



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 5, 2018

**GOV. MSG. NO. 1206**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2018, the following bill was signed into law:

SB2790 SD2 HD2 CD1

RELATING TO THE RIGHTS OF CHILDREN IN  
FOSTER CARE  
**ACT 105 (18)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO THE RIGHTS OF CHILDREN IN FOSTER CARE.

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

1 SECTION 1. Chapter 587A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4 "§587A- Rights of children in foster care. (a) The  
5 department or an authorized agency shall ensure, whenever  
6 possible, that a child in foster care will:

7 (1) Live in a home, free from physical, psychological,  
8 sexual, and other abuse;

9 (2) Receive food, shelter, and clothing;

10 (3) Receive medical care, dental services, corrective  
11 vision care, and mental health services;

12 (4) Be enrolled in a health insurance plan and, within  
13 forty-five days of out-of-home placement, be provided  
14 with a health assessment and recommended treatment;

15 (5) Have regular, supervised or unsupervised, in-person,  
16 telephone, or other forms of contact with the child's  
17 parents and siblings while the child is in foster  
18 care, unless the contact is either prohibited by court



1 order or is deemed to be unsafe by the child's child  
2 welfare services worker, therapist, guardian ad litem,  
3 or court appointed special advocate. Withholding  
4 visitation shall not be used as punishment. If the  
5 department or authorized agency denies supervised or  
6 unsupervised visits with the child's parents or  
7 siblings:

8 (A) If all parties, including the child, agree to the  
9 denial of the visits, the department or  
10 authorized agency shall submit a written report  
11 to the court within five working days to document  
12 the reasons why the visits are being denied; or

13 (B) If any party, including the child, disagrees with  
14 the denial of the visits, the department or  
15 authorized agency shall file a motion for  
16 immediate review within five working days that  
17 shall include the specific reasons why visits are  
18 being denied;

19 (6) Receive notice of court hearings, and if the child  
20 wishes to attend the hearings, the department or



- 1           authorized agency shall ensure that the child is  
2           transported to the court hearings;
- 3           (7) Have in-person contact with the child's assigned child  
4           welfare services worker;
- 5           (8) Have the ability to exercise the child's own religious  
6           beliefs, including the refusal to attend any religious  
7           activities and services;
- 8           (9) Have a personal bank account if requested and  
9           assistance in managing the child's personal income  
10           consistent with the child's age and development,  
11           unless safety or other concerns require otherwise;
- 12           (10) Be able to participate in extracurricular, enrichment,  
13           cultural, and social activities; provided that if a  
14           child caring institution or resource caregiver  
15           authorizes the participation, the authorization shall  
16           be in accordance with the reasonable and prudent  
17           parent standard, as defined in title 42 United States  
18           Code section 675(10)(A);
- 19           (11) Beginning at age twelve, be provided with age-  
20           appropriate life skills training and a transition plan  
21           for appropriately moving out of the foster care



1 system, which shall include reunification or other  
2 permanency, and written information concerning  
3 independent living programs, foster youth  
4 organizations, and transitional planning services that  
5 are available to all children in foster care who are  
6 twelve years of age or older and their resource  
7 families;

8 (12) If the child is fourteen years of age or older, have  
9 the right to be involved in developing a case plan and  
10 planning for the child's future;

11 (13) If the child is fourteen years of age or older,  
12 receive the child's credit report, free of charge,  
13 annually during the child's time in foster care and  
14 receive assistance with interpreting the report and  
15 resolving inaccuracies, including, when feasible,  
16 assistance from the child's guardian ad litem; and

17 (14) If the child is seventeen years of age, receive prior  
18 to aging out of care certain personal records, such as  
19 an official or certified copy of the child's United  
20 States birth certificate, a Social Security card  
21 issued by the Commissioner of Social Security, health



1 insurance information, a copy of the child's medical  
2 records or information to access the child's medical  
3 records free of charge, immigration documents, and a  
4 driver's license or civil identification card issued  
5 by the State; provided that the department or  
6 authorized agency shall obtain the personal records  
7 for the child.

8 (b) In addition to the rights established in subsection  
9 (a), a child in foster care shall have the following rights:

10 (1) To be treated fairly and equally and receive care and  
11 services that are culturally responsive and free from  
12 discrimination based on race, ethnicity, color,  
13 national origin, ancestry, immigration status, gender,  
14 gender identity, gender expression, sexual  
15 orientation, religion, physical and mental disability,  
16 pregnancy or parenting status, or the fact that the  
17 child is in foster care;

18 (2) To meet with and speak to the presiding judge in the  
19 child's case;



- 1        (3) To have regular in-person contact with the child's  
2        court appointed guardian ad litem, court appointed  
3        special advocate, and probation officer;
- 4        (4) To ask for an attorney, if the child's opinions and  
5        requests differ from those being advocated by the  
6        guardian ad litem pursuant to section 587A-16(c) (6);
- 7        (5) To attend school and to remain in the child's school  
8        of origin unless determined not to be in the child's  
9        best interest, and to be provided cost-effective  
10       transportation to be maintained in the child's school  
11       of origin; provided that if the child changes school  
12       during a school year, the child should be enrolled  
13       immediately in the new school; and
- 14       (6) To receive educational records to the same extent as  
15       all other students.
- 16       (c) Sua sponte or upon appropriate motion, the family  
17       court may issue any necessary orders to any party, including the  
18       department, department of education, department of health,  
19       guardian ad litem, court appointed special advocate, or  
20       probation officer to ensure the child is provided with the  
21       rights enumerated in subsections (a) and (b).



