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## A BILL FOR AN ACT

RELATING TO CHILD PROTECTION.

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

1           SECTION 1. Chapter 587, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§587- Foster custody; placement with kin of the  
5 family. (a) If a child is removed from the family home because  
6 of harm, every reasonable effort shall be made to place the  
7 child with fit and willing kin of the family to continue the  
8 family bond. If fit and willing kin cannot be located, the  
9 child may be placed with licensed and trained non-kin foster  
10 parents. In consideration of the child, all subsequent  
11 placement decisions, including permanent placement decisions,  
12 shall consider the degree and nature of attachment and bonding  
13 with the current kin or non-kin foster caregivers.

14           (b) For purposes of this section:

15           "Attachment" means a child's deep bond or deep, persistent  
16 emotional relationship with a non-interchangeable single  
17 caregiver, such that:

18           (1) The child has an affectional tie with the caregiver;



- 1        (2) The child wishes to maintain proximity or contact with
- 2            the caregiver;
- 3        (3) The child seeks security and comfort in the child's
- 4            relationship with the caregiver; and
- 5        (4) The child feels sadness or distress upon involuntary
- 6            separation from the caregiver.

7        "Bonding" means the emotional relationship between the  
8 child and an adult effected through close association.

9        "Kin" includes:

- 10       (1) The child's maternal and paternal relatives;
- 11       (2) The child's adult siblings;
- 12       (3) Individuals not biologically or legally related to the
- 13            family, including but not limited to, family friends,
- 14            caregivers, or a faith leader; provided that the
- 15            individual is perceived to be family by the child and
- 16            the child's family members; and
- 17       (4) A non-kin foster caregiver; provided that the child
- 18            has become attached to or has bonded with that
- 19            caregiver.

20       **§587- Temporary foster care and adoption placements.**

- 21       (a) Upon the child's initial removal from the child's parent or
- 22       parents due to harm, the department shall make a diligent effort



1 to place the child with kin. To be considered for child  
2 placement, kin shall:

3 (1) Be fit and willing;

4 (2) Be licensable;

5 (3) Be trainable; and

6 (4) Have no need for remedial or rehabilitative services.

7 (b) If kin are not readily identified, a thorough,  
8 documented search for kin shall be conducted. The search for  
9 and licensing and training of kin shall be completed within  
10 sixty days of the child's removal from the child's parent or  
11 parents; provided that if fit and willing kin are not  
12 identified, trained, and licensed within sixty days, the child  
13 shall be placed with non-kin foster parents or, if deemed  
14 appropriate, with risk-adopt foster parents.

15 (c) Pending the identification of kin, the child may be  
16 placed in temporary foster care for up to sixty days.

17 (d) After the initial placement for temporary foster care,  
18 all subsequent foster care and permanent placement decisions,  
19 including adoption, shall:

20 (1) Consider the child's age, previous attachments, if  
21 any, to biological parents and kin and current  
22 attachment and bonding to kin or a non-kin caregiver;



- 1        (2) Give preference to care settings that are the least  
2        disruptive to the child's current attachment and  
3        bonding; provided that the degree of the child's  
4        attachment and bonding to current caregivers shall be  
5        determined by a psychologist or psychiatrist, using  
6        assessments and, if appropriate in light of the  
7        child's age, interviews;
- 8        (3) Reflect the definition of kin from the child's point  
9        of view; provided that this may include redefining the  
10       non-kin foster caregivers to include them as kin,  
11       along with the child's biological kin;
- 12       (4) Give preference to care settings that are the safest,  
13       as assessed under the safe family home guidelines  
14       established by section 587-25 and other department  
15       instruments;
- 16       (5) Give preference to care settings that provide the  
17       highest level of care, as assessed on department  
18       instruments;
- 19       (6) For a child who has not been permanently removed, give  
20       preference to caregivers who will support the  
21       biological parents' service plan and visitations;



1        (7) For a child who has been permanently removed, give  
2        preference to caregivers who will support an open  
3        adoption that includes networking with biological  
4        parents and their kin;

5        (8) Ensure that the caregivers are licensed, trained, and  
6        committed to continued training; and

7        (9) Be made by a team of relevant professionals, which may  
8        include but is not limited to social workers and  
9        psychologists.

10       (c) The kin or non-kin being considered for foster or  
11       permanent placement, including adoption, shall have the burden  
12       of proving that kin or non-kin's:

13       (1) Fitness and willingness;

14       (2) Ability to provide a safe care setting;

15       (3) Willingness to support the biological parent or  
16       parents service plan and visitations; provided the  
17       child has not been permanently removed; and

18       (4) Willingness to support an open adoption that includes  
19       networking with biological parents and their kin;  
20       provided the child has been permanently removed.

21       (d) The department shall conduct on-going qualitative and  
22       quasi-experimental research to evaluate the efficacy and well-



1 being of the State's foster caregivers and their foster  
2 children, adopting parents and their foster children, and the  
3 department's placement and monitoring process. The department  
4 shall submit a report on its research and evaluation biannually  
5 to the legislature twenty days prior to the convening of each  
6 regular session."

