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# A BILL FOR AN ACT

RELATING TO YOUTH.

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

1 **PART I**

2 SECTION 1. The legislature finds that Hawaii is one of the  
3 safest and healthiest places in the nation for children and  
4 youth. However, many of Hawaii's youth are not immune to daily  
5 threats to their health and safety. Every year, youth run away  
6 from homes where abuse, neglect, and domestic violence are  
7 commonplace, or from schools where intolerable bullying becomes  
8 a major barrier to educational achievement. Without access to  
9 safe places, youth in these situations are vulnerable and may be  
10 victimized by predatory adults who lure them into alcohol and  
11 substance abuse or prostitution.

12 In October 2012, these concerns were discussed during the  
13 annual children and youth summit sponsored by the legislature's  
14 keiki caucus. In these discussions, youth expressed concerns  
15 over a lack of safe places. Youth were interested in accessing  
16 places where they could seek safety from intolerable home or  
17 school environments without fear of being judged, detained, or  
18 criminalized as a runaway. Youth also expressed interest in



1 being able to access other youth-specific advice, guidance,  
2 programs, and services, including guidance and counseling for  
3 suicide prevention, teen pregnancy prevention, tobacco  
4 cessation, and alcohol and substance abuse support. Finally,  
5 youth wished to access safe places where they could have fun  
6 without the fear of being harassed, bullied, or pressured by  
7 other youth or adults. At the end of the summit, participating  
8 youth identified the need for safe places as one of their  
9 highest priorities.

10 The purpose of this part is to:

- 11 (1) Require the office of youth services to coordinate a  
12 two-year safe places for youth pilot program, which  
13 will coordinate a network of safe places that youth  
14 can access for safety and where they may obtain  
15 advice, guidance, programs, and services; and  
16 (2) Establish and fund the position of safe places for  
17 youth pilot program coordinator.

18 SECTION 2. (a) The office of youth services shall  
19 coordinate a safe places for youth pilot program in partnership  
20 with private organizations. The primary objective of the pilot  
21 program shall be to coordinate a network that youth may access  
22 for safety and where they may obtain advice, guidance, programs,



1 and services. All youth shall be eligible for services at the  
2 safe places.

3 (b) There is established the position of safe places for  
4 youth pilot program coordinator. The coordinator shall:

5 (1) Coordinate the safe places for youth network;

6 (2) Partner with an entity to maintain an updated listing  
7 of safe places statewide;

8 (3) Provide ongoing training in areas that include  
9 emergency response and trauma for organizations  
10 designated as safe places for youth;

11 (4) Partner with the department of education, Hawaii state  
12 student council, peer education programs, private  
13 schools, and other youth services organizations to  
14 build awareness of the safe places for youth network;  
15 and

16 (5) Convene an annual meeting of safe places for youth  
17 participating organizations and other interested  
18 parties to identify emerging needs, provide feedback  
19 on program effectiveness, and provide an opportunity  
20 to recommend improvements to the pilot program.



1 (c) The safe places for youth pilot program shall provide  
2 access to and linkage with services and programs needed by  
3 youth, including but not limited to:

- 4 (1) Domestic violence prevention or reduction;
- 5 (2) Violence and trauma recovery and support;
- 6 (3) Human trafficking resources and prevention;
- 7 (4) Suicide prevention;
- 8 (5) Resources targeted at teenagers, including teen  
9 pregnancy prevention;
- 10 (6) Tobacco cessation;
- 11 (7) Alcohol and substance abuse support;
- 12 (8) Assistance for youth to achieve their educational and  
13 vocational goals; and
- 14 (9) Other relationship building and life skills.

15 (d) The office of youth services shall assist the safe  
16 places for youth pilot program coordinator in coordinating a  
17 comprehensive network of safe places for youth to assist youth  
18 in obtaining advice and guidance.

19 (e) The safe places for youth pilot program shall cease to  
20 exist on June 30, 2015.

21 (f) The office of youth services shall submit a report to  
22 the legislature no later than September 1, 2014. The report



1 shall include the accomplishments of the safe places for youth  
2 pilot program, number of youths assisted by the pilot program,  
3 any proposed legislation, and a recommendation as to whether the  
4 pilot program should be made permanent.

5 (g) For the purposes of this section:

6 "Safe places" means physical and virtual places of safety  
7 for youth.

