



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. **722**

June 14, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on June 14, 2006, the following bill was signed into law:

SB2328 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO NOTICE TO
FOSTER PARENTS FOR CHAPTER 587, HAWAII
REVISED STATUTES, CHILD PROTECTIVE ACT
HEARINGS.
(ACT 192)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2328
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO NOTICE TO FOSTER PARENTS FOR CHAPTER 587, HAWAII
REVISED STATUTES, CHILD PROTECTIVE ACT HEARINGS.

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

1 SECTION 1. The legislature recognizes that the safety,
2 permanency, and well-being of a child can best be achieved
3 through sharing information pertaining to the child under the
4 provisions of general confidentiality of proceedings under the
5 Child Protective Act, chapter 587, Hawaii Revised Statutes. The
6 legislature also recognizes that the foster parents for a child
7 in an out-of-home placement are critical to the success of the
8 placement and well-being of the child. As such, foster parents
9 have an important role to play in providing the court with
10 information and recommendations pertaining to a child who is the
11 subject of a court hearing.

12 The intent of the legislature is to provide foster parents
13 with notice so they are aware of the opportunity to attend and
14 participate in all Child Protective Act family court hearings
15 pertaining to a foster child in their care that occur subsequent
16 to a disposition hearing.

1 The purpose of this Act is to clarify that foster parents
2 have the authority to attend and participate in all Child
3 Protective Act hearings that occur subsequent to a disposition
4 hearing.

5 SECTION 2. Chapter 587, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§587- Notice of hearings. (a) Notice of all hearings
9 shall be served upon the parties and upon the parents. Notice
10 of hearings shall be served by the department upon the parties
11 no less than forty-eight hours before the scheduled hearing. No
12 hearing shall be held until the parties are served.

13 (b) Notice of all hearings subsequent to the section
14 587-71 disposition hearing shall be served upon the current
15 foster parent or parents, each of whom shall be entitled to
16 participate in the proceedings as a party. Notice of hearings
17 shall be served by the department upon the current foster parent
18 or parents no less than forty-eight hours before the scheduled
19 hearing, subject to a shortening of time when a hearing is set
20 within a shorter time frame. No hearing shall be held until the
21 current foster parent or parents are served. For purposes of
22 this subsection, notice to foster parents may be effected by



1 hand delivery, regular mail, or by facsimile or electronic mail
2 if receipt may be confirmed, and may consist of the last court
3 order, if it includes the date and time of the hearing.

4 (c) For purposes of this section, "party" or "parties"
5 shall include the current foster parents."

6 SECTION 3. Section 587-72, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§587-72 **Review hearings.** (a) Except for good cause
9 shown, the court shall set each case for review hearing not
10 later than six months after the date that a service plan is
11 ordered by the court and, thereafter, the court shall set
12 subsequent review hearings at intervals of no longer than six
13 months until the court's jurisdiction has been terminated or the
14 court has ordered a permanent plan and has set the case for a
15 permanent plan review hearing[~~the~~]. The court may set a case
16 for a review hearing upon the motion of a party at any time if
17 the hearing is deemed by the court to be in the best interests
18 of the child.

19 [~~(b) Notice of review hearings shall be served upon the~~
20 ~~parties and upon the present foster parent or parents, each of~~
21 ~~whom shall be entitled to participate in the proceedings as a~~
22 ~~party. Notice of the review hearing shall be served by the~~



1 ~~department upon the present foster parent or parents no less~~
2 ~~than forty-eight hours before the scheduled hearing. No hearing~~
3 ~~shall be held until the foster parent or parents are served.~~
4 ~~For purposes of this subsection, notice to foster parents may be~~
5 ~~effected by hand delivery or by regular mail; and may consist of~~
6 ~~the last court order, if it includes the date and time of the~~
7 ~~hearing.~~

8 ~~(e)]~~ (b) Upon each review hearing, the court shall
9 consider fully all relevant prior and current information
10 pertaining to the safe family home guidelines, as set forth in
11 section 587-25, including but not limited to the report
12 submitted pursuant to section 587-40, and:

- 13 (1) Determine whether the child's family is presently
14 willing and able to provide the child with a safe
15 family home without the assistance of a service plan
16 and, if so, the court shall terminate jurisdiction;
- 17 (2) Determine whether the child's family is presently
18 willing and able to provide the child with a safe
19 family home with the assistance of a service plan and,
20 if so, the court shall return the child or continue
21 the placement of the child in the child's family home



- 1 under the family supervision of the appropriate
2 authorized agency;
- 3 (3) If the child's family home is determined, pursuant to
4 [~~subsection (c)(2)~~] paragraph (2) not to be safe, even
5 with the assistance of a service plan, order that the
6 child remain or be placed under the foster custody of
7 the appropriate authorized agency;
- 8 (4) Determine whether the parties have complied with,
9 performed, and completed every term and condition of
10 the service plan that was previously court ordered;
- 11 (5) Order revisions to the existing service plan, after
12 satisfying section 587-71(h), as the court, upon a
13 hearing that the court deems to be appropriate,
14 determines to be in the best interests of the child;
15 provided that a copy of the revised service plan shall
16 be incorporated as part of the order;
- 17 (6) Enter further orders as the court deems to be in the
18 best interests of the child;
- 19 (7) Determine whether aggravated circumstances are present
20 and, if so, the court shall set the case for a show
21 cause hearing as the court deems appropriate within
22 thirty days. At the show cause hearing, the child's



1 family shall have the burden of presenting evidence to
2 the court regarding the reasons and considerations as
3 to why the case should not be set for a permanent plan
4 hearing; and

5 (8) If the child has been residing outside the family home
6 for twelve consecutive months from the initial date of
7 entry into out-of-home care, set the case for a show
8 cause hearing as deemed appropriate by the court. At
9 the show cause hearing, the child's family shall have
10 the burden of presenting evidence to the court
11 regarding the reasons and considerations as to why the
12 case should not be set for a permanent plan hearing.

13 [~~(d)~~] (c) In any case that a permanent plan hearing is not
14 deemed to be appropriate, the court shall:

15 (1) Make a finding that the parties understand that unless
16 the family is willing and able to provide the child
17 with a safe family home, even with the assistance of a
18 service plan, within the reasonable period of time
19 specified in the service plan, their respective
20 parental and custodial duties and rights shall be
21 subject to termination; and

22 (2) Set the case for a review hearing within six months.



1 ~~(e)~~ (d) If the child has been residing outside of the
2 family home for an aggregate of fifteen out of the most recent
3 twenty-two months from the initial date of entry into out-of-
4 home care, the department shall file a motion to set the matter
5 for a permanent plan hearing unless:

6 (1) The department has documented in the safe family home
7 guidelines prepared pursuant to section 587-25(a), a
8 compelling reason why it would not be in the best
9 interests of the child to file a motion; or

10 (2) The State has not provided to the family of the child,
11 consistent with the time period in the service plan,
12 such services as the department deems necessary for
13 the safe return of the child to the family home;

14 provided that nothing in this section shall prevent the
15 department from filing such a motion to set a permanent plan
16 hearing if the department has determined that the criteria in
17 section 587-73(a) are present."

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

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



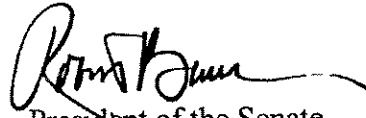
GOVERNOR OF THE STATE OF HAWAII


Approved this day: JUN 14 2006

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


President of the Senate



Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


Speaker, House of Representatives


Clerk, House of Representatives