



GOV. MSG. NO. 841

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 20, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 20, 2008, the following bill was signed into law:

SB2730 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO CHILD
PROTECTION.
(ACT 199)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CHILD PROTECTION.

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- Relatives; foster placement. The department
5 shall provide an application within fifteen days of an inquiry
6 from a relative to be a foster placement. If an application to
7 be a foster parent is submitted and denied, the department shall
8 provide the applicant with the specific reasons for the denial
9 and an explanation of the procedures for an administrative
10 appeal."

11 SECTION 2. Section 587-2, Hawaii Revised Statutes, is
12 amended by adding two new definitions to be appropriately
13 inserted and to read as follows:

14 "Hanai relative" means an adult other than a blood relative
15 who performs or has performed a substantial role in the
16 upbringing or material support of a child, as attested to by the
17 written or oral designation of the child or of another person,



1 including other relatives of the child, as deemed credible by
2 the court or the department.

3 "Relative" means a person related by blood or adoption, or
4 a hanai relative, as defined in this chapter, who is willing and
5 able to safely provide support to the child and the family, as
6 determined by the court or the department."

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

9 "§587-1 Purpose; construction. This chapter creates
10 within the jurisdiction of the family court a child protective
11 act to make paramount the safety and health of children who have
12 been harmed or are in life circumstances that threaten harm.
13 Furthermore, this chapter makes provisions for the service,
14 treatment, and permanent plans for these children and their
15 families.

16 The legislature finds that children deserve and require
17 competent, responsible parenting and safe, secure, loving, and
18 nurturing homes. The legislature finds that children who have
19 been harmed or are threatened with harm are less likely than
20 other children to realize their full educational, vocational,
21 and emotional potential, and become law-abiding, productive,
22 self-sufficient citizens, and are more likely to become involved



1 with the mental health system, the juvenile justice system, or
2 the criminal justice system, as well as become an economic
3 burden on the State. The legislature finds that prompt
4 identification, reporting, investigation, services, treatment,
5 adjudication, and disposition of cases involving children who
6 have been harmed or are threatened with harm are in the
7 children's, their families', and society's best interests
8 because the children are defenseless, exploitable, and
9 vulnerable. The legislature recognizes that many relatives are
10 willing and able to provide a nurturing and safe placement for
11 children who have been harmed or are threatened with harm.

12 The policy and purpose of this chapter is to provide
13 children with prompt and ample protection from the harms
14 detailed herein, with an opportunity for timely reconciliation
15 with their families if the families can provide safe family
16 homes, and with timely and appropriate service or permanent
17 plans to ensure the safety of the child so they may develop and
18 mature into responsible, self-sufficient, law-abiding citizens.
19 The service plan shall effectuate the child's remaining in the
20 family home, when the family home can be immediately made safe
21 with services, or the child's returning to a safe family home.
22 The service plan [~~should~~] shall be carefully formulated with the



1 family in a timely manner. Every reasonable opportunity should
2 be provided to help the child's legal custodian to succeed in
3 remedying the problems [~~which~~] that put the child at substantial
4 risk of being harmed in the family home. Each appropriate
5 resource, public and private, family and friend, should be
6 considered and used to maximize the legal custodian's potential
7 for providing a safe family home for the child. Full and
8 careful consideration [~~should~~] shall be given to the religious,
9 cultural, and ethnic values of the child's legal custodian when
10 service plans are being discussed and formulated. Where the
11 court has determined, by clear and convincing evidence, that the
12 child cannot be returned to a safe family home, the child [~~will~~]
13 shall be permanently placed in a timely manner.

14 The department's child protective services provided under
15 this chapter shall make every reasonable effort to be open,
16 accessible, and communicative to the persons affected in any
17 manner by a child protective proceeding; provided that the
18 safety and best interests of the child under this chapter shall
19 not be endangered in the process.

20 This chapter shall be liberally construed to serve the best
21 interests of the children and the purposes set out in this
22 chapter."



1 SECTION 4. Section 587-21, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Upon satisfying itself as to the course of action
4 that should be pursued to best accord with the purpose of this
5 chapter, the department shall:

6 (1) Resolve the matter in an informal fashion appropriate
7 under the circumstances;

8 (2) Seek to enter into a service plan, without filing a
9 petition in court, with members of the child's family
10 and other authorized agency as the department deems
11 necessary to the success of the service plan,
12 including [~~but not limited to,~~] the member or members
13 of the child's family who have legal custody of the
14 child. The service plan may include an agreement with
15 the child's family to voluntarily place the child in
16 the foster custody of the department or other
17 authorized agency, provided that placement preference
18 shall be given to an appropriate relative identified
19 by the department, or to place the child and the
20 necessary members of the child's family under the
21 family supervision of the department or other
22 authorized agency; further that if a service



1 plan is not successfully completed within six months,
2 the department shall file a petition or ensure that a
3 petition is filed by another appropriate authorized
4 agency in court under this chapter and the case shall
5 be reviewed as is required by federal law;

6 (3) Assume temporary foster custody of the child pursuant
7 to section 587-24(a) and file a petition with the
8 court under this chapter within three working days,
9 excluding Saturdays, Sundays, and holidays, after the
10 date of the department's assumption of temporary
11 foster custody of the child; provided that placement
12 preference shall be given to an appropriate relative
13 identified by the department; or

14 (4) File a petition or ensure that a petition is filed by
15 another appropriate authorized agency in court under
16 this chapter."

