
A BILL FOR AN ACT

CHILD PROTECTIVE ACT.

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

1 SECTION 1. Section 587-2, Hawaii Revised Statutes, is
2 amended by adding three new definitions to be appropriately
3 inserted and to read as follows:

4 "Bonding" means a child's deep, persistent emotional
5 connection with a non-interchangeable caregiver when the child:

6 (1) Demonstrates an affectional tie to the caregiver;

7 (2) Displays the desire to maintain proximity or contact
8 with the caregiver;

9 (3) Seeks security and comfort in the relationship with
10 the caregiver; and

11 (4) Feels sadness or distress at involuntary separation
12 from the caregiver.

13 "Kin" means a child's maternal and paternal relatives,
14 adult siblings, and any other person who is perceived as
15 "family" by a child or the child's family, and may include the
16 child's caregivers, family friends, or faith leaders, and a
17 non-kin foster custodian with whom the child has bonded."



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- Temporary foster custody. (a) If the department
5 maintains temporary foster custody of a child pursuant to
6 section 587-24(e)(3), the department shall place the child in
7 temporary foster care, with a preference for placing the child
8 with kin, provided that the child's kin is willing and able to
9 provide the child with a safe family home without needing
10 remedial or rehabilitative services.

11 (b) If a child's kin cannot be located when the department
12 receives temporary custody of the child, or a child's identified
13 kin is unwilling or unable to serve as a foster custodian, the
14 child shall be placed in temporary foster custody with a non-kin
15 foster custodian; provided that the department shall commence a
16 thorough, documented search for the child's kin. If no kin is
17 identified within sixty days of the child's removal from the
18 family, the department shall conclude the search; provided that
19 the conclusion of the department's search shall not preclude a
20 child's kin from any future identification, training, or
21 licensing as a foster custodian."

1 SECTION 3. Section 587-24, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Within three working days [~~excluding Saturdays,~~
4 ~~Sundays, or holidays,~~] after the date of its assumption of
5 temporary foster custody, the department shall:

6 (1) Relinquish its temporary foster custody and return the
7 child to the child's legal custodian and proceed
8 pursuant to section 587-21(b) (1), (2), or (4);

9 (2) Continue its assumption of temporary foster custody of
10 the child with the child being voluntarily placed in
11 foster care by the child's legal custodian and proceed
12 pursuant to section 587-21(b) (2) or (4); or

13 (3) Continue its assumption of temporary foster custody of
14 the child and proceed pursuant to ~~[section]~~ sections
15 587-21(b) (3) and 587-_____."

16 SECTION 4. Section 587-27, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "(a) Permanent plan is a specific written plan, prepared
19 by the multidisciplinary team comprised of the child's social
20 worker, guardian ad litem, psychologist, public health nurse,
21 and pediatrician, established by an appropriate authorized
22 agency, which should set forth:



- 1 (1) A position as to whether the court should order an
2 adoption, guardianship, or permanent custody of the
3 child and specify:
- 4 (A) A reasonable period of time during which the
5 adoption or guardianship may be finalized;
6 provided that the identity of the proposed
7 guardian or adoptive parent or parents, including
8 a current kin foster custodian, shall be provided
9 to the court in a separate report, ~~which~~ with
10 the recommendation of the department regarding
11 the best interests of the child. The report
12 shall be sealed and shall not be released to the
13 parties unless the court deems such release to be
14 in the best interests of the child;
- 15 (B) If adoption is not the plan, a clear and
16 convincing explanation why guardianship is
17 preferable to adoption; or
- 18 (C) If adoption or guardianship is not the plan, a
19 clear and convincing explanation why permanent
20 custody is preferable to guardianship;
- 21 (2) A specific written plan including:



- 1 (A) The goal, as being: adoption, guardianship, or
2 permanent custody;
- 3 (B) The objectives concerning the child, including,
4 but not limited to, stable placement, education,
5 health, therapy, counseling, contact with the
6 child's birth family, [+]including visitation, if
7 [any] the multidisciplinary team determines that
8 it is in the child's best interests to have
9 continued contact with the child's birth
10 family[+], culture, and adoption, guardianship,
11 or preparation for independent living; and
- 12 (C) The method or methods for achieving the goal and
13 objectives set forth in subparagraphs (A) and
14 (B);
- 15 (3) All supporting exhibits and written consents or an
16 explanation as to why the exhibits or consents are not
17 available. Upon good cause shown, the court may waive
18 submission of any supporting exhibit or written
19 consent; and
- 20 (4) Any other information or materials [~~which~~] that are
21 necessary to the expeditious facilitation of the
22 permanent plan.



