
A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 PART I

2 SECTION 1. The department of human services shall convene
3 a task force to examine the factors that resulted in the recent
4 death of Cyrus Belt, and other similar situations that have
5 resulted in a child's death or serious injury. The task force
6 shall develop a plan and recommendations that will prevent
7 children from being injured or exposed to unreasonable risk of
8 injury or neglect by parents, guardians, or caregivers who test
9 positive for illegal drug use.

10 SECTION 2. The department of human services shall convene
11 a task force to include the following members:

12 (1) A representative from the department of health alcohol
13 and drug abuse division to provide expertise regarding
14 services, assessment, and treatment of substance
15 abusing parents;

16 (2) A representative from the department of health adult
17 mental health division to provide expertise regarding
18 issues related to parents with co-occurring substance



- 1 abuse and mental health issues, treatment modalities,
2 and treatment effectiveness;
- 3 (3) A representative from the department of human services
4 child protective services to provide expertise as
5 responders to reports of abuse, assessment and
6 prevention services, and monitoring;
- 7 (4) A representative from the Honolulu police department,
8 to provide expertise as first responders, and
9 assessment of child safety and the need for protective
10 custody;
- 11 (5) The chair of the senate human services and public
12 housing committee, or a designee;
- 13 (6) The chair of the senate health committee, or a
14 designee;
- 15 (7) The chair of the house of representatives committee on
16 human services and housing, or a designee;
- 17 (8) The chair of the house of representatives committee on
18 health, or a designee;
- 19 (9) A representative from a community organization with
20 expertise in prevention and ongoing services;



1 (10) A physician with expertise in substance abuse,
2 particularly methamphetamines and a child protection
3 team background; and

4 (11) A representative from a community organization with
5 expertise on legal issues related to out-of-home care,
6 advocacy on behalf of parents, and legal
7 representation of children;

8 SECTION 3. The department shall submit a report of task
9 force findings, any actions taken, and any recommendations and
10 proposed legislation to the legislature no later than twenty
11 days prior to the convening of the regular session of 2009.

12 PART II

13 SECTION 4. Section 587-2, Hawaii Revised Statutes, is
14 amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Caregiver" means an adult, other than a child's legal or
17 physical custodian, with whom the child has resided for a
18 continuous period of six months or more, with the verbal or
19 written consent of the child's legal and physical custodian.
20 The term "caregiver" shall not apply to situations involving
21 voluntary placement of a child or a court order.



1 "Safe home" means a home, other than a child's family home,
2 where the child has resided with the consent of the child's
3 legal and physical custodian, and where a caregiver has
4 demonstrated an ongoing willingness and ability to provide a
5 residence where the child is not subject to harm or threatened
6 harm, as determined by the department. A safe home shall not
7 apply to situations involving voluntary placement of a child or
8 a court order."

9 SECTION 5. Section 587-21, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

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

14 (1) Terminate the investigation if the child is residing
15 with a caregiver in a safe home; provided that there
16 is documentation of the following:

17 (A) The concerns, findings, and problems that
18 initially warranted the department's involvement;

19 (B) The specific needs of parents, the specific
20 services offered to address those needs, and
21 whether the parents declined services;



- 1 (C) The parents' acknowledgment that they understand
2 the risks of having their parental rights
3 terminated;
- 4 (D) Whether the caregiver is eligible to be licensed
5 as a foster parent by the department; provided
6 that the department has the discretion to
7 determine that, even if the caregiver's home is
8 not in total accordance with relevant foster care
9 licensing standards, the home is a safe home;
- 10 (E) The length of time the child can live with the
11 caregiver and the agreed-upon conditions for the
12 child's return, including any period for advance
13 mandatory notice from the caregiver to the
14 department if the caregiver seeks to permanently
15 return the child to the child's legal and
16 physical custodian;
- 17 (F) Whether the caregiver and the child shall be
18 entitled to the same benefits and services that
19 are available to a foster parent and a foster
20 child, including legal services, and whether the
21 caregiver has been informed of these benefits and



1 services, including information on obtaining an
2 adoption or guardianship;

3 (G) Whether the parents and the caregiver agree that
4 the caregiver can return the child to the parents
5 only with prior notification from the department;
6 and

7 (H) That the child's legal custodian agrees to place
8 the child with the caregiver, or that the child's
9 legal custodian cannot be located based on
10 available information;

11 (2) If the department determines there is a need, a
12 caregiver may be offered diversion or legal assistance
13 services, to the extent that funding and services are
14 available; provided that the department has determined
15 that the caregiver is able to provide a safe home
16 without the services offered;

17 ~~[(1)]~~ (3) Resolve the matter in an informal fashion
18 appropriate under the circumstances[+], including
19 referral of the child and other family members to
20 state or community resources that provide the
21 assistance needed to address the problems in the
22 family home;



1 ~~[+2]~~ (4) Seek to enter into a service plan, without filing
2 a petition in court, with members of the child's
3 family and other authorized agency as the department
4 deems necessary to the success of the service plan,
5 including ~~[but not limited to,]~~ the member or members
6 of the child's family who have legal custody of the
7 child. The service plan may include an agreement with
8 the child's family to voluntarily place the child in
9 the foster custody of the department or other
10 authorized agency, or to place the child and the
11 necessary members of the child's family under the
12 family supervision of the department or other
13 authorized agency; provided that if a service plan is
14 not successfully completed within six months, the
15 department shall file a petition or ensure that a
16 petition is filed by another appropriate authorized
17 agency in court under this chapter and the case shall
18 be reviewed as is required by federal law;

19 ~~[+3]~~ (5) Assume temporary foster custody of the child
20 pursuant to section 587-24(a) and file a petition with
21 the court under this chapter within three working
22 days, excluding Saturdays, Sundays, and holidays,



1 after the date of the department's assumption of
2 temporary foster custody of the child; or
3 ~~[(4)]~~ (6) File a petition or ~~[ensure that a petition is~~
4 ~~filed by]~~ refer the matter to another appropriate
5 authorized agency, which may file a petition for
6 jurisdiction of the child in court under this
7 chapter."

8 PART III

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect on July 1, 2008.



Report Title:

Child Custody; Department of Human Services

Description:

Establishes a task force to examine situations that have resulted in a child fatality or serious injury, develop a plan to prevent children from being injured or exposed to unreasonable risk of injury or neglect by parents, guardians, or caregivers who test positive for illegal drug use; establishes a system for the department of human services to allow children to continue to reside in pre-existing caregivers' safe homes rather than enter into foster care, subject to certain conditions.

(SD1)

