

PROPOSED

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2328
S.D. 2

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 child. The legislature also recognizes that foster parents are
5 critical to the success of a placement and the well being of the
6 child. As such, the foster parents have an important role to
7 play in providing the court with information and recommendations
8 pertaining to a child who is the subject of a court hearing.

9 The intent of the legislature is to provide foster parents
10 with notice so they are aware of the opportunity to attend and
11 participate in all chapter 587, Hawaii Revised Statutes, family
12 court hearings pertaining to a foster child in their care that
13 occur subsequent to a disposition hearing. The purpose of this
14 Act is to clarify that foster parents have the authority to
15 attend and participate in all chapter 587 hearings that occur
16 subsequent to a disposition hearing.

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 and the parents no less than forty-eight hours before the
8 scheduled hearing. No hearing shall be held until the parties
9 or parents are served.

10 (b) Notice of all hearings subsequent to a section 587-71
11 disposition hearing shall be served upon the current 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 current foster parent or
15 parents no less than forty-eight hours before the scheduled
16 hearing. Subsequent to a disposition hearing, no hearing shall
17 be held until the current foster parent or parents are served.
18 For purposes of this subsection, notice to foster parents may be
19 effected by hand delivery or by regular mail, and may consist of
20 the last court order, if it includes the date and time of the
21 hearing."



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

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

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



1 ~~the last court order, if it includes the date and time of the~~
2 ~~hearing.~~

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

8 (1) Determine whether the child's family is presently
9 willing and able to provide the child with a safe
10 family home without the assistance of a service plan
11 and, if so, the court shall terminate jurisdiction;

12 (2) Determine whether the child's family is presently
13 willing and able to provide the child with a safe
14 family home with the assistance of a service plan and,
15 if so, the court shall return the child or continue
16 the placement of the child in the child's family home
17 under the family supervision of the appropriate
18 authorized agency;

19 (3) If the child's family home is determined, pursuant to
20 subsection (c)(2) not to be safe, even with the
21 assistance of a service plan, order that the child



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



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

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

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

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

19 [~~e~~] (d) If the child has been residing outside of the
 20 family home for an aggregate of fifteen out of the most recent
 21 twenty-two months from the initial date of entry into out-of-

1 home care, the department shall file a motion to set the matter
2 for a permanent plan hearing unless:

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

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

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

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

PROPOSED

Report Title:

Foster Parents; Attendance at Hearings

Description:

Authorizes a child's current foster parents to attend and participate as parties in all Child Protective Act proceedings subsequent to a disposition hearing. (SD2)

