
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORDS CHECKS UNDER THE CHILD
PROTECTIVE ACT.

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

1 SECTION 1. The purpose of this Act is to amend the Child
2 Protective Act, chapter 587A, Hawaii Revised Statutes, to allow
3 the department of human services, when an assessment is
4 required, to conduct criminal history record checks of alleged
5 perpetrators of child abuse or neglect and all individuals who
6 may reside in the same household with the alleged child victim,
7 without consent, to better identify and address immediate and
8 potential safety and risk factors.

9 SECTION 2. Chapter 587A, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§587A- Authority to conduct criminal history record
13 checks without consent. When an assessment is required pursuant
14 to this chapter, the department may conduct criminal history
15 record checks, without consent, of an alleged perpetrator of
16 harm or threat of harm and all adult household members to ensure
17 the safety of the child."



1 SECTION 3. Section 587A-9, Hawaii Revised Statutes, is
2 amended by amending the title and subsection (a) to read as
3 follows:

4 "[+]§587A-9[+] Temporary foster custody without court
5 order. (a) When the department receives protective custody of
6 a child from the police, the department shall:

7 (1) Assume temporary foster custody of the child if, in
8 the discretion of the department, the department
9 determines that the child is subject to imminent harm
10 while in the custody of the child's family;

11 (2) Make every reasonable effort to inform the child's
12 parents of the actions taken, unless doing so would
13 put another person at risk of harm;

14 (3) Unless the child is admitted to a hospital or similar
15 institution, place the child in emergency foster care
16 while the department conducts an appropriate
17 investigation, with placement preference being given
18 to an approved relative;

19 (4) With authorized agencies, make reasonable efforts to
20 identify and notify all relatives within thirty days
21 of assuming temporary foster custody of the child; and



1 (5) Within three days, excluding Saturdays, Sundays, and
2 holidays:

3 (A) Relinquish temporary foster custody, return the
4 child to the child's parents, and proceed
5 pursuant to section [~~587A-11(3),~~] 587A-11(4), [~~or~~
6 ~~587A-11(5),~~] (5), or (6);

7 (B) Secure a voluntary placement agreement from the
8 child's parents to place the child in foster
9 care, and proceed pursuant to section [~~587A-11(5)~~
10 ~~or 587A-11(7),~~] 587A-11(6) or (8); or

11 (C) File a petition with the court."

12 SECTION 4. Section 587A-11, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§587A-11[+] Investigation; department powers. Upon
15 receiving a report that a child is subject to imminent harm, has
16 been harmed, or is subject to threatened harm, and when an
17 assessment is required by this chapter, the department shall
18 cause such investigation to be made as it deems to be
19 appropriate. In conducting the investigation, the department
20 may:



- 1 (1) Enlist the cooperation and assistance of appropriate
2 state and federal law enforcement authorities, who may
3 conduct an investigation and, if an investigation is
4 conducted, shall provide the department with all
5 preliminary findings, including the results of a
6 criminal history record check of an alleged
7 perpetrator of harm or threatened harm to the child;
- 8 (2) Conduct a criminal history record check of an alleged
9 perpetrator and all adults living in the family home,
10 with or without consent, to ensure the safety of the
11 child;
- 12 ~~(2)~~ (3) Interview the child without the presence or prior
13 approval of the child's family and temporarily assume
14 protective custody of the child for the purpose of
15 conducting the interview;
- 16 ~~(3)~~ (4) Resolve the matter in an informal fashion that it
17 deems appropriate under the circumstances;
- 18 ~~(4)~~ (5) Close the matter if the department finds, after
19 an assessment, that the child is residing with a
20 caregiver who is willing and able to meet the child's



1 needs and provide a safe and appropriate placement for
2 the child;

3 [~~+5~~] (6) Immediately enter into a service plan:

4 (A) To safely maintain the child in the family home;
5 or

6 (B) To place the child in voluntary foster care
7 pursuant to a written agreement with the child's
8 parent.

9 If the child is placed in voluntary foster care and
10 the family does not successfully complete the service
11 plan within three months after the date on which the
12 department assumed physical custody of the child, the
13 department shall file a petition. The department is
14 not required to file a petition if the parents agree
15 to adoption or legal guardianship of the child and the
16 child's safety is ensured; provided that the adoption
17 or legal guardianship hearing is conducted within six
18 months of the date on which the department assumed
19 physical custody of the child;

20 [~~+6~~] (7) Assume temporary foster custody of the child and
21 file a petition with the court within three days,



1 excluding Saturdays, Sundays, and holidays, after the
2 date on which the department assumes temporary foster
3 custody of the child, with placement preference being
4 given to an approved relative; or

5 ~~(7)~~ (8) File a petition or ensure that a petition is
6 filed by another appropriate authorized agency in
7 court under this chapter."

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

10 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Child Protective Act; Criminal History Record Checks

Description:

Amends the Child Protective Act so that when an assessment is required, the Department of Human Services is authorized to conduct criminal history record checks, without consent, of an alleged perpetrator of harm or threat of harm and all adult household members living in the family home with the alleged victim child. (HB2340 CD1)

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