

**ACT 80**

H.B. NO. 350

A Bill for an Act Relating to Child Abuse Reporting.

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

SECTION 1. The legislature finds that exempting members of the clergy from mandatory reporting of suspected future child abuse or neglect creates a danger that extreme cases of abuse and neglect may never be reported to appropriate authorities if details of those cases were revealed only in the context of a penitential communication with clergy. The legislature recognizes both the importance of ensuring the confidentiality of penitential communications and the societal obligation to protect vulnerable minors and prevent further harm in cases of suspected future child abuse or neglect. The legislature believes that this Act's limited exception to the exemption from mandatory reporting by

members of the clergy strikes an appropriate balance between these two competing interests.

Accordingly, the purpose of this Act is to specify 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.

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

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

- (1) Any licensed or registered professional of the healing arts or any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including 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 school;
- (3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, department of public safety, correctional institutions, and parole or probation offices;
- (5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;
- (6) Medical examiners or coroners;
- (7) Employees of any public or private agency providing recreational or sports activities;
- (8) Commercial film and photographic print or image processors;
- (9) Commercial computer technicians; and
- (10) Members of the clergy or custodians of records therefor; provided that a member of the clergy shall not be required to report information gained solely during a penitential communication~~[-]~~, except 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. When a clergy member receives reportable information from any ~~other~~ source~~[-]~~, other than a penitential communication, the clergy member shall comply with the reporting requirements of this section, regardless of whether the clergy member received the same information during a penitential communication. For purposes of this paragraph~~[-]~~, ~~“penitential”~~:

“Especially heinous, atrocious, or cruel, manifesting exceptional depravity” has the same meaning as in section 706-657.

“Penitential communication” means a communication, including a sacramental confession, that is intended to be kept

confidential and is made to a member of the clergy who, in the course of the discipline or practice of the applicable religious organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the applicable religious organization, has a duty to keep those communications secret.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

(Approved June 14, 2023.)