

PROPOSED

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## 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;



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- 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,



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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;



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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.

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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;



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- 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





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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



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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.

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**Report Title:**

Foster Children; Bill of Rights

**Description:**

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

