

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO THE CHILD PROTECTIVE ACT.

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

1           SECTION 1. The legislature finds that the State's best  
2 practice policies should prioritize the immediate and continued  
3 safety and stability of foster care children, the State's most  
4 vulnerable keiki, when making decisions regarding the time  
5 frame, criteria, and justification for family placement and  
6 reunification. While biological family bonds are respected and  
7 the goals of the department of human services, child protective  
8 services, and parents are to keep biological families intact,  
9 placement with the biological family is not always in the best  
10 interest of the foster care child, particularly in an  
11 "aggravated circumstances" case that involves a history of  
12 neglect, abandonment, physical abuse, drug use, or sexual abuse,  
13 each circumstance compounded by unstable housing. The ultimate  
14 concern must be for the short- and long-term care, safety, and  
15 security of the foster care child.

16           The legislature further finds that judges and guardians ad  
17 litem have minimal direction pertaining to cases involving



1 "aggravated circumstances". Given the instances of death, re-  
2 abuse, continued abandonment, neglect, drug use, sex abuse, and  
3 human trafficking, it is necessary to clarify and specify the  
4 conditions for which biological families may no longer be  
5 considered a safe placement for a child, and the assessment of  
6 the short- and long-term safety and security of a child based on  
7 family history and case details demands a declaration of  
8 "aggravated circumstances" on behalf of a child.

9 The purpose of this Act is to recognize many of the  
10 variables associated with the parents of children entering  
11 foster care by specifying additional circumstances where a  
12 biological family shall be considered an unsafe placement by  
13 expanding the definition of "aggravated circumstances" as used  
14 in chapter 587A, Hawaii Revised Statutes, the Child Protective  
15 Act, to better support judges and guardians ad litem as they  
16 make decisions regarding the care of foster children.

17 SECTION 2. Section 587A-4, Hawaii Revised Statutes, is  
18 amended by amending the definition of "aggravated circumstances"  
19 to read as follows:

20 "Aggravated circumstances" means that:



- 1           (1) The parent has murdered, or has solicited, aided,  
2                    abetted, attempted, or conspired to commit the murder  
3                    or voluntary manslaughter of, another child of the  
4                    parent;
- 5           (2) The parent has committed a felony assault that results  
6                    in serious bodily injury to the child or another child  
7                    of the parent;
- 8           (3) The parent's rights regarding a sibling of the child  
9                    have been judicially terminated or divested;
- 10          (4) The parent has tortured the child;
- 11          (5) The child is an abandoned infant[+], which may include  
12                    a parent on multiple occasions disappearing for a day  
13                    or longer without contact, only to be located due to  
14                    an arrest;
- 15          (6) The parent has committed sexual abuse against another  
16                    child of the parent; [✗]
- 17          (7) The parent is required to register with a sex offender  
18                    registry under section 113(a) of the Adam Walsh Child  
19                    Protection and Safety Act of 2006, title 42 United  
20                    States Code section 16913(a)[+];



1       (8) The parent has provided unstable housing and is a  
2       repeat offender of crimes related to drug use or  
3       distribution, gang activity, theft, arson, or  
4       extortion;

5       (9) The parent has provided unstable housing and has been  
6       incarcerated more than once, resulting in the child's  
7       repeated placement in foster care;

8       (10) The parent has provided unstable housing and placed  
9       the child or a sibling of the child in foster care  
10       more than once;

11       (11) The parent has provided unstable housing and  
12       previously had parental rights voluntarily or  
13       involuntarily terminated;

14       (12) The parent has failed to complete or comply with the  
15       pre-permanency plan or permanency plan requirements  
16       more than once, with consideration of the required  
17       timelines;

18       (13) The parent has physically abused a child as witnessed,  
19       corroborated, or assessed by a third party, clinic,  
20       hospital, or other child assessment professional; or



1        (14) The parent has engaged in human trafficking of the  
2                    child or another child of the parent or has solicited,  
3                    aided, abetted, attempted, or conspired to engage in  
4                    human trafficking of the child or another child of the  
5                    parent."

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

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

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INTRODUCED BY: *Shianne Chun Cleveland*  
*By Request*



# S.B. NO. 271

**Report Title:**

Child Protective Act; Definition; Aggravated Circumstances

**Description:**

Expands the definition of "aggravated circumstances", as used in chapter 587A, Hawaii Revised Statutes, the Child Protective Act, to include situations where the parent has provided unstable housing and is a repeat criminal offender of specific crimes; has been repeatedly incarcerated, resulting in the child's placement in foster care; has placed the child or a sibling of the child in foster care more than once; had parental rights voluntarily or involuntarily terminated; failed to comply with pre-permanency or permanency requirements; has physically abused the child; or the parent has engaged in human trafficking involving the child or another child of the parent or has solicited, aided, abetted, attempted, or conspired to engage in human trafficking of the child or another child of the parent.

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