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# 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  
15 relative who serves as support to the child based on written,  
16 oral, or implied designation by the child or child's relatives."



1       "Relative" means a person related by blood, adoption, or a  
2 hanai relative, who is willing and able to provide support to  
3 the child and the family."

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

6       "**§587-1 Purpose; construction.** This chapter creates  
7 within the jurisdiction of the family court a child protective  
8 act to make paramount the safety and health of children who have  
9 been harmed or are in life circumstances that threaten harm.  
10 Furthermore, this chapter makes provisions for the service,  
11 treatment, and permanent plans for these children and their  
12 families.

13       The legislature finds that children deserve and require  
14 competent, responsible parenting and safe, secure, loving, and  
15 nurturing homes. The legislature finds that children who have  
16 been harmed or are threatened with harm are less likely than  
17 other children to realize their full educational, vocational,  
18 and emotional potential, and become law-abiding, productive,  
19 self-sufficient citizens, and are more likely to become involved  
20 with the mental health system, the juvenile justice system, or  
21 the criminal justice system, as well as become an economic  
22 burden on the State. The legislature finds that prompt



1 identification, reporting, investigation, services, treatment,  
2 adjudication, and disposition of cases involving children who  
3 have been harmed or are threatened with harm are in the  
4 children's, their families', and society's best interests  
5 because the children are defenseless, exploitable, and  
6 vulnerable. The legislature recognizes that many relatives are  
7 willing and able to provide a nurturing and safe placement for  
8 children who have been harmed or are threatened with harm.

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



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

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

17 This chapter shall be liberally construed to serve the best  
18 interests of the children and the purposes set out in this  
19 chapter."

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



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

4           (1) Resolve the matter in an informal fashion appropriate  
5           under the circumstances;

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



1 petition is filed by another appropriate authorized  
2 agency in court under this chapter and the case shall  
3 be reviewed as is required by federal law;

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

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

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

17 "(c) Upon assuming temporary foster custody of a child  
18 under this chapter, the department shall place the child in  
19 emergency foster care, unless the child is admitted to a  
20 hospital or similar institution, while it conducts an  
21 appropriate investigation[-]; provided that placement preference  
22 for emergency foster care shall be given to the appropriate



1 relative identified by the department. The department and  
2 authorized agencies shall make reasonable efforts to identify  
3 all relatives within six months of assuming foster custody of  
4 the child."

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

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

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

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

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

21 (3) Date(s) and reason for the child's placement out of  
22 the home, description, appropriateness [~~and~~],



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





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



1 SECTION 7. Section 587-53, Hawaii Revised Statutes, is  
2 amended as follows:

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

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

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

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

19 (3) The child's family members who are parties be  
20 permitted reasonable supervised or unsupervised  
21 visitation with the child at the discretion of the



1 department or other appropriate authorized agency and  
2 the child's guardian ad litem;

3 (4) The parties, subject to their agreement unless  
4 jurisdiction has been established, meet with  
5 appropriate expert witnesses to discuss the alleged  
6 harm to the child;

7 (5) The court and the parties view a visual recording or  
8 listen to an oral recording of the child's statement  
9 at such time and in such manner as the court deems to  
10 be appropriate;

11 (6) The child and the child's family members who are  
12 parties, subject to their agreement unless  
13 jurisdiction has been established, arrange and  
14 commence participation in such counseling or therapy  
15 for themselves and the child as the court deems to be  
16 appropriate and consistent with the best interests of  
17 the child;

18 (7) An appropriate order of protection be entered;

19 (8) A criminal history record check be conducted by the  
20 department or other appropriate authorized agency  
21 concerning a party who is an alleged perpetrator of  
22 imminent harm, harm, or threatened harm to the child,



1 and that the results be submitted to the court and  
2 other parties in such manner as the court deems to be  
3 appropriate prior to or upon the date of the continued  
4 or next hearing;

5 (9) The department or other appropriate authorized agency  
6 prepare a written or oral supplemental report pursuant  
7 to section 587-40 and submit the report to the court,  
8 the guardian ad litem, and all parties prior to or  
9 upon the date of the continued or next hearing; or

10 (10) The child's guardian ad litem visit the child's family  
11 home and foster home, be present during a supervised  
12 visitation, and prepare a written or oral report,  
13 including specific recommendations concerning services  
14 and assistance, to be submitted to the court and all  
15 parties prior to or upon the date of the continued or  
16 next hearing."

17 SECTION 8. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect upon its approval.



S.B. NO. 2730  
S.D. 2  
H.D. 1

**Report Title:**

Child Protection Act; Placement Preference

**Description:**

Establishes a preference for placement of children needing child protective services. (SB2730 HD1)

SB2730 HD1 HMS 2008-2971

