

JAN 25 2006

S.B. NO. 2320

---

---

## 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 provisions for  
2 the safety, permanency, and well-being of a child can best be  
3 achieved through the sharing of information pertaining to the  
4 subject child. The legislature also recognizes that the foster  
5 parents for a child in an out-of-home placement are critical to  
6 the success of the placement and the well-being of the child.  
7 As such, the foster parents have an important role to play in  
8 providing the court with information and recommendations  
9 pertaining to the child who is the subject of the court hearing.  
10           The intent of the legislature is to provide foster parents  
11 with the opportunity to attend and participate in all chapter  
12 587, Hawaii Revised Statutes, family court hearings pertaining  
13 to a foster child in their care that occur subsequent to the  
14 dispositional hearing that is required in section 587-71. The  
15 purpose of this Act is to clarify that foster parents have the  
16 authority to attend and participate in all chapter 587 hearings.

1 SECTION 2. 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- Notice of hearings. (a) Notice of all hearings  
5 shall be served upon the parties and upon the parents. Notice  
6 of hearings shall be served by the department upon the parties  
7 or parents no less than forty-eight hours before the scheduled  
8 hearing. No hearing shall be held until the parties or parents  
9 are served.

10 (b) Notice of all hearings subsequent to the section 587-  
11 71 dispositional hearing shall be served upon the present foster  
12 parent or parents, each of whom shall be entitled to participate  
13 in the proceedings as a party. Notice of hearings shall be  
14 served by the department upon the present foster parent or  
15 parents no less than forty-eight hours before the scheduled  
16 hearing. No hearing shall be held until the present foster  
17 parent or parents are served. For purposes of this subsection,  
18 notice to foster parents may be effected by hand delivery or by  
19 regular mail; and may consist of the last court order, if it  
20 includes the date and time of the hearing."

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

S.B. NO. 2328

1           "§587-72 Review hearings. (a) Except for good cause  
2 shown, the court shall set each case for review hearing not  
3 later than six months after the date that a service plan is  
4 ordered by the court and, thereafter, the court shall set  
5 subsequent review hearings at intervals of no longer than six  
6 months until the court's jurisdiction has been terminated or the  
7 court has ordered a permanent plan and has set the case for a  
8 permanent plan review hearing; the court may set a case for a  
9 review hearing upon the motion of a party at any time if the  
10 hearing is deemed by the court to be in the best interests of  
11 the child.

12           ~~[(b) Notice of review hearings shall be served upon the  
13 parties and upon the present foster parent or parents, each of  
14 whom shall be entitled to participate in the proceedings as a  
15 party. Notice of the review hearing shall be served by the  
16 department upon the present foster parent or parents no less  
17 than forty eight hours before the scheduled hearing. No hearing  
18 shall be held until the foster parent or parents are served.  
19 For purposes of this subsection, notice to foster parents may be  
20 effected by hand delivery or by regular mail; and may consist of  
21 the last court order, if it includes the date and time of the  
22 hearing.]~~

1           ~~(a)~~ (b) Upon each review hearing the court shall  
2 consider fully all relevant prior and current information  
3 pertaining to the safe family home guidelines, as set forth in  
4 section 587-25, including but not limited to the report  
5 submitted pursuant to section 587-40, and:

- 6           (1) Determine whether the child's family is presently  
7 willing and able to provide the child with a safe  
8 family home without the assistance of a service plan  
9 and, if so, the court shall terminate jurisdiction;
- 10          (2) Determine whether the child's family is presently  
11 willing and able to provide the child with a safe  
12 family home with the assistance of a service plan and,  
13 if so, the court shall return the child or continue  
14 the placement of the child in the child's family home  
15 under the family supervision of the appropriate  
16 authorized agency;
- 17          (3) If the child's family home is determined, pursuant to  
18 subsection (c)(2) not to be safe, even with the  
19 assistance of a service plan, order that the child  
20 remain or be placed under the foster custody of the  
21 appropriate authorized agency;

