



# **A GUIDE FOR MANDATED REPORTERS**

Child Welfare Services

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## Appendix

- Mandated Reporter Checklist for Suspected Child Abuse and Neglect
- Mandated Reporter Checklist for Suspected Human Trafficking

## What Is Child Welfare Services (CWS)?

Child Welfare Services (CWS) is a branch of the Department of Human Services that provides social services to children and their families when children are reported to have been harmed or are at risk of being harmed. The mission of Child Welfare Services is to ensure the safety and permanency of children in their own homes or, when necessary, in out-of-home placement.

## What Is The Child Abuse Reporting Law?

Chapter 350, Hawai'i Revised Statutes (HRS), specifies:

- ❖ Who must report to the DHS or the police if there is reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect will occur in the reasonably foreseeable future
- ❖ What kinds of situations need to be reported
- ❖ How to report
- ❖ The action taken upon reporting
- ❖ Who is immune from liability
- ❖ The confidentiality of reports
- ❖ What's admissible evidence
- ❖ Penalty for not reporting

## How Does The Law Define Child Abuse or Neglect?

Child abuse or neglect is defined by Chapter 350, HRS, as follows:

1. **..."the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed"...**

The acts or omissions that must be reported pursuant to Chapter 350, HRS, include, but are not limited to:

- A. When the child exhibits evidence of:
  - 1) Substantial or multiple skin bruising or any other internal bleeding;
  - 2) Any injury to skin causing substantial bleeding;
  - 3) Malnutrition;
  - 4) Failure to thrive;
  - 5) Burn or burns;
  - 6) Poisoning;

- 7) Fracture of any bone;
- 8) Subdural hematoma;
- 9) Soft tissue swelling;
- 10) Extreme pain;
- 11) Extreme mental distress;
- 12) Gross degradation;
- 13) Death; and

such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence;

- B. When the child has been the victim of sexual contact or conduct, including, but not limited to, rape, sodomy, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, or filming, or depiction; or other similar forms of sexual exploitation;
  - C. When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child's ability to function;
  - D. When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision;
  - E. When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240;
  - F. When the child has been the victim or labor trafficking under chapter 707; or
2. **“The acts or omissions of any person** that have resulted in sex trafficking or severe forms of trafficking in persons; provided that no finding by the department pursuant to this chapter shall be used as conclusive evidence that a person has committed an offense under part VIII of chapter 707 or section 712-1202.”

The term "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

The term "severe forms of trafficking in persons" means-

- A. sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- B. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

## **When Must Child Abuse or Neglect Be Reported?**

Any mandated reporter who has 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.

## **Who Is Mandated To Report Child Abuse or Neglect?**

1. Licensed or registered professionals of the healing arts and 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, correctional institutions, and parole or probation offices;
5. Individual providers of childcare, or employees or officers of any licensed or registered childcare 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. When a clergy member receives reportable information from any other source, 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 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 hearing those communications, and under the discipline, tenets, customs, or practices of the applicable religious organization has a duty to keep those communications secret.

Any of the above-named persons who knowingly prevents another person from reporting, knowingly fails to provide an initial oral report followed as soon as possible by a report in writing to the department, or fails to provide additional information upon demand of the department or any police department, shall be guilty of a petty misdemeanor. A person who has been convicted of a petty misdemeanor may be fined or sentenced to imprisonment for a definite term which shall be fixed by the court and shall not exceed thirty (30) days.

### How Do I Make A Report?

Call the Department of Human Services, Social Services Division, Child Welfare Services at the following numbers.

<b>CHILD ABUSE AND NEGLECT</b>	<b>Reporting Line</b>	<b>Fax Line</b>
Oahu	(808) 832-5300	(808) 832-5292
Toll Free Neighbor Islands	1-888-380-3088	1-888-988-6688
<b>HUMAN TRAFFICKING</b>	<b>Reporting Line</b>	<b>Fax Line</b>
Oahu	(808) 832-1999	(808) 832-5292
Toll Free Neighbor Islands	1-888-398-1188	1-888-988-6688

In case of **immediate threat of violence, call the police.**

### What Information Will I Need To Gather?

The Intake Worker will want to obtain as much of the following information as possible before referring the matter for investigation:

- ❖ Name and address of the child victim and his/her parents or other persons responsible for his/her care
- ❖ Child's birthdate or age
- ❖ Names and ages of other persons who live with the child and their relationship to the child if known
- ❖ Nature and extent of the child's abuse or neglect (including any evidence or indication of previous abuse or neglect)
- ❖ Date, time, and location of incident
- ❖ Child's current location and condition
- ❖ Identity of the alleged perpetrator or trafficker
- ❖ Whereabouts of the alleged perpetrator or trafficker and any history, if available

- ❖ Upon demand of Child Welfare Services Intake Worker/Investigator or any police department, the mandated reporter shall provide all information related to the alleged incident of child abuse or neglect, including but not limited to medical records and medical reports, and any image, film, video, or other electronic medium.
- ❖ Any other information that may be helpful in determining the cause of abuse or neglect and whether or not there is a family member who can protect the child.

