
A BILL FOR AN ACT

RELATING TO CHILD PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 587-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§587-1 Purpose; construction. This chapter creates
4 within the jurisdiction of the family court a child protective
5 act to make paramount the safety and health of children who have
6 been harmed or are in life circumstances that threaten harm.
7 Furthermore, this chapter makes provisions for the service,
8 treatment, and permanent plans for these children and their
9 families.

10 The legislature finds that children deserve and require
11 competent, responsible parenting and safe, secure, loving, and
12 nurturing homes. The legislature finds that children who have
13 been harmed or are threatened with harm are less likely than
14 other children to realize their full educational, vocational,
15 and emotional potential, and become law-abiding, productive,
16 self-sufficient citizens, and are more likely to become involved
17 with the mental health system, the juvenile justice system, or
18 the criminal justice system, as well as become an economic



1 burden on the State. The legislature finds that prompt
2 identification, reporting, investigation, services, treatment,
3 adjudication, and disposition of cases involving children who
4 have been harmed or are threatened with harm are in the
5 children's, their families', and society's best interests
6 because the children are defenseless, exploitable, and
7 vulnerable. The legislature recognizes that many relatives are
8 willing and able to provide a nurturing and safe placement for
9 children who have been harmed or are threatened with harm.

10 The policy and purpose of this chapter is to provide
11 children with prompt and ample protection from the harms
12 detailed herein, with an opportunity for timely reconciliation
13 with their families if the families can provide safe family
14 homes, and with timely and appropriate service or permanent
15 plans to ensure the safety of the child so they may develop and
16 mature into responsible, self-sufficient, law-abiding citizens.
17 The service plan shall effectuate the child's remaining in the
18 family home, when the family home can be immediately made safe
19 with services, or the child's returning to a safe family home.
20 The service plan [~~should~~] shall be carefully formulated with the
21 family in a timely manner. Every reasonable opportunity should
22 be provided to help the child's legal custodian to succeed in



1 remedying the problems [~~which~~] that put the child at substantial
2 risk of being harmed in the family home. Each appropriate
3 resource, public and private, family and friend, should be
4 considered and used to maximize the legal custodian's potential
5 for providing a safe family home for the child. Full and
6 careful consideration [~~should~~] shall be given to the religious,
7 cultural, and ethnic values of the child's legal custodian when
8 service plans are being discussed and formulated. Where the
9 court has determined, by clear and convincing evidence, that the
10 child cannot be returned to a safe family home, the child [~~will~~]
11 shall be permanently placed in a timely manner.

12 The department's child protective services provided under
13 this chapter shall make every reasonable effort to be open,
14 accessible, and communicative to the persons affected in any
15 manner by a child protective proceeding; provided that the
16 safety and best interests of the child under this chapter shall
17 not be endangered in the process.

18 This chapter shall be liberally construed to serve the best
19 interests of the children and the purposes set out in this
20 chapter."



1 SECTION 2. Section 587-2, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Relative" means a person related by blood, lawe hanai
5 parent, or hanai parent, who is willing and able to provide
6 support to the child and the family. As used in this
7 definition, "hanai parent" means an adult other than the natural
8 parent who serves as the child's parent based on written or oral
9 designation by the child or child's relatives. "Lawe hanai
10 parent" means a hanai parent related by blood."

11 SECTION 3. Section 587-21, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Upon satisfying itself as to the course of action
14 that should be pursued to best accord with the purpose of this
15 chapter, the department shall:

16 (1) Resolve the matter in an informal fashion appropriate
17 under the circumstances;

18 (2) Seek to enter into a service plan, without filing a
19 petition in court, with members of the child's family
20 and other authorized agency as the department deems
21 necessary to the success of the service plan,

22 including but not limited to, the member or members of



1 the child's family who have legal custody of the
2 child. The service plan may include an agreement with
3 the child's family to voluntarily place the child in
4 the foster custody of the department or other
5 authorized agency, provided that placement preference
6 shall be given to an appropriate relative identified
7 by the department, or to place the child and the
8 necessary members of the child's family under the
9 family supervision of the department or other
10 authorized agency; provided that if a service plan is
11 not successfully completed within six months, the
12 department shall file a petition or ensure that a
13 petition is filed by another appropriate authorized
14 agency in court under this chapter and the case shall
15 be reviewed as is required by federal law;

- 16 (3) Assume temporary foster custody of the child pursuant
17 to section 587-24(a) and file a petition with the
18 court under this chapter within three working days,
19 excluding Saturdays, Sundays, and holidays, after the
20 date of the department's assumption of temporary
21 foster custody of the child; provided that placement



1 preference shall be given to an appropriate relative
2 identified by the department; or

3 (4) File a petition or ensure that a petition is filed by
4 another appropriate authorized agency in court under
5 this chapter."

6 SECTION 4. Section 587-24, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) Upon assuming temporary foster custody of a child
9 under this chapter, the department shall place the child in
10 emergency foster care, unless the child is admitted to a
11 hospital or similar institution, while it conducts an
12 appropriate investigation[-]; provided that placement preference
13 for emergency foster care shall be given to the appropriate
14 relative identified by the department."