- 1           (4) Determine whether the parties have complied with,  
2           performed, and completed every term and condition of  
3           the service plan that was previously court ordered;
- 4           (5) Order revisions to the existing service plan, after  
5           satisfying section 587-71(h), as the court, upon a  
6           hearing that the court deems to be appropriate,  
7           determines to be in the best interests of the child;  
8           provided that a copy of the revised service plan shall  
9           be incorporated as part of the order;
- 10          (6) Enter further orders as the court deems to be in the  
11          best interests of the child;
- 12          (7) Determine whether aggravated circumstances are present  
13          and, if so, the court shall set the case for a show  
14          cause hearing as the court deems appropriate within  
15          thirty days. At the show cause hearing, the child's  
16          family shall have the burden of presenting evidence to  
17          the court regarding the reasons and considerations as  
18          to why the case should not be set for a permanent plan  
19          hearing; and
- 20          (8) If the child has been residing outside the family home  
21          for twelve consecutive months from the initial date of  
22          entry into out-of-home care, set the case for a show  
23          cause hearing as deemed appropriate by the court. At

1 the show cause hearing, the child's family shall have  
2 the burden of presenting evidence to the court  
3 regarding the reasons and considerations as to why the  
4 case should not be set for a permanent plan hearing.

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

7 (1) Make a finding that the parties understand that unless  
8 the family is willing and able to provide the child  
9 with a safe family home, even with the assistance of a  
10 service plan, within the reasonable period of time  
11 specified in the service plan, their respective  
12 parental and custodial duties and rights shall be  
13 subject to termination; and

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

15 ~~[(e)]~~ (d) If the child has been residing outside of the  
16 family home for an aggregate of fifteen out of the most recent  
17 twenty-two months from the initial date of entry into out-of-  
18 home care, the department shall file a motion to set the matter  
19 for a permanent plan hearing unless:

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

S.B. NO. 2328

1           (2) The State has not provided to the family of the child,  
2           consistent with the time period in the service plan,  
3           such services as the department deems necessary for  
4           the safe return of the child to the family home;  
5           provided that nothing in this section shall prevent the  
6           department from filing such motion to set a permanent plan  
7           hearing if the department has determined that the criteria in  
8           section 587-73(a) are present."

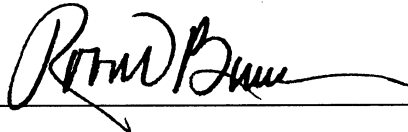
9           SECTION 4. Statutory material to be repealed is bracketed  
10          and stricken. New statutory material is underscored.

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

12

13

INTRODUCED BY:

  
\_\_\_\_\_

14

BY REQUEST

# SB. NO. 2328

## JUSTIFICATION SHEET

DEPARTMENT: Human Services.

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

PURPOSE: The purpose of this bill is to clarify notice of hearings requirements and expand opportunities for foster parents to attend chapter 587, Hawaii Revised Statutes, Child Protective Act hearings and provide information and recommendations to the Family Court and other parties in child welfare services cases with Family Court jurisdiction.

MEANS: Add a new section to chapter 587, and amend section 587-72, Hawaii Revised Statutes.

JUSTIFICATION: Foster parents are now allowed to attend and participate in chapter 587, Hawaii Revised Statutes, Family Court review hearings. The Department is proposing that, subsequent to the dispositional hearing required by section 587-71, Hawaii Revised Statutes, foster parents be noticed and provided with the opportunity to attend all chapter 587 Family Court hearings regarding a child in their care. The Department believes that the best interests of the child will be best served by providing the opportunity for foster parents to attend the hearings to provide information and recommendations to the court concerning the child who is subject to the court's jurisdiction in child welfare cases.



Impact on the public: Foster parents will be able to attend and participate in hearings regarding their foster children.

Impact on the department and other agencies: There will be a minimal impact on departmental staff who will be required to ensure that foster parents are notified of the additional hearing dates and times. Staff are already required to notify foster parents of review hearings pursuant to section 587-72.

GENERAL FUNDS: -0-

OTHER FUNDS: -0-

PPBS PROGRAM  
DESIGNATION: HMS 301

OTHER AFFECTED  
AGENCIES: Judiciary - Family Court.

EFFECTIVE DATE: Upon approval.