8 "Youth" means any person under the age of twenty-one.

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2013-2014 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2014-2015 for the position of safe places for youth pilot  
14 program coordinator and for residential options for the pilot  
15 program.

16 The sums appropriated shall be expended by the department  
17 of human services office of youth services for the purposes of  
18 this part.

19 **PART II**

20 SECTION 4. The purpose of this part is to help eliminate  
21 any preference in child custody decisions that unfairly favors



1 one parent more than the other parent of a child; provided that  
2 nothing in this part is intended to negatively affect the child.

3 SECTION 5. Section 571-46, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) In actions for divorce, separation, annulment,  
6 separate maintenance, or any other proceeding where there is at  
7 issue a dispute as to the custody of a minor child, the court,  
8 during the pendency of the action, at the final hearing, or any  
9 time during the minority of the child, may make an order for the  
10 custody of the minor child as may seem necessary or proper. In  
11 awarding the custody, the court shall be guided by the following  
12 standards, considerations, and procedures:

13 (1) Custody should be awarded to ~~[either parent or to]~~  
14 ensure the inclusion of both parents ~~[according to the~~  
15 ~~best interests]~~ in the raising of the child, ~~[and the~~  
16 ~~court also may consider frequent, continuing,]~~ to  
17 ensure maximum continuing, physical, emotional, and  
18 meaningful contact ~~[of each parent with the child]~~  
19 with both parents, unless the court finds that a  
20 parent is unable to act in the best interest of the  
21 child;



- 1           (2) Custody may be awarded to persons other than the  
2           father or mother whenever the award serves the best  
3           interest of the child. Any person who has had de  
4           facto custody of the child in a stable and wholesome  
5           home and is a fit and proper person shall be entitled  
6           prima facie to an award of custody;
- 7           (3) If a child is of sufficient age and capacity to  
8           reason, so as to form an intelligent preference, the  
9           child's wishes as to custody shall be considered and  
10          be given due weight by the court;
- 11          (4) Whenever good cause appears therefor, the court may  
12          require an investigation and report concerning the  
13          care, welfare, and custody of any minor child of the  
14          parties. When so directed by the court, investigators  
15          or professional personnel attached to or assisting the  
16          court, hereinafter referred to as child custody  
17          evaluators, shall make investigations and reports that  
18          shall be made available to all interested parties and  
19          counsel before hearing, and the reports may be  
20          received in evidence if no objection is made and, if  
21          objection is made, may be received in evidence;  
22          provided the person or persons responsible for the



1 report are available for cross-examination as to any  
2 matter that has been investigated; and provided  
3 further that the court shall define the requirements  
4 to be a court-appointed child custody evaluator, the  
5 standards of practice, ethics, policies, and  
6 procedures required of court-appointed child custody  
7 evaluators in the performance of their duties for all  
8 courts, and the powers of the courts over child  
9 custody evaluators to effectuate the best interests of  
10 a child in a contested custody dispute pursuant to  
11 this section. Where there is no child custody  
12 evaluator available that meets the requirements and  
13 standards, or any child custody evaluator to serve  
14 indigent parties, the court may appoint a person  
15 otherwise willing and available;

- 16 (5) The court may hear the testimony of any person or  
17 expert, produced by any party or upon the court's own  
18 motion, whose skill, insight, knowledge, or experience  
19 is such that the person's or expert's testimony is  
20 relevant to a just and reasonable determination of  
21 what is for the best physical, mental, moral, and





1 spiritual well-being of the child whose custody is at  
2 issue;

3 (6) Any custody award shall be subject to modification or  
4 change whenever the best interests of the child  
5 require or justify the modification or change and,  
6 wherever practicable, the same person who made the  
7 original order shall hear the motion or petition for  
8 modification of the prior award;

9 (7) Reasonable visitation rights shall be awarded to  
10 parents, grandparents, siblings, and any person  
11 interested in the welfare of the child in the  
12 discretion of the court, unless it is shown that  
13 rights of visitation are detrimental to the best  
14 interests of the child;

15 (8) The court may appoint a guardian ad litem to represent  
16 the interests of the child and may assess the  
17 reasonable fees and expenses of the guardian ad litem  
18 as costs of the action, payable in whole or in part by  
19 either or both parties as the circumstances may  
20 justify;

21 (9) In every proceeding where there is at issue a dispute  
22 as to the custody of a child, a determination by the



