
A BILL FOR AN ACT

RELATING TO FOSTER CHILDREN.

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

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

4 "§587- Foster children's bill of rights. The department
5 has the duty as foster custodian or permanent custodian to
6 ensure that children living under its care have the following
7 rights protected and enforced:

- 8 (1) The right to live in a safe and healthy home, free
9 from physical, sexual, emotional, or other abuse;
- 10 (2) The right to be treated with fairness, dignity,
11 respect, and without discrimination because of race,
12 color, religion, disability, sexual orientation,
13 national origin, age, and gender;
- 14 (3) The right to be free from unreasonable searches of
15 personal belongings and mail, including electronic
16 mail;



- 1 (4) The right to be free to make and receive confidential
2 telephone calls as reasonable under the circumstances,
3 unless otherwise provided by law;
- 4 (5) The right to receive adequate and healthy food,
5 adequate clothing, medical care, dental and
6 orthodontic care, corrective vision care, and
7 appropriate mental health services;
- 8 (6) The right to be placed with foster care providers who
9 have received standardized pre-service training and
10 appropriate ongoing training ensuring that the
11 providers have the appropriate knowledge and skills to
12 provide for the child's needs;
- 13 (7) The right to have the child's wishes considered with
14 respect to placement decisions and to receive
15 notification prior to the child's removal and new
16 placement. Whenever possible, workers shall discuss
17 removals and placements with a child and receive input
18 from the child regarding possible caretakers. Prior
19 to being removed from a foster home, the department
20 shall provide the child with written notice of the
21 removal and information regarding the new placement,
22 at least forty-eight hours prior to the removal,



- 1 unless there are immediate concerns for a child's
2 safety. The notice shall state:
- 3 (A) When the removal is scheduled to occur;
 - 4 (B) The location of the new placement;
 - 5 (C) The number, age, and sex of the people living in
6 the new foster home;
 - 7 (D) An overview of the house rules at the new foster
8 home; and
 - 9 (E) Contact information so the child may contact the
10 new home prior to placement.
- 11 (8) The right to be placed with foster care providers who
12 have been adequately informed of the child's
13 circumstances so as to provide appropriate care for
14 the child. Prior to placement, foster care providers
15 shall verbally receive information relating to any
16 serious medical, emotional, and behavioral problems of
17 the child. Within seven days of placement, foster
18 care providers shall receive written information
19 explaining the child's relevant medical and social
20 history. The written information shall include:
- 21 (A) A statement of why the child was removed from the
22 child's parents' care;



- 1 (B) A statement of the child's past instances of
2 abuse or neglect in the child's home or previous
3 foster care placements;
- 4 (C) Pending and past juvenile adjudications or
5 charges;
- 6 (D) Current school information;
- 7 (E) Past history of behavioral problems;
- 8 (F) Current therapy and any known mental health
9 diagnoses;
- 10 (G) Complete medical records in the department's
11 physical custody;
- 12 (H) A statement of the child's cultural and family
13 background; and
- 14 (I) To the extent possible, information about the
15 child's interests, hobbies, likes and dislikes,
16 special possessions or practices, or any other
17 unique characteristic of the child.
- 18 The foster care provider shall keep all such
19 information in strict confidentiality. Provision of
20 such information to a foster care provider shall not
21 have any effect on the information's legal
22 confidentiality.



1 The department shall develop a checklist to document
2 the time and date that such information was submitted
3 to a new foster care provider and furnish the
4 information to the family court in its reports on safe
5 family home guidelines submitted pursuant to section
6 587-40 at the following review hearing;

7 (9) The right to be placed with foster care providers who
8 have been adequately informed of the child's cultural
9 background so as to provide culturally appropriate
10 care for the child and if the foster child is of
11 Hawaiian ancestry, that the foster child be placed
12 with foster parents of Hawaiian ancestry, if
13 appropriate;

14 (10) The rights, while in foster care, to supervised
15 in-person contact and telephone or mail correspondence
16 with the child's parents and siblings, unless
17 prohibited by court order;

18 (11) The right, following an adoption, to supervised
19 in-person contact and telephone or mail correspondence
20 with the child's parents and siblings, as provided in
21 the adoption decree;