1 (d) Nothing in this section shall establish a private  
2 cause of action for violation of any provision of this section."

3 SECTION 2. Section 587A, part I, Hawaii Revised Statutes,  
4 is amended by amending its title to read as follows:

5 "PART I. SHORT TITLE, PURPOSE, CONSTRUCTION, [~~GUIDING~~  
6 ~~PRINCIPLES,~~] RIGHTS, AND DEFINITIONS"

7 SECTION 3. Section 587A-3, Hawaii Revised Statutes, is  
8 repealed.

9 [~~"§587A-3 Guiding principles for children in foster care.~~

10 ~~(a) The department or an authorized agency, as resource family~~  
11 ~~or permanent custodian, shall abide by the following guiding~~  
12 ~~principles and ensure that a child in foster care:~~

13 ~~(1) Lives in a safe and healthy home, free from physical,~~  
14 ~~psychological, sexual, and other abuse;~~

15 ~~(2) Has adequate:~~

16 ~~(A) Food that is nutritious and healthy,~~

17 ~~(B) Clothing,~~

18 ~~(C) Medical care, dental and orthodontic services,~~  
19 ~~and corrective vision care; and~~

20 ~~(D) Mental health services;~~





- 1       ~~(3) Has supervised or unsupervised in person, telephone,~~
- 2                   ~~or other forms of contact with the child's parents and~~
- 3                   ~~siblings while the child is in foster care, unless~~
- 4                   ~~prohibited by court order;~~
- 5       ~~(4) Has in person contact with the child's assigned child~~
- 6                   ~~protective services worker, guardian ad litem, and if~~
- 7                   ~~applicable, the child's probation officer;~~
- 8       ~~(5) Meets with the presiding judge in the child's case;~~
- 9       ~~(6) Is enrolled in a comprehensive health insurance plan~~
- 10                   ~~and, within forty five days of out of home placement,~~
- 11                   ~~is provided with a comprehensive health assessment and~~
- 12                   ~~treatment as recommended;~~
- 13       ~~(7) May freely exercise the child's own religious beliefs,~~
- 14                   ~~including the refusal to attend any religious~~
- 15                   ~~activities and services;~~
- 16       ~~(8) Has a personal bank account and assistance in managing~~
- 17                   ~~the child's personal income consistent with the~~
- 18                   ~~child's age and development, unless safety or other~~
- 19                   ~~concerns require otherwise;~~



1       ~~(9) Has the right to attend school and, if the child is~~  
2       ~~moved during a school year, has the right to complete~~  
3       ~~the school year at the same school, if practicable;~~  
4       ~~(10) Beginning at age twelve, is provided with age-~~  
5       ~~appropriate life skills training and a transition plan~~  
6       ~~for appropriately moving out of the foster care~~  
7       ~~system, as well as written information concerning~~  
8       ~~independent living programs, foster youth~~  
9       ~~organizations, transitional planning services, and~~  
10       ~~independent living case management programs that are~~  
11       ~~available to all children in foster care who are~~  
12       ~~twelve years of age or older and their resource~~  
13       ~~families; and~~  
14       ~~(11) May participate in extracurricular, enrichment,~~  
15       ~~cultural, and social activities; provided that the~~  
16       ~~child caring institution or resource caregiver~~  
17       ~~authorizes the participation in accordance with the~~  
18       ~~reasonable and prudent parent standard as defined in~~  
19       ~~title 42 United States Code section 675(10)(A).~~  
20       ~~(b) Sua sponte or upon appropriate motion, the family~~  
21       ~~court may issue any necessary orders to any party, including the~~

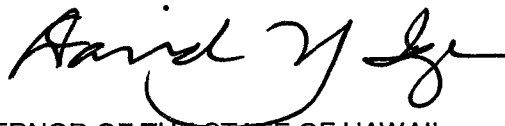


1 ~~department, department of education, or department of health, to~~  
2 ~~ensure adherence to the guiding principles enumerated in~~  
3 ~~subsection (a) above."]~~

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

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

APPROVED this 05 day of JUL 2018

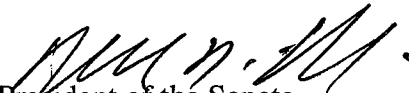



GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2018  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.

  
President of the Senate

  
Clerk of the Senate

SB No. 2790, SD 2, HD 2, CD 1

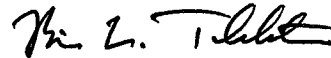
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives