

HAWAII LEGISLATIVE ACTION PACKET

PURPOSE: ADVOCATING CHANGE TO HAWAII LAWS TO BETTER PROTECT CHILDREN AND FAMILIES FROM FRAUD AND ABUSE.

Hawaii does not permit direct citizen legislative action. HEAL recommends Hawaii advocates create a petition directed at Hawaii State Legislators (Hawaii Governor, State House and Senate) requesting that the following recommended changes to State law be enacted. HEAL can support these efforts by creating an action alert to sign any petition created and for Hawaii supporters to write their legislators supporting the petition and recommended changes.

Most States require that petitions and letters must be by, for, and/or from constituents of the State. HEAL does not currently have a Hawaii chapter and we have provided this recommended action packet to assist Hawaii advocates with information and support.

1. Create a petition (hard copy or online) suggesting one, some, or all of the recommended changes to Hawaii's laws below. If you need help, just ask. The petition should be to "Hawaii Lawmakers: State House of Representatives, State Senate, and Governor of Hawaii". If you wish, you can copy/paste the recommendations below into the body of the petition. The petition should begin with, "We, the people of Hawaii, demand state lawmakers enact the following laws, regulations, and policies:" (If you choose to create an online petition, make sure that you select that only Hawaii residents may sign it to make sure the legislators accept the petition.)
2. Notify HEAL that the petition has been created and let us know if it is hard copy or online. If it is hard copy, we will promote your efforts and do our best to get you the local support you need. If the petition is online, send us the link and we will create an action alert asking Hawaii supporters to sign your petition and write a letter to their legislators in Hawaii in support of the policy changes you seek to have enacted.

CHILDREN AND YOUTH'S BILL OF RIGHTS

HEAL recommends that the following children and youth's bill of rights be enacted into law in all States:

1. No child shall be involuntarily placed in a secured, lockdown facility without due process of law. (US Constitution, 14th Amendment—law

supported by Supreme Court Rulings in Bellotti v. Baird (1979) U.S. Supreme Court and Ingraham v. Wright (1977) U.S. Supreme Court)

2. No child shall be forced to act as Staff or perform the duties of an employee of any institution involuntarily. (US Constitution, 13th Amendment—law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)
3. No child shall be forced to act as Staff or perform the duties of an employee of any institution without fair compensation (i.e. minimum wage). (US Constitution, 13th Amendment- law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

HAWAII

Statute of Limitations Suggested Revision(s)

HEAL recommends Hawaii Code Section 701-108 be amended to include kidnapping, sexual abuse/rape of minors, and physical assault/battery resulting in serious injury or death of a child in the list of offenses having no Statute of Limitations.

Alaska provides one example of a State that includes kidnapping, sexual abuse of minors, and rape in the list of offenses that have no Statute of Limitations for prosecution. (Source: ALASKA STAT. § 12.10.010)

Alabama includes assault and battery resulting in serious injury or death in list of offenses having no statute of limitation for prosecution. (Source: ALA. CODE § 15-3-5)

HEAL recommends Hawaii revise Hawaii Code § 657-7 to extend the Statute of Limitations for child victims to file suit upon reaching age of majority. HEAL recommends child victims be given 20 years from time of injury or 15 years upon reaching age of majority to file a tort claim against the tortfeasor.

Alternatives to the above extension of time to file a claim for injured minors include judicial system providing accessible and competent attorneys required to represent minors on a contingency basis with no fees due unless case is won and amount to be paid to attorney may not exceed 50% of the damages and 50% total must include all attorney fees and expenses.

Child Abuse Laws Suggested Revision(s)

Please amend Hawaii's child abuse statutory definitions to include the following:

Emotional Abuse

Citation: Ann. Stat. § 9:6-8.21 (New Jersey Statutory Definition)

Abused child or abused or neglected child means a child under age 18 years who is in an institution, and:

- Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being
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- Who has been willfully isolated from ordinary social contact under circumstances that indicate emotional or social deprivation

The definitions and laws pertaining to child abuse and/or endangering the welfare of a child in our State are found in our Rev. Stat. § 350-1. Please amend our State's laws to include the above definitions as applied under our Child Endangerment, Child Welfare, and Child Abuse laws.

Hawaii's Abandonment Law:

§ 709-902. Abandonment of a child

(1) A person commits the offense of abandonment of a child if, being a parent, guardian, or other person legally charged with the care or custody of a child less than fourteen years old, the person deserts the child in any place with intent to abandon it.