1 (12) The right to direct contact with social workers,
2 guardians ad litem, and probation officers. Children,
3 foster parents, and guardians ad litem shall be
4 informed of changes in social worker assignments and
5 provided contact information for any new social worker
6 within forty-eight hours of a change;

7 (13) The right to submit letters or testimony through the
8 child's court-appointed guardian ad litem, at any
9 court hearing or trial, and the right to attend at
10 least one review hearing each year and speak with the
11 family court judge;

12 (14) The right to attend religious activities and services
13 of the child's choosing, and the right to refuse to
14 attend any religious activities or services;

15 (15) The right to maintain a personal bank account and
16 manage personal income, consistent with the child's
17 age and development, unless prohibited due to safety
18 or health concerns;

19 (16) The right to attend school and participate in
20 appropriate extracurricular activities, and if a child
21 is moved during a school year, the right to complete
22 the school year at the same school if practicable;



1 provided that if a child in high school is moved
2 during the school year, the right to remain enrolled
3 in the same school until graduation;

4 (17) The right to have foster care providers actively
5 involved in the child's pending child welfare case.
6 Foster care providers shall receive notice of review
7 hearings, including the date and time, location,
8 docket number, and purpose of the hearing, and shall
9 be entitled to participate in the proceedings as a
10 party for any child under the provider's care, and at
11 the first review hearing following the removal of a
12 child from the provider's care. Foster care providers
13 shall have the right to submit any relevant letters or
14 documents to the court at any hearing in which the
15 providers are entitled to participate;

16 (18) The right to have the child's foster care providers
17 receive reasonable notice before the child is removed
18 from a provider's care except in cases of a court
19 order or when the child is threatened with harm. The
20 department shall provide a written explanation of the
21 child's removal to the child and the child's former



1 foster care provider within seven days of the child's
2 removal;

3 (19) The right to early identification of family members
4 interested in serving as foster care providers or in
5 permanent custody of the child. The department shall
6 conduct an ohana conference within three months of the
7 child's removal from a foster care provider for the
8 express purpose of identifying interested family
9 members. The department shall contact, in writing,
10 both maternal and paternal relatives that can be
11 identified for this conference;

12 (20) The right to stability of placements, as far as
13 practicable. Current foster care providers shall be
14 considered the presumptive choice for adoption, legal
15 guardianship, or permanent custody of any child who is
16 in the permanent custody, insofar as the child agrees,
17 of the department and has been placed in the foster
18 home for more than one year. Prior to the removal of
19 a child in the permanent custody of the department who
20 has been placed with a foster care provider for more
21 than one year, the department shall prove to the
22 family court by a preponderance of the evidence that



1 removal is in the best interests of the child, unless
2 there are immediate concerns for the child's safety.
3 If the removal is due to immediate concerns for the
4 child's safety, the department, within seven days of
5 the child's removal, shall prove to the family court
6 by a preponderance of the evidence that removal is in
7 the best interests of the child;

8 (21) The right to life skills training and a transition
9 plan starting at age fourteen to provide adequate
10 transitioning for foster children aging out of the
11 foster care system and to work and develop job skills
12 at an age-appropriate level, consistent with the laws
13 of this State and as may be reasonably accommodated.

14 (22) To be permitted to exercise parental decision-making
15 authority over and to reside with the foster child's
16 own child if the foster child has a child of his or
17 her own, if appropriate and as may be reasonably
18 accommodated, unless otherwise prohibited by court
19 order; and

20 (23) To have the opportunity to contact the department
21 confidentially and to make complaints regarding
22 alleged violations of the foster child's rights and to

1 be free from harassment and retaliation regarding such
2 actions.

3 The department shall provide every foster child with a copy
4 of the Foster Children's Bill of Rights when the child is placed
5 under the foster custody of the department; provided that the
6 child is of sufficient age and capacity to read and understand
7 the rights.

8 The family court shall have the authority to issue any
9 necessary orders sua sponte, or upon motion of the guardian ad
10 litem, to the department, the department of health, or the
11 department of education, to ensure that these rights are upheld,
12 if such orders are in the child's best interests."

13 SECTION 2. New statutory material is underscored.

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



SB2161.SD2

Report Title:

Foster Children; Bill of Rights

Description:

Establishes a foster children's bill of rights. (SD2)

