to set forth the reasonable efforts the petitioner made to ascertain the party's name or whereabouts and why the petitioner has been unable to determine those facts.

§346- Service. (a) Service of the notice shall be made by delivery of a copy thereof together with a certified copy of the petition to each person or entity to be given notice either by personal service, by certified mail, return receipt requested and addressed to the last known address, by publication, or by other means authorized by the court. Upon a showing of good cause, the court may waive notice to any party except the dependent adult.

(b) Service shall be effected at least forty-eight hours prior to the time fixed in the notice for hearing when held pursuant to section 346- (a), or at least fifteen days prior to the time fixed in the notice for an adjudicatory, disposition, or review hearing, unless the party otherwise was ordered by the court to appear at those hearings.

§346- Required findings concerning postponed hearings. Except as otherwise provided, no hearing shall be delayed upon the grounds that a party other than the dependent adult is not present at the hearing or has not been served with a copy of the order for immediate protection or the petition, where reasonable efforts have been made to effect service and it would be detrimental to the dependent adult to postpone the proceedings until service can be made. Whenever a hearing is delayed or postponed under this section, the court shall enter a finding that it will not be detrimental to the dependent adult and shall also specify what additional measures shall be undertaken to effect service.

§346- Adjudicatory hearing. (a) When a petition has been filed, the court shall set a return date hearing to be held within thirty days of the filing of the petition. On the return date, the parties personally or through counsel may stipulate to the entry or continuance of the orders as the court deems to be in the best interests of the dependent adult, and the court shall set the case for an adjudicatory hearing as soon as is practical.

(b) In an adjudicatory hearing, the court shall determine whether the person is a dependent adult, and whether the dependent adult has been abused and is threatened with imminent abuse, based upon a preponderance of the evidence. Evidence which is contained in a written report, study, or examination shall be admissible, provided that the maker of the written report, study, or examination be subject to direct and cross-examination upon demand when the maker is reasonably available. A social worker employed by the department in the area of adult protective services shall be presumed to be qualified to testify as an expert in the field of protective services.

(c) If facts sufficient to sustain the petition are established in court, or are stipulated to by all parties, the court shall enter an order finding that the dependent adult has been abused and threatened with imminent abuse and shall state the grounds for the finding. The court shall also make a finding concerning the capacity of the

dependent adult to effectively make decisions concerning personal needs or property or both. If the capacity of the dependent adult is at issue, the court shall require that the dependent adult be examined by a psychiatrist or other physician who is skilled in evaluating the particular area in which the dependent adult is alleged to lack capacity before making any finding that the dependent adult lacks capacity. If there is no finding that the dependent adult lacks capacity to make such decisions and if the dependent adult does not give consent, the court shall not have authority to proceed further and the court shall dismiss the case.

(d) Upon the completion of the adjudicatory hearing, the disposition hearing may commence immediately after the required findings are made, provided the requirements of subsection 346- (a) have been met, or the court may set the disposition hearing for such time as it deems appropriate.

(e) If facts sufficient to sustain the petition under this part are not established, the court shall dismiss the petition and shall state the grounds for dismissal.

(f) If the court sustains the petition and does not commence immediately to the disposition hearing, it shall determine, based upon the facts adduced during the adjudicatory hearing and any additional facts presented to it, whether any temporary orders should be issued pending final disposition.

§346- Disposition. (a) Unless waived by the parties who have entered an appearance, the department shall prepare a proposed protective order and a written protective services plan, and submit copies to the court and each of the parties or their counsel at least seven days prior to the disposition hearing.

(b) The proposed protective order may include any of the provisions set forth in section 346- , and, in addition may include an order that:

- (1) The person inflicting abuse on the dependent adult participate in counseling or therapy as the court deems appropriate;
- (2) Any party report to the department any violation of the protective order or protective services plan;
- (3) The department make periodic home visits to the dependent adult; and
- (4) The department monitor compliance with the order.

(c) The proposed protective services plan shall set forth the following:

- (1) Specific services or treatment to be provided to the dependent adult and the specific actions the parties shall take;
- (2) Specific responsibilities that the parties shall assume;
- (3) Period during which the services shall be provided;
- (4) Dates by which the actions shall be completed;
- (5) Specific consequences that may be reasonably anticipated to result from a party's failure to comply with any terms and conditions of the plan; and
- (6) Steps that shall be necessary to terminate the court's jurisdiction.

(d) In preparing such a proposed protective order, the department shall seek to impose the least restrictive limitation on the freedom and liberties of the dependent adult. To the greatest extent possible, the dependent adult should be permitted to participate in decisions concerning the dependent adult's person, or property, or both.

(e) The court shall conduct a disposition hearing concerning the terms and conditions set forth in the proposed protective order and proposed protective services plan unless each of the parties has signed and fully understands and accepts the order and plan, in which event, the court may approve the order and plan without hearing. If a party cannot or does not accept the terms and conditions set forth in the proposed order or proposed plan, and, after such hearing as the court deems to be appropriate, the court shall order such terms and conditions, as are deemed to be in the best interests of the dependent adult.