(2) Leaving a newborn child at a hospital, fire station, or police station or with emergency services personnel pursuant to section 587D-2 shall not constitute a violation of this section.

(3) Abandonment of a child is a misdemeanor.

In addition, HEAL recommends that Hawaii's Abandonment Statute be amended and defined as in the following Kansas Statute:

Kansas § 38-2202. Definitions. "As used in the revised Kansas code for care of children, unless the context otherwise indicates: "Abandon" or "abandonment" means to forsake, desert or, (a) without making appropriate provision for substitute care, cease providing care for the child."

HEAL recommends that “appropriate provision for substitute care” be limited to the least restrictive environment within the child’s community of residence and/or within the State of Hawaii if institutionalization is required.

****Special Note: Unlicensed Facilities**

HEAL was unable to locate information on whether or not all residential children’s facilities require licensing in Hawaii. We did however find that faith-based programs/religious residential programs for youth are not exempt from State licensing requirements.

Faith-Based Exemptions Suggested Revision(s)

According to Hawaii Code §346-152 faith-based programs are not exempt from licensing requirements. This is excellent and can be used to support changes to laws in other States. California also requires licensure of faith-based residential programs.

Educational Consultants/Referral Services Suggested Revision(s)

HEAL recommends that Hawaii establish professional guidelines and professional licensure standards and certification requirements for any individual engaging in a business of making referrals to any mental health or educational institution.

Teen/Youth Transport Services Suggested Revision(s)

HEAL recommends that Hawaii establish professional guidelines and professional licensure standards and certification requirements for any individual or business engaging in involuntary transport of youth for mental health, behavioral health, medical care, and/or educational purposes. HEAL recommends that anyone engaged in such a business at minimum be required to be licensed Emergency Medical Technicians (EMTs) with ambulance driver certification with special licensing/certification requirements for transport services taking children across state lines. HEAL recommends that only law enforcement personnel engaged in transporting adjudicated youth who have been court-ordered to a secured treatment facility be permitted to transport youth across state lines for such purposes and that private placements of youth be outlawed as we recommend all youth be recognized as having the right to due process when enrollment/placement violates a minor’s civil liberty interests.

Seclusion and Restraint Suggested Revision(s)

HEAL suggests Hawaii amend State laws regarding seclusion and restraint of children to match Sen. Harkin's (D-IA) and Rep. Miller's (D-CA) Keeping All Students Safe Act of 2011 (S. 2020, H.R. 1381).

Reparative/Conversion Therapy Revision(s)

HEAL suggests that Hawaii enact a law similar to California's law banning reparative/conversion therapy on children and youth. HEAL believes the methods involved in reparative/conversion therapy are inhumane and harmful whether or not they are used to change sexual behavior or any legal behavior or beliefs that may not align with those of families or service providers seeking to use coercive thought reform/conversion therapy techniques to change behavior. See

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1172 for more information.

Facilities and Occupational and Professional Licensure Database Revision(s)

HEAL recommends that Hawaii create an online searchable database including any and all programs offering 24-hour supervised care to children living outside the home whether the programs call themselves therapeutic boarding schools, boot camps, wilderness programs, residential treatment centers, specialty boarding schools, or the like. Arizona provides the most user-friendly searchable database on licensed facilities and the database includes inspection and complaint records. See <http://hsapps.azdhs.gov/ls/sod/SearchProv.aspx?type=BH>. HEAL recommends Hawaii create a searchable database similar to that provided by the State of Arizona.

HEAL recommends that Hawaii create an all-encompassing online searchable database of all individuals that hold occupational or professional licenses in Hawaii that allows for one-stop online verification to determine if an individual claiming occupational or professional licensure is properly licensed and in good-standing with the state. Hawaii has a fairly inclusive search feature that covers most professions with exceptions such as educators. But, all professions requiring licensure should be included in the search feature available at <https://pvl.ehawaii.gov/pvlsearch/app>. Utah provides the most user-friendly searchable database on licensed individuals and the database includes disciplinary records/actions. See <https://secure.utah.gov/llv/search/index.html>. HEAL recommends Hawaii improve its searchable database to be similar to that provided by the State of Utah.

Hawaii may wish to include educator/teacher license verification with the overall professional licensure verification recommended above or continue to maintain a

separate searchable database to verify educator qualifications as found at <https://htsb.ehawaii.gov/htsb-renewals/public-search.html?p1=0>.

The above measures would help Hawaii protect consumers from fraud and abuse by making such information easily accessible.

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