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# A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1           SECTION 1. In light of recent violent events and the  
2 tragic death of a child, the legislature finds that timeliness  
3 is of the essence with investigations of alleged drug abuse in a  
4 child's home. There have been cases where drug use in a child's  
5 home was reported, but there was no immediate response by a  
6 government agency to investigate the report of alleged drug use.

7           The purpose of this Act is to further protect children who  
8 may be in a household where drugs are used by requiring:

9           (1) The department of human services to conduct an  
10 investigation within 24 hours of receiving a report of  
11 alleged drug use in a child's home;

12           (2) A parent, legal guardian, cohabitant, or caregiver to  
13 be free of drug use for at least 60 days prior to  
14 being allowed visitation rights with a child; and

15           (3) Substance abuse treatment for at least one year prior  
16 to a parent or legal guardian being awarded full  
17 custody of a child, or before a cohabitant or  
18 caregiver is allowed to supervise a child alone.



1 SECTION 2. Chapter 587, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 "PART . PARENT SUBSTANCE USE

5 §587- Definitions. For purposes of this part, unless  
6 the context otherwise requires:

7 "Abuse" means the misuse of a substance or the use of a  
8 substance to an extent deemed deleterious or detrimental to the  
9 user, to others, or to society.

10 "Illegal drug use" shall mean the use of crystal  
11 methamphetamine, heroin, cocaine, phencyclidine (PCP), or  
12 morphine.

13 §587- Investigation. (a) Upon receiving a report that  
14 a parent, guardian, cohabitant, caregiver, or legal custodian of  
15 a child may be engaging in illegal drug use when a child is  
16 present, the department shall conduct an investigation within  
17 twenty-four hours of the reported allegation of illegal drug  
18 use. If the department finds that the parent, guardian,  
19 cohabitant, caregiver, or legal custodian has tested positive  
20 for illegal drug use and that the child is placed in imminent  
21 harm because of the illegal use of drugs, the department shall:



1 (1) Immediately contact the police who shall make a  
2 determination under section 587-22 on whether the  
3 child should be taken into protective custody; and

4 (2) File for a temporary restraining order on behalf of  
5 the child against the individual who tested positive  
6 for drug use.

7 (b) Any child under this section may be allowed visitation  
8 with the child's parent, guardian, cohabitant, caregiver, or  
9 legal custodian; provided that no visitation shall be allowed  
10 for a minimum of sixty days unless the department finds that the  
11 parent, guardian, or legal custodian has tested negative for  
12 illegal drug use.

13 **§587- Substance abuse treatment.** The department shall  
14 require a parent, guardian, or legal custodian to successfully  
15 participate in a drug treatment program for a minimum of one  
16 year before the parent, guardian, or legal custodian may regain  
17 full custody of the child. A cohabitant or caregiver shall not  
18 solely supervise the child until successfully participating in a  
19 drug treatment program for a minimum of one year.

20 **§587- Rules.** The department may adopt rules in  
21 accordance with chapter 91 to implement this part."



1 SECTION 3. The department of human services shall submit a  
2 report to the legislature no later than twenty days prior to the  
3 regular session of 2009 on its efforts to prevent children from  
4 being injured or exposed to unreasonable risk or neglect by  
5 parents, guardians, or caregivers who test positive for illegal  
6 drug use.

7 SECTION 4. If any provision of this Act, or the  
8 application thereof to any person or circumstance is held  
9 invalid, the invalidity does not affect other provisions or  
10 applications of the Act, which can be given effect without the  
11 invalid provision or application, and to this end the provisions  
12 of this Act are severable.

13 SECTION 5. This Act shall take effect on July 1, 2008.



**Report Title:**

Child Custody; Parent Drug Use

**Description:**

Requires the Department of Human Services to investigate reports of drug use in the home of a child within 24 hours. Requires a parent, legal custodian, cohabitant, or caregiver to be drug free for at least 60 days prior to being allowed visitation with a child, and to participate in substance abuse treatment for at least one year before being awarded full custody of a child or being allowed to solely supervise the child. (HB2596 HD1)

