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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 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[~~7~~]; provided that placement  
18 preference shall be given to an appropriate relative  
19 identified by the department, or to place the child  
20 and the necessary members of the child's family under  
21 the family supervision of the department or other  
22 authorized agency; provided 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 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 January 1, 2112.



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

**Report Title:**

Child Protection Act; Placement Preference

**Description:**

Establishes a preference for placement of children needing child protective services. (SB2730 HD2)

SB2730 HD2 HMS 2008-3434