7 SECTION 2. Section 587-27, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Permanent plan is a specific written plan, prepared  
10 by an appropriate authorized agency, which should set forth:

11 (1) A position as to whether the court should order an  
12 adoption, guardianship, or permanent custody of the  
13 child and specify:

14 (A) A reasonable period of time during which the  
15 adoption or guardianship may be finalized;  
16 provided that ~~the~~:

17 (i) The identity of the proposed adoptive parent  
18 or parents shall be provided to the court in  
19 a separate report ~~which~~ that shall be  
20 sealed and shall not be released to the  
21 parties unless the court deems such release  
22 to be in the best interests of the child;



1                   (ii) If current kin, as defined in section 587-  
2                                   , or a non-kin foster parent or parents  
3                                   desire to adopt or serve as guardian of the  
4                                   child, the identities of those individuals  
5                                   shall be provided to the court in the plan  
6                                   with the department's recommendations  
7                                   regarding what is in the best interests of  
8                                   the child.

9                   (B) If adoption is not the plan, a clear and  
10                                   convincing explanation why guardianship is  
11                                   preferable to adoption; or

12                   (C) If adoption or guardianship is not the plan, a  
13                                   clear and convincing explanation why permanent  
14                                   custody is preferable to guardianship;

15                   (2) A specific written plan including:

16                                   (A) The goal, as being: adoption, guardianship, or  
17                                   permanent custody;

18                                   (B) The objectives concerning the child, including,  
19                                   but not limited to, stable placement, education,  
20                                   health, therapy, counseling, birth family  
21                                   (including visitation, if any), culture, and

1 adoption, guardianship, or preparation for  
2 independent living; and  
3 (C) The method or methods for achieving the goal and  
4 objectives set forth in subparagraphs (A) and  
5 (B);

6 (3) All supporting exhibits and written consents or an  
7 explanation as to why the exhibits or consents are not  
8 available. Upon good cause shown, the court may waive  
9 submission of any supporting exhibit or written  
10 consent; and

11 (4) Any other information or materials [~~which~~] that are  
12 necessary to the expeditious facilitation of the  
13 permanent plan."

14 SECTION 3. Section 587-73, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) If the court determines that the criteria set forth  
17 in subsection (a) are established by clear and convincing  
18 evidence, the court shall order:

19 (1) That the existing service plan be terminated and that  
20 the prior award of foster custody be revoked;

21 (2) That permanent custody be awarded to an appropriate  
22 authorized agency;



1 (3) That an appropriate permanent plan be implemented  
2 concerning the child whereby the child will:

3 (A) Be adopted pursuant to chapter 578; provided that  
4 ~~the~~:

5 (i) The court shall presume that it is in the  
6 best interests of the child to be adopted,  
7 unless the child is or will be in the home  
8 of family or a person who has become as  
9 family and who for good cause is unwilling  
10 or unable to adopt the child but is  
11 committed to and is capable of being the  
12 child's guardian or permanent custodian; and

13 (ii) Current kin or non-kin foster parents who  
14 are willing and able to adopt shall be  
15 considered first for a child's adoption  
16 placement;

17 (B) Be placed under guardianship pursuant to chapter  
18 560; or

19 (C) Remain in permanent custody until the child is  
20 subsequently adopted, placed under a  
21 guardianship, or reaches the age of majority, and  
22 that such status shall not be subject to



1                   modification or revocation except upon a showing  
2                   of extraordinary circumstances to the court;

3           (4) That such further orders as the court deems to be in  
4           the best interests of the child, including, but not  
5           limited to, restricting or excluding unnecessary  
6           parties from participating in adoption or other  
7           subsequent proceedings, be entered; and

8           (5) Until adoption or guardianship is ordered, that each  
9           case be set for a permanent plan review hearing not  
10          later than one year after the date that a permanent  
11          plan is ordered by the court, or sooner if required by  
12          federal law, and thereafter, that subsequent permanent  
13          plan review hearings be set not later than each year,  
14          or sooner if required by federal law; provided that at  
15          each permanent plan review hearing, the court shall  
16          review the existing permanent plan and enter such  
17          further orders as are deemed to be in the best  
18          interests of the child."

19          SECTION 4. This Act does not affect rights and duties that  
20          matured, penalties that were incurred, and proceedings that were  
21          begun, before its effective date.

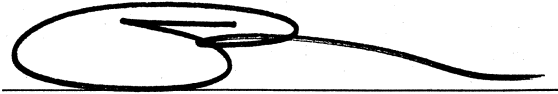


1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:



Ann A. Crabok  
Debra C. Newberry  
Michael P. Kubina

Josh Green MD  
Rick R. Catonella

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**Report Title:**

Temporary Foster Custody; Child Placement; Kin

**Description:**

Sets forth the procedures for placement of a child who is in temporary foster custody with kin or non-kin foster parents.