1 (b) A permanent plan prepared for a permanent plan review
2 hearing should set forth:

3 (1) Progress toward and any proposed revision to the goal
4 and the reason for the revision;

5 (2) Progress toward and any proposed revision to the
6 objectives and the reason for the revision; [~~and~~]

7 (3) Any proposed revision to the method for achieving the
8 goals and objectives and the reason for the
9 revision[~~+~~]; and

10 (4) An assessment of the child's bonding with the
11 temporary foster custodian and an evaluation of the
12 effect on the child of any disruption of that
13 attachment.

14 (c) A permanent plan shall promote a continued connection
15 between the child and the child's birth family, unless contact
16 with the birth family is not in the best interests of the child.

17 (d) A permanent plan shall ensure the safest placement of
18 the child, according to the safe family home guidelines of
19 section 587-25."

20 SECTION 5 Section 587-40, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§587-40 Reports to be submitted by the department and**
2 **authorized agencies; social worker expertise.** (a) The
3 department or other appropriate authorized agency shall make
4 every reasonable effort to submit written reports, or a written
5 explanation regarding why a report is not being submitted
6 timely, to the court with copies to the parties or their counsel
7 or guardian ad litem:

- 8 (1) Within forty-eight hours, excluding Saturdays,
9 Sundays, and holidays, subsequent to the hour of the
10 filing of a petition for temporary foster custody
11 pursuant to section 587-21(b)(3);
- 12 (2) Upon the date of the filing of a petition pursuant to
13 section 587-21(b)(4); and
- 14 (3) At least fifteen days prior to the date set for each
15 disposition, review, permanent plan, and permanent
16 plan review hearing, until jurisdiction is terminated,
17 unless a different period of time is ordered by the
18 court or the court orders that no report is required
19 for a specific hearing; or
- 20 (4) Prior to or upon the date of a hearing if the report
21 is supplemental to a report that was submitted
22 pursuant to paragraph (1), (2), or (3).



1 (b) Report or reports pursuant to subsection (a)

2 specifically shall:

3 (1) Assess fully all relevant prior and current
4 information concerning each of the safe family home
5 guidelines, as set forth in section 587-25, except for
6 a report required for an uncontested review hearing or
7 a permanent plan review hearing that need only assess
8 relevant current information including, for a review
9 hearing, the degree of the family's progress with
10 services;

11 (2) In each proceeding, subsequent to adjudication,
12 recommend as to whether the court should order:

13 (A) A service plan as set forth in section 587-26 or
14 revision to the existing service plan and, if so,
15 set forth the proposed service or revision and
16 the pertinent number of the guidelines considered
17 in the report, made pursuant to paragraph (1),
18 which guideline or guidelines provide the basis
19 for recommending the service or revision in a
20 service plan or revised service plan; or

21 (B) A permanent plan or revision to an existing
22 permanent plan and if it is an initial

1 recommendation, set forth the basis for the
2 recommendation that shall include, but not be
3 limited to, an evaluation of each of the criteria
4 set forth in section 587-73(a), including the
5 written permanent plan as set forth in section
6 587-27; and

7 (3) Set forth recommendations as to other orders deemed to
8 be appropriate and state the basis for recommending
9 that the orders be entered.

10 (c) Prior to recommending the removal of a child from the
11 custody of a foster custodian, except when such continued
12 custody presents a risk of imminent harm to the child, the
13 department shall submit to the court a written assessment,
14 prepared by a child protective services multidisciplinary team
15 or a mental health professional, of the child's bonding with the
16 temporary foster custodian with an evaluation of the effect on
17 the child of any disruption of that attachment, or a written
18 explanation why a report is not being submitted.

19 [~~e~~] (d) A written report pertaining to cases pending
20 before the family court submitted by the department pursuant to
21 subsection (a) shall be submitted to the court in its entirety,
22 and shall include the following:



1 (1) Any report, or medical or mental health consultation,
2 generated by a child protective services
3 multidisciplinary team or consultant in its entirety;
4 and

5 (2) All other relevant information on placement of the
6 child.

7 ~~[(d)]~~ (e) A written report submitted under this section
8 shall be admissible and may be relied upon to the extent of its
9 probative value in any proceeding under this chapter; provided
10 that the person or persons who prepared the report may be
11 subject to direct and cross-examination as to any matter in the
12 report, unless the person is unavailable.

13 ~~[(e)]~~ (f) A person employed by the department as a social
14 worker in the area of child protective or child welfare services
15 is qualified to testify as an expert in the area of social work
16 and child protective or child welfare services."

17 SECTION 6. Section 587-53, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) If the department has continued to assume temporary
21 foster custody of a child pursuant to ~~[section]~~ sections
22 587-24(e)(3) and 587-__, the court shall set a temporary foster



1 custody hearing within two working days [~~excluding Saturdays,~~
2 ~~Sundays, and holidays,~~] after the filing of a petition to
3 determine whether the best interests of the child require
4 further protection prior to an adjudicatory determination."