You are statutorily required, as a mandated reporter, to provide upon request to the department any information relating to the incident of abuse or neglect that was not contained in the original report. If additional information relating to the report of abuse or neglect is not requested but available, you must provide that information as well. You are also required to allow the Child Welfare Services investigator to interview the child victim without the parents or caretakers present.

### **What If I'm Not Sure?**

You can consult with the Department of Human Services regarding your concerns or observations. You need not be prepared to prove that abuse or neglect has occurred before making a report. If the child has shared information with you about the abuse/neglect, this is enough for you to call us. Except for medical situations where history taking includes asking relevant questions to determine the appropriate kinds of tests or examinations needed, the preference is that you make a referral immediately once the information is shared with you. The social worker may need to interview the child, and it is our goal that the child not be subjected to numerous interviews about his/her abusive or neglectful situation by different people.

### **Do I Need To Follow Up In Writing?**

Yes. A Mandated Reporter Checklist for Suspected Child Abuse and Neglect and a Mandated Reporter Checklist for Suspected Human Trafficking have been developed for your use. Examples are attached to this booklet. The forms may be duplicated and used to report abuse and neglect or suspected trafficking.

### **What Happens Following My Report?**

If the report is accepted for investigation, a social worker will be assigned to investigate the referral to determine if the child has been harmed or is at risk of harm. The worker will gather as much information as possible by talking to the child, family members, and if necessary, others in the community. Within sixty (60) days of the date the report is assigned for investigation; a decision must be made whether the report is confirmed or not. You will be contacted regarding the disposition of your report.

## **Will The Police Get Involved?**

A report of suspected child abuse or neglect or substantial risk of child abuse or neglect must be made to the Department of Human Services, Child Welfare Services or to the police. Depending on the circumstances of the report and harm to the child, the police may become involved either at the request of the department or by a determination by the police that they need to take immediate action and/or conduct an investigation.

## **Will The Family Find Out Who Made The Report?**

The department makes every reasonable effort to maintain the confidentiality of a reporter who requests that his/her name not be released. Anyone reporting in good faith is immune from liability.

## **Will I Need To Testify In Court?**

If the social worker finds that legal intervention is necessary as a means of helping the child and family, a petition will be prepared and filed in Family Court (civil proceeding).

We may need your testimony if we believe it is necessary to establish the court's jurisdiction to protect a child from abuse or neglect. Contact is usually made by the social worker or a representative from the Department of the Attorney General who will provide information regarding the type of testimony needed and the date and time of the court proceedings and other information you may need to know. The Department of Human Services may contact you to prepare you further for the proceedings.

## **What Services Can the Department Provide To Children and Families?**

The department provides or makes referrals to services to help remedy problems that may be occurring in a family. For children assessed as needing protection, services may include:

- ❖ Diversion services
- ❖ Comprehensive counseling services
- ❖ Parenting education and support groups
- ❖ In-home support and outreach
- ❖ 'Ohana conferencing
- ❖ Emergency help such as food, clothing, or rent
- ❖ Foster care and foster care related costs; e.g., clothing
- ❖ Referrals for other services not offered by the department

## What Is A Case Plan?

When harm or threatened harm has been confirmed and there has been a determination that a need for protective services has been found, the department develops a case plan with the family to identify the areas that need to be worked on or corrected, as agreed upon with the parents. The case plan includes:

- ❖ Safety issues that must be resolved
- ❖ Goal of the case plan and desired outcomes
- ❖ Objectives to accomplish the goal and outcomes
- ❖ Services to be provided to the parents and their children
- ❖ Responsibilities of the parents, the department, and others who are participating in the service plan
- ❖ Projected date to accomplish the goal and objectives
- ❖ Indicators of success or non-success of the parents
- ❖ Consequences for success or failure

If you are continuing to provide services to the family that you have referred, you may be asked to participate in the service plan.

## How Can I Get More Information?

You can contact the Department of Human Services, Child Welfare Services Intake to discuss whether or not a case should be referred.

The laws, called Hawai'i Revised Statutes, can be found in the reference section of major libraries or online at <https://www.capitol.hawaii.gov/hrscurrent/>. Sections that apply to Child Welfare Services are found in Chapters 350 and 587A. You may also visit the Department of Human Services Website at: <http://humanservices.hawaii.gov/>.