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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       ~~(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.



**Report Title:**

Rights of Children in Foster Care

**Description:**

Replaces the guiding principles for children in foster care under the Child Protective Act with the rights of children in foster care, which preserves the current rights of children in foster care and provides certain additional rights. Clarifies that the rights of children in foster shall not give rise to a private cause of action for a violation of any right under the applicable law. (CD1)

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

