

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HUMAN SERVICES.

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

1 SECTION 1. Section 587A-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~§~~587A-8 ~~§~~ Protective custody by police officer
4 without court order. (a) A police officer shall assume
5 protective custody of a child without a court order and without
6 the consent of the child's family, if in the discretion of the
7 police officer, the officer determines that:

8 (1) The child is subject to imminent harm while in the
9 custody of the child's family;

10 (2) The child has no parent, as defined in this chapter,
11 who is willing and able to provide a safe family home
12 for the child;

13 (3) The child has no caregiver, as defined in this
14 chapter, who is willing and able to provide a safe and
15 appropriate placement for the child; or



1 (4) The child's parent has subjected the child to harm or
2 threatened harm and the parent is likely to flee with
3 the child.

4 (b) The department shall assume temporary foster custody
5 of the child when a police officer has completed the transfer of
6 protective custody of the child to the department as follows:

7 (1) A police officer who assumes protective custody of a
8 child shall complete transfer of protective custody to
9 the department by presenting physical custody of the
10 child to the department; or

11 (2) If the child is or will be admitted to a hospital or
12 similar institution, the police officer shall
13 immediately complete the transfer of protective
14 custody to the department by notifying the department
15 and receiving an acknowledgment from the hospital or
16 similar institution that it has been informed that the
17 child is under the temporary foster custody of the
18 department.

19 (c) In the event that the police and the department differ
20 in opinion as to whether a child should be removed into custody



1 with the police or the department, the final decision shall rest
2 on the party that believes the child should be removed."

3 SECTION 2. Section 587A-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§587A-9 Temporary foster custody without court order.**

6 (a) The department shall assume temporary foster custody of a
7 child without a court order and without the consent of the
8 child's family, if in the discretion of the department, the
9 department determines that:

10 (1) The child is subject to imminent harm while in the
11 custody of the child's family;

12 (2) The child has no parent, as defined in this chapter,
13 who is willing and able to provide a safe family home
14 for the child;

15 (3) The child has no caregiver, as defined in this
16 chapter, who is willing and able to provide a safe and
17 appropriate placement for the child; or

18 (4) The child's parent has subjected the child to harm or
19 threatened harm and the parent is likely to flee with
20 the child.



1 ~~[(a)]~~ (b) When the department receives protective custody
2 of a child from the police~~[7]~~ pursuant to section 587A-8, the
3 department shall~~[+]~~

4 ~~+(1)~~ ~~Assume]~~ assume temporary foster custody of the child
5 if, in the discretion of the department, the
6 department determines that the child is subject to
7 imminent harm while in the custody of the child's
8 family~~[7]~~.

9 (c) When the department receives protective custody of a
10 child from the police pursuant to section 587A-8 or assumes
11 temporary foster custody pursuant to subsection (a), the
12 department shall:

13 ~~+(2)]~~ (1) Make every reasonable effort to inform the
14 child's parents of the actions taken, unless doing so
15 would put another person at risk of harm;

16 ~~+(3)]~~ (2) Unless the child is admitted to a hospital or
17 similar institution, place the child in emergency
18 foster care while the department conducts an
19 appropriate investigation, with placement preference
20 being given to an approved relative;



1 [~~4~~] (3) With authorized agencies, make reasonable efforts
2 to identify and notify all relatives within thirty
3 days of assuming temporary foster custody of the
4 child; and

5 [~~5~~] (4) Within three days, excluding Saturdays, Sundays,
6 and holidays:

7 (A) Relinquish temporary foster custody, return the
8 child to the child's parents, and proceed
9 pursuant to section 587A-11(4), (5), or (6);

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

14 (C) File a petition with the court.

15 [~~b~~] (d) Upon the request of the department and without
16 regard to parental consent, any physician licensed or authorized
17 to practice medicine in the State shall perform an examination
18 to determine the nature and extent of harm or threatened harm to
19 the child under the department's temporary foster custody.

20 (e) In the event that the police and the department differ
21 in opinion as to whether a child should be removed into custody



1 with the police or the department, the final decision shall rest
2 on the party that believes the child should be removed."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 2598

Report Title:

Department of Human Services; Child Welfare Services; Temporary Foster Custody; Children; Imminent Harm; Police Department

Description:

Authorizes the department of human services to assume temporary foster custody of a child without a court order and without the consent of the child's parents in specific circumstances where there is a risk of imminent harm to the child. Leaves final determination of whether a child should be removed into custody with the party who believe the child should be removed.

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