5 2. By amending subsection (f) to read:

6 "(f) After a temporary foster custody hearing, if the
7 court determines that there is reasonable cause to believe that
8 continued placement in foster care is necessary to protect the
9 child from imminent harm, it shall order that the child continue
10 in the temporary foster custody of the department under the
11 terms and conditions, including, but not limited to, orders
12 concerning services and assistance and which may be entered
13 pursuant to subsection (d), as are deemed by the court to be in
14 the best interests of the child; provided that prior to ordering
15 placement or continued placement in any proceeding under this
16 chapter the court first shall give due consideration to
17 [~~whether~~]:

18 (1) The removal or continued removal of the alleged
19 potential perpetrator of the imminent harm, harm, or
20 threatened harm from the child's family home prior to
21 continuing or placing the child out of the family
22 home. The child's family shall have the burden of



1 establishing that it is not in the best interests of
2 the child that the alleged perpetrator be removed from
3 the family's home rather than the child by order of
4 the court; [~~and~~]

5 (2) [~~Every~~] Whether every reasonable effort has been or is
6 being made to place siblings or psychologically bonded
7 children together, unless the placement is not in the
8 best interests of the children[~~-~~];

9 (3) The child's age and previous attachments, if any, to a
10 kin or non-kin caregiver or foster custodian;

11 (4) Whether the placement will cause disruption to the
12 child's bonding with a caregiver;

13 (5) Whether the temporary foster custody setting is the
14 safest setting for the child, according to the safe
15 family home guidelines in section 587-25; and

16 (6) Whether the temporary foster custodian will support
17 the parent's service plan and visitation schedule."

18 SECTION 7. Section 587-73, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

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

- 1 (1) That the existing service plan be terminated and that
2 the prior award of foster custody be revoked;
- 3 (2) That permanent custody be awarded to an appropriate
4 authorized agency;
- 5 (3) That an appropriate permanent plan be implemented
6 concerning the child whereby the child will:
- 7 (A) Be adopted pursuant to chapter 578; provided that
8 the court shall presume that it is in the best
9 interests of the child to be adopted~~[r]~~ and that
10 a child's kin foster custodian shall be
11 considered first for the child's adoption
12 placement, if such placement is recommended by
13 the multidisciplinary team, unless the child is
14 or will be in the home of [~~family~~] kin or a
15 person who has become as [~~family~~] kin and who for
16 good cause is unwilling or unable to adopt the
17 child but is committed to and is capable of being
18 the child's guardian or permanent custodian;
- 19 (B) Be placed under guardianship pursuant to chapter
20 560; or
- 21 (C) Remain in permanent custody until the child is
22 subsequently adopted, placed under a



1 guardianship, or reaches the age of majority, and
2 that such status shall not be subject to
3 modification or revocation except upon a showing
4 of extraordinary circumstances to the court;

5 (4) That such further orders as the court deems to be in
6 the best interests of the child, including, but not
7 limited to, restricting or excluding unnecessary
8 parties from participating in adoption or other
9 subsequent proceedings, and directing the department
10 to provide ongoing training for the child's foster
11 custodian to ensure a continued high level of care, be
12 entered; and

13 (5) Until adoption or guardianship is ordered, that each
14 case be set for a permanent plan review hearing not
15 later than one year after the date that a permanent
16 plan is ordered by the court, or sooner if required by
17 federal law, and thereafter, that subsequent permanent
18 plan review hearings be set not later than each year,
19 or sooner if required by federal law; provided that at
20 each permanent plan review hearing, the court shall
21 review the existing permanent plan and enter such



1 further orders as are deemed to be in the best
2 interests of the child."

3 SECTION 8. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$, or so
5 much thereof as may be necessary for fiscal year 2006-2007, for
6 the department to enter into a contract pursuant to chapter 103F
7 for both qualitative and quasi-experimental research on, and an
8 assessment of, the procedures governing the timely evaluation of
9 the efficacy of:

- 10 (1) The department's temporary and permanent foster care
11 placement and monitoring system; and
- 12 (2) The State's foster custodians and adopting parents,
13 and the well-being of the children placed in their
14 respective care.

15 The department shall submit a report of findings and conclusions
16 to the legislature no later than twenty days prior to the
17 convening of the regular session of 2008.

18 SECTION 9. The sum appropriated shall be expended by the
19 department of human services for the purposes of this Act.

20 SECTION 10. Statutory material to be repealed is bracketed



1 and stricken. New statutory material is underscored.

2 SECTION 11. This Act shall take effect on July 1, 2006.

3

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Report Title:

Child Protective Act; Kinship Care

SB NO. 2627

Description:

Provides additional criteria for determining foster custodians. Appropriates funds for an evaluation of the State's temporary and permanent foster care system. Adds new definitions.