1 court that family violence has been committed by a  
2 parent raises a rebuttable presumption that it is  
3 detrimental to the child and not in the best interest  
4 of the child to be placed in sole custody, joint legal  
5 custody, or joint physical custody with the  
6 perpetrator of family violence. In addition to other  
7 factors that a court shall consider in a proceeding in  
8 which the custody of a child or visitation by a parent  
9 is at issue, and in which the court has made a finding  
10 of family violence by a parent:

11 (A) The court shall consider as the primary factor  
12 the safety and well-being of the child and of the  
13 parent who is the victim of family violence;

14 (B) The court shall consider the perpetrator's  
15 history of causing physical harm, bodily injury,  
16 or assault or causing reasonable fear of physical  
17 harm, bodily injury, or assault to another  
18 person; and

19 (C) If a parent is absent or relocates because of an  
20 act of family violence by the other parent, the  
21 absence or relocation shall not be a factor that



1 weighs against the parent in determining custody  
2 or visitation;

3 (10) A court may award visitation to a parent who has  
4 committed family violence only if the court finds that  
5 adequate provision can be made for the physical safety  
6 and psychological well-being of the child and for the  
7 safety of the parent who is a victim of family  
8 violence;

9 (11) In a visitation order, a court may:

10 (A) Order an exchange of a child to occur in a  
11 protected setting;

12 (B) Order visitation supervised by another person or  
13 agency;

14 (C) Order the perpetrator of family violence to  
15 attend and complete, to the satisfaction of the  
16 court, a program of intervention for perpetrators  
17 or other designated counseling as a condition of  
18 the visitation;

19 (D) Order the perpetrator of family violence to  
20 abstain from possession or consumption of alcohol  
21 or controlled substances during the visitation



- 1 and for twenty-four hours preceding the  
2 visitation;
- 3 (E) Order the perpetrator of family violence to pay a  
4 fee to defray the costs of supervised visitation;
- 5 (F) Prohibit overnight visitation;
- 6 (G) Require a bond from the perpetrator of family  
7 violence for the return and safety of the child.  
8 In determining the amount of the bond, the court  
9 shall consider the financial circumstances of the  
10 perpetrator of family violence;
- 11 (H) Impose any other condition that is deemed  
12 necessary to provide for the safety of the child,  
13 the victim of family violence, or other family or  
14 household member; and
- 15 (I) Order the address of the child and the victim to  
16 be kept confidential;
- 17 (12) The court may refer but shall not order an adult who  
18 is a victim of family violence to attend, either  
19 individually or with the perpetrator of the family  
20 violence, counseling relating to the victim's status  
21 or behavior as a victim as a condition of receiving  
22 custody of a child or as a condition of visitation;



- 1 (13) If a court allows a family or household member to  
2 supervise visitation, the court shall establish  
3 conditions to be followed during visitation;
- 4 (14) A supervised visitation center shall provide a secure  
5 setting and specialized procedures for supervised  
6 visitation and the transfer of children for visitation  
7 and supervision by a person trained in security and  
8 the avoidance of family violence; and
- 9 (15) The court may include in visitation awarded pursuant  
10 to this section visitation by electronic communication  
11 provided that the court shall additionally consider[~~+~~  
12 ~~(A) The~~] the potential for abuse or misuse of the  
13 electronic communication, including the equipment used  
14 for the communication, by the person seeking  
15 visitation or by persons who may be present during the  
16 visitation or have access to the communication or  
17 equipment; [~~(B) Whether~~] whether the person seeking  
18 visitation has previously violated a temporary  
19 restraining order or protective order; and [~~(C)~~  
20 ~~Whether~~] whether adequate provision can be made for  
21 the physical safety and psychological well-being of  
22 the child and for the safety of the custodial parent.





**Report Title:**

Office of Youth Services; Safe Places for Youth; Keiki Caucus;  
Minors; Joint Custody; Appropriation

**Description:**

Requires the Office of Youth Services to coordinate a Safe Places for Youth Pilot Program to coordinate a network that youth may access for safety and where they may obtain advice, guidance, programs, and services. Appropriates funds. Provides that in awarding custody and visitation of a minor child, the court shall consider the preference that custody be awarded to both parents to ensure maximum continuing physical, emotional, and meaningful contact with both parents. Effective 07/01/2030.  
(SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