15 SECTION 5. Section 587-53, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (d) to read:

18 "(d) During a continuance period ordered pursuant to
19 subsection (c) or at any other time during the pendency of a
20 child protective proceeding, the court may further order that:

21 (1) Any party undergo a physical, developmental,
22 psychological, or psychiatric evaluation and that a



1 written or oral report be submitted to the court and
2 all parties prior to or upon the date of the continued
3 or next hearing;

4 (2) The child's family members who are parties provide the
5 department or other appropriate authorized agency with
6 the names and addresses of other [~~family~~] relatives,
7 and friends who may be potential visitation
8 supervisors or foster parents for the child and that
9 they arrange for the persons to appear in court upon
10 the date of the continued or next hearing;

11 (3) The child's family members who are parties be
12 permitted reasonable supervised or unsupervised
13 visitation with the child at the discretion of the
14 department or other appropriate authorized agency and
15 the child's guardian ad litem;

16 (4) The parties, subject to their agreement unless
17 jurisdiction has been established, meet with
18 appropriate expert witnesses to discuss the alleged
19 harm to the child;

20 (5) The court and the parties view a visual recording or
21 listen to an oral recording of the child's statement



1 at such time and in such manner as the court deems to
2 be appropriate;

3 (6) The child and the child's family members who are
4 parties, subject to their agreement unless
5 jurisdiction has been established, arrange and
6 commence participation in such counseling or therapy
7 for themselves and the child as the court deems to be
8 appropriate and consistent with the best interests of
9 the child;

10 (7) An appropriate order of protection be entered;

11 (8) A criminal history record check be conducted by the
12 department or other appropriate authorized agency
13 concerning a party who is an alleged perpetrator of
14 imminent harm, harm, or threatened harm to the child,
15 and that the results be submitted to the court and
16 other parties in such manner as the court deems to be
17 appropriate prior to or upon the date of the continued
18 or next hearing;

19 (9) The department or other appropriate authorized agency
20 prepare a written or oral supplemental report pursuant
21 to section 587-40 and submit the report to the court,



1 the guardian ad litem, and all parties prior to or
2 upon the date of the continued or next hearing; or
3 (10) The child's guardian ad litem visit the child's family
4 home and foster home, be present during a supervised
5 visitation, and prepare a written or oral report,
6 including specific recommendations concerning services
7 and assistance, to be submitted to the court and all
8 parties prior to or upon the date of the continued or
9 next hearing."

10 SECTION 6. Section 587-24, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Upon assuming temporary foster custody of a child
13 under this chapter, the department shall place the child in
14 emergency foster care, unless the child is admitted to a
15 hospital or similar institution, while it conducts an
16 appropriate investigation. The department and authorized
17 agencies shall make reasonable efforts to identify all relatives
18 within six months of assuming foster custody of the child."

19 SECTION 7. Section 587-25, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) The following guidelines shall be fully considered
2 when determining whether the child's family is willing and able
3 to provide the child with a safe family home:

4 (1) The current facts relating to the child which include:

5 (A) Age and vulnerability;

6 (B) Psychological, medical, and dental needs;

7 (C) Peer and family relationships and bonding
8 abilities;

9 (D) Developmental growth and schooling;

10 (E) Current living situation;

11 (F) Fear of being in the family home; and

12 (G) Services provided the child;

13 (2) The initial and any subsequent reports of harm

14 [~~and/or~~] and threatened harm suffered by the child;

15 (3) Date(s) and reason for the child's placement out of
16 the home, description, appropriateness, and location
17 of the placement and who has placement responsibility;

18 (4) Historical facts relating to the alleged perpetrator
19 and other appropriate family members who are parties
20 which include:

21 (A) Birthplace and family of origin;

22 (B) How they were parented;



- 1 (C) Marital/relationship history; and
- 2 (D) Prior involvement in services;
- 3 (5) The results of psychiatric/psychological/developmental
- 4 evaluations of the child, the alleged perpetrator, and
- 5 other appropriate family members who are parties;
- 6 (6) Whether there is a history of abusive or assaultive
- 7 conduct by the child's family or others who have
- 8 access to the family home;
- 9 (7) Whether there is a history of substance abuse by the
- 10 child's family or others who have access to the family
- 11 home;
- 12 (8) Whether the alleged perpetrator(s) has acknowledged
- 13 and apologized for the harm;
- 14 (9) Whether the non-perpetrator(s) who resides in the
- 15 family home has demonstrated the ability to protect
- 16 the child from further harm and to [~~insure~~] ensure
- 17 that any current protective orders are enforced;
- 18 (10) Whether there is a support system of extended family,
- 19 including lawe hanai parents and hanai parents,
- 20 [~~and/or~~] and friends available to the child's
- 21 family[+] and what attempts have been made to locate
- 22 and identify extended family, friends, or both;



- 1 (11) Whether the child's family has demonstrated an
- 2 understanding and [~~utilization~~] use of the
- 3 recommended/court ordered services designated to
- 4 effectuate a safe home for the child;
- 5 (12) Whether the child's family has resolved or can resolve
- 6 the identified safety issues in the family home within
- 7 a reasonable period of time;
- 8 (13) Whether the child's family has demonstrated the
- 9 ability to understand and adequately parent the child
- 10 especially in the areas of communication, nurturing,
- 11 child development, perception of the child and meeting
- 12 the child's physical and emotional needs; and
- 13 (14) Assessment (to include the demonstrated ability of the
- 14 child's family to provide a safe family home for the
- 15 child) and recommendation."

16 SECTION 8. Chapter 587, Hawaii Revised Statutes, is
 17 amended by adding a new section to be appropriately designated
 18 and to read as follows:

19 "§587- Relatives; foster placement. The department
 20 shall provide written response within sixty days of an inquiry
 21 from a relative as to the relative's potential as a foster
 22 placement based on any information available to the department



1 at the time of the response and if an application to be a foster
2 parent is submitted and denied, the department shall provide the
3 applicant with the specific reasons for the denial and an
4 explanation of the procedures for an administrative appeal."

5 SECTION 9. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Child Protection Act; Ohana Preference; Grandparents

Description:

Establishes a grandparent, or other appropriate relative, preference for out-of-home placement of children needing child protective services. (SD2)

