
A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 SECTION 1. Section 587-21, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§587-21 Investigation.** (a) Upon receiving a report that
4 a child is subject to imminent harm, has been harmed, or is
5 subject to threatened harm, the department shall cause such
6 investigation to be made as it deems to be appropriate. In
7 conducting the investigation the department may:

8 (1) Enlist the cooperation of appropriate law enforcement
9 authorities for phases of the investigation for which
10 they are better equipped, and the law enforcement
11 authority may conduct and provide to the department
12 the results of a criminal history record check
13 concerning an alleged perpetrator of imminent harm,
14 harm, or threatened harm to a child; [~~and~~]

15 (2) Interview a child who is the subject of an
16 investigation without the prior approval of and
17 without the presence of the child's family, including

1 temporarily assuming protective custody of the child
2 for the purpose of conducting the interview, if the
3 action is deemed necessary and appropriate under the
4 circumstances by the department and a police
5 officer[-]; and

6 (3) Convene an ohana conference. Prior to holding the
7 ohana conference, the department shall make every
8 reasonable effort to locate and invite parents, and
9 persons identified as supports by the parents, to
10 review formal and informal supports for the parents
11 and child, develop a safety plan, and identify an
12 appropriate placement within the family for the child
13 if continued out-of-home placement is deemed necessary
14 by the department to ensure the safety of the child.

15 (b) Upon satisfying itself as to the course of action that
16 should be pursued to best accord with the purpose of this
17 chapter, the department shall:

18 (1) Resolve the matter in an informal fashion appropriate
19 under the circumstances;

20 (2) Seek to enter into a service plan, without filing a
21 petition in court, with members of the child's family
22 and other authorized agency as the department deems

1 necessary to the success of the service plan,
2 including the member or members of the child's family
3 who have legal custody of the child. The service plan
4 may include an agreement with the child's family to
5 voluntarily place the child in the foster custody of
6 the department or other authorized agency, provided
7 that placement preference shall be given to an
8 appropriate relative identified by the department, or
9 to place the child and the necessary members of the
10 child's family under the family supervision of the
11 department or other authorized agency; provided
12 further that if a service plan is not successfully
13 completed within six months, the department shall file
14 a petition or ~~[ensure that a petition is filed by]~~
15 refer the matter to another appropriate authorized
16 agency who may file a petition for jurisdiction of the
17 child in court under this chapter and the case shall
18 be reviewed as is required by federal law;

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

1 ~~date of the department's assumption of temporary~~
2 ~~foster custody of the child; provided that placement~~
3 ~~preference shall be given to an appropriate relative~~
4 ~~identified by the department;]~~ provided that:

5 (A) If an ohana