17 SECTION 5. Section 587-24, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Upon assuming temporary foster custody of a child
20 under this chapter, the department shall place the child in
21 emergency foster care, unless the child is admitted to a
22 hospital or similar institution, while it conducts an



1 appropriate investigation[-]; provided that placement preference
2 for emergency foster care shall be given to the appropriate
3 relative identified by the department. The department and
4 authorized agencies shall make reasonable efforts to identify
5 all relatives within six months of assuming foster custody of
6 the child."

7 SECTION 6. Section 587-25, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The following guidelines shall be fully considered
10 when determining whether the child's family is willing and able
11 to provide the child with a safe family home:

12 (1) The current facts relating to the child which include:

- 13 (A) Age and vulnerability;
- 14 (B) Psychological, medical, and dental needs;
- 15 (C) Peer and family relationships and bonding
- 16 abilities;
- 17 (D) Developmental growth and schooling;
- 18 (E) Current living situation;
- 19 (F) Fear of being in the family home; and
- 20 (G) Services provided the child;

21 (2) The initial and any subsequent reports of harm
22 [~~and/or~~] and threatened harm suffered by the child;



- 1 (3) Date(s) and reason for the child's placement out of
2 the home, description, appropriateness, [~~and~~] location
3 of the placement [~~and~~], and who has placement
4 responsibility;
- 5 (4) Historical facts relating to the alleged perpetrator
6 and other appropriate family members who are parties
7 which include:
- 8 (A) Birthplace and family of origin;
9 (B) How they were parented;
10 (C) Marital/relationship history; and
11 (D) Prior involvement in services;
- 12 (5) The results of psychiatric/psychological/developmental
13 evaluations of the child, the alleged perpetrator, and
14 other appropriate family members who are parties;
- 15 (6) Whether there is a history of abusive or assaultive
16 conduct by the child's family or others who have
17 access to the family home;
- 18 (7) Whether there is a history of substance abuse by the
19 child's family or others who have access to the family
20 home;
- 21 (8) Whether the alleged perpetrator(s) has acknowledged
22 and apologized for the harm;



- 1 (9) Whether the non-perpetrator(s) who resides in the
2 family home has demonstrated the ability to protect
3 the child from further harm and to [~~insure~~] ensure
4 that any current protective orders are enforced;
- 5 (10) Whether there is a support system of extended family
6 [~~and/or~~], including adoptive and hanai relatives, and
7 friends available to the child's family[+] and what
8 attempts have been made to locate and identify
9 extended family, friends, or both;
- 10 (11) Whether the child's family has demonstrated an
11 understanding and [~~utilization~~] use of the
12 recommended/court ordered services designated to
13 effectuate a safe home for the child;
- 14 (12) Whether the child's family has resolved or can resolve
15 the identified safety issues in the family home within
16 a reasonable period of time;
- 17 (13) Whether the child's family has demonstrated the
18 ability to understand and adequately parent the child
19 especially in the areas of communication, nurturing,
20 child development, perception of the child and meeting
21 the child's physical and emotional needs; and



1 (14) Assessment (to include the demonstrated ability of the
2 child's family to provide a safe family home for the
3 child) and recommendation."

4 SECTION 7. Section 587-53, Hawaii Revised Statutes, is
5 amended by amending subsection (d) as follows:

6 1. By amending subsection (d) to read:

7 "(d) During a continuance period ordered pursuant to
8 subsection (c) or at any other time during the pendency of a
9 child protective proceeding, the court may further order that:

10 (1) Any party undergo a physical, developmental,
11 psychological, or psychiatric evaluation and that a
12 written or oral report be submitted to the court and
13 all parties prior to or upon the date of the continued
14 or next hearing;

15 (2) The child's family members who are parties provide the
16 department or other appropriate authorized agency with
17 the names and addresses of other [~~family~~] relatives
18 and friends who may be potential visitation
19 supervisors or foster parents for the child and that
20 they arrange for the persons to appear in court upon
21 the date of the continued or next hearing;



- 1 (3) The child's family members who are parties be
2 permitted reasonable supervised or unsupervised
3 visitation with the child at the discretion of the
4 department or other appropriate authorized agency and
5 the child's guardian ad litem;
- 6 (4) The parties, subject to their agreement unless
7 jurisdiction has been established, meet with
8 appropriate expert witnesses to discuss the alleged
9 harm to the child;
- 10 (5) The court and the parties view a visual recording or
11 listen to an oral recording of the child's statement
12 at such time and in such manner as the court deems to
13 be appropriate;
- 14 (6) The child and the child's family members who are
15 parties, subject to their agreement unless
16 jurisdiction has been established, arrange and
17 commence participation in such counseling or therapy
18 for themselves and the child as the court deems to be
19 appropriate and consistent with the best interests of
20 the child;



- 1 (7) An appropriate order of protection be entered;
- 2 (8) A criminal history record check be conducted by the
3 department or other appropriate authorized agency
4 concerning a party who is an alleged perpetrator of
5 imminent harm, harm, or threatened harm to the child,
6 and that the results be submitted to the court and
7 other parties in such manner as the court deems to be
8 appropriate prior to or upon the date of the continued
9 or next hearing;
- 10 (9) The department or other appropriate authorized agency
11 prepare a written or oral supplemental report pursuant
12 to section 587-40 and submit the report to the court,
13 the guardian ad litem, and all parties prior to or
14 upon the date of the continued or next hearing; or
- 15 (10) The child's guardian ad litem visit the child's family
16 home and foster home, be present during a supervised
17 visitation, and prepare a written or oral report,
18 including specific recommendations concerning services
19 and assistance, to be submitted to the court and all
20 parties prior to or upon the date of the continued or
21 next hearing."



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2008.

APPROVED this 20 day of JUN, 2008



GOVERNOR OF THE STATE OF HAWAII