§346- Review hearings. Except for good cause shown, the court shall set each case for a review hearing not later than six months after the date that a protective order and protective services plan are ordered by the court and, thereafter, the court shall set subsequent review hearings at intervals of not longer than six months until the court's jurisdiction has been terminated. The department and the guardian ad litem, if any, shall submit a written report, with copies to the parties or their counsel, at least fifteen days prior to the date set for each review hearing. The report shall evaluate whether the parties have complied with the terms and conditions of the protective order and protective services plan; shall recommend any modification to the order or plan; and shall recommend whether the court shall retain jurisdiction or terminate the case. At each review hearing, the court shall determine whether the parties have complied with the terms and conditions of the order and plan; enforce such sanctions for noncompliance as may be appropriate; and order such revisions to the existing order or plan as are in the best interests of the dependent adult. At each review hearing, the court shall make an express finding as to whether it shall retain jurisdiction or terminate the case, and, in each instance, shall state the basis for its action.

§346- Appeal. Any party aggrieved by an order or decree of the court may appeal as provided by section 571-54.

§346- Admissibility of evidence. The physician-patient privilege, the psychologist-client privilege, and the spousal privilege shall not be grounds for excluding evidence in any judicial proceeding resulting from a report pursuant to this part.

§346- Hearings. The protective proceedings shall be heard without a jury. The hearing may be adjourned from time to time. The general public shall be excluded, and only such persons as are found by the court to have a direct interest in the case shall be admitted.

§346- Failure to comply with court orders. The court may apply contempt of court provisions and all other provisions available under the law if a party fails to comply with the terms and conditions of any order issued under this part.

§346- Payment for service or treatment provided to a party. Whenever service, treatment, care, or support of a dependent adult is provided under this part, the persons or legal entities who may be legally obligated to pay for the service, treatment, care, or support of the dependent person, may be ordered by the court to pay the cost of the service, care, support, or treatment provided to the dependent adult in whole or in part, after notice and hearing.

§346- Fiscal and service responsibility. The department or other authorized agencies shall provide only the care, service, treatment, support, or payment authorized by law. The department or authorized agencies shall have the authority to establish priorities and limitations of services based on their resources.

§346- Cooperation. Every public official or department shall render all assistance and cooperation within the official's or department's power and which may further the purpose and objectives of this part. The department and the court may seek the cooperation of organizations whose objectives are to protect or aid dependent adults.

§346- Immunity from liability. (a) Anyone participating in good faith in the making of a report pursuant to this part 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 a report. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from that report.

(b) Any individual who assumes a duty or responsibility pursuant to this part shall have immunity from civil liability for acts or omissions performed within the scope of the individual's duty or responsibility. Nothing in this part shall limit the liability of the department, any other state agency, or any private organization for the conduct of individuals acting within the scope of their duties provided immunity under this section.

§346- Presumption of capacity. An individual shall be presumed capable of making decisions concerning the individual's person. A determination that an individual lacks capacity under this part shall not be construed as a finding that the individual lacks capacity for any other purpose.

§346- Advanced age. An individual shall not be involuntarily subjected to the provisions of this part solely based on advanced age.

§346- Rules. The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§346- Confidentiality of court records. (a) The court shall maintain records of all adult protective proceedings under this chapter. All court documents and records pertaining to the action or proceeding shall be subject to inspection only by the dependent adult, guardian of the person, guardian of the property, their respective attorneys, and the guardian ad litem of the dependent adult, with the consent of the court.

(b) All other requests for information contained in the confidential record shall be made in writing and shall include the reasons for the request and how the information is to be used and may be granted by the court for good cause."

SECTION 3. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

"§571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-904, 709-905, 709-906, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife;
 - (C) Any violation of a domestic abuse protective order issued pursuant to chapter 586; or
 - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2) [of this section], the court [may], in its discretion, may waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
 - (4) In proceedings under chapter 575, the Uniform Desertion and Non-support Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
 - (5) For commitment of an adult alleged to be mentally defective or mentally ill.
 - (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
 - (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
 - (8) In all proceedings under chapter 586, Domestic¹ Protective Orders.
 - (9) In all proceedings to appoint a guardian of the person of an adult.
 - (10) For the protection of dependent adults under chapter 346, part .
- In any case within paragraph (3), (4), or (6) [of this section], the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E."

SECTION 4. Section 571-87, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~571-87[~~]~~] Appointment of counsel and guardian ad litem; compensation. (a) When it appears to a judge that a person requesting the appointment of counsel satisfies the requirements of chapter 802 for determination of indigency, or the court in its discretion appoints counsel under chapter 587[, and 346], or that a person requires appointment of a guardian ad litem, the judge shall appoint counsel or a guardian ad litem to represent the person at all stages of the proceedings, including appeal, if any. Appointed counsel and the guardian ad litem shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and fees pursuant to subsection (b). All of these expenses shall be certified by the court and paid upon vouchers approved by the judiciary and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation to appointed counsel and guardians ad litem, based on the rate of \$40 an hour for out-of-court services, and \$60 an hour for in-court services with a maximum fee in accordance with the following schedule:

- | | |
|--|----------|
| (1) Cases arising under chapter 587[: <u>and 346</u> : | |
| (A) Predisposition | \$1,500; |
| (B) Postdisposition review hearing | \$ 500; |
| (2) Cases arising under chapters 560,
571, 580, and 584 | \$1,500. |

Payments in excess of any maximum provided for under paragraphs (1) and (2) may be made whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of such court."

SECTION 5. Chapter 349C, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 7. This Act shall take effect on July 1, 1991, and shall be repealed as of June 30, 1993.

(Approved June 26, 1989.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.