
A BILL FOR AN ACT

RELATING TO FAMILIES.

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

1 SECTION 1. The purpose of this Act is to protect the best
2 interests of children parented or cared for by persons with
3 disabilities by prohibiting the disability of a parent or
4 caregiver from being considered as the sole factor in
5 determining the fitness of any:

6 (1) Foster parent or resource family;

7 (2) Prospective adoptive parent of a minor;

8 (3) Prospective guardian of a minor;

9 (4) Person seeking custody or visitation of a minor child;

10 or

11 (5) Parent or caregiver when evaluating whether a child's
12 family is willing and able to provide the child with a
13 safe family home.

14 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
15 amended by adding a new section to part I to be appropriately
16 designated and to read as follows:

17 "§346- Department standards and requirements;

18 disability. The department shall not consider the disability of



1 a person to be the sole factor in making a determination under
2 section 346-17 or section 346-19.7. If the department makes a
3 determination to deny the petition of a disabled person under
4 section 346-17 or section 346-19.7, the department shall make
5 specific written findings stating the basis for the
6 determination. The party attempting to demonstrate that the
7 disability impairs a person's ability to parent must prove that
8 the disability is a factor, and demonstrate a clear nexus
9 between the disability and the alleged parental deficiency."

10 SECTION 3. Chapter 560, Hawaii Revised Statutes, is
11 amended by adding a new section to article V, part 2 to be
12 appropriately designated and to read as follows:

13 "§560:5- Judicial appointment of guardian; disability.

14 The court shall not consider the disability of a prospective
15 guardian to be the sole factor in the court's determination to
16 approve or deny the appointment of a guardian pursuant to this
17 part. If the court makes a determination to deny guardianship
18 to a person who is disabled, the court shall make specific
19 written findings stating the basis for this determination. The
20 party attempting to demonstrate that the disability of a
21 prospective guardian impairs the prospective guardian's ability



1 to parent must prove that the disability is a factor, and
2 demonstrate a clear nexus between the disability and the alleged
3 parental deficiency."

4 SECTION 4. Chapter 571, Hawaii Revised Statutes, is
5 amended by adding a new section to part V to be appropriately
6 designated and to read as follows:

7 "§571- Criteria and procedure in awarding custody and
8 visitation; disability. The court shall not consider the
9 disability of a person seeking custody or visitation of a minor
10 to be the sole factor in the court's determination made pursuant
11 to this part. If the court makes a determination to deny
12 custody or visitation to a person who is disabled, the court
13 shall make specific written findings stating the basis for this
14 determination. The party attempting to demonstrate that the
15 disability of a person seeking custody or visitation impairs the
16 person's ability to parent must prove that the disability is a
17 factor, and demonstrate a clear nexus between the disability and
18 the alleged parental deficiency."

19 SECTION 5. Chapter 587A, Hawaii Revised Statutes, is
20 amended by adding a new section to part III to be appropriately
21 designated and to read as follows:



1 "§587A- Safe family home factors; disability. The court
2 shall not consider the disability of a parent or caregiver to be
3 the sole factor in the court's determination made pursuant to
4 this part. If the court makes a determination that a child's
5 family is unable to provide a safe family home and one or more
6 of the child's parents or caregivers are disabled, the court
7 shall make specific written findings stating the basis for this
8 determination. The party attempting to demonstrate that the
9 disability of a parent or caregiver impairs the parent's or
10 caregiver's ability to parent must prove that the disability is
11 a factor, and demonstrate a clear nexus between the disability
12 and the alleged parental deficiency."

13 SECTION 6. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 7. New statutory material is underscored.

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



Report Title:

Department of Human Services; Family Court; Parental Rights;
Disabled Persons

Description:

Prohibits the disability of a parent or caregiver from being the sole factor in determining fitness as a foster parent, adoptive parent, guardian, parent seeking custody or visitation, or provider of a safe family home. (CD1)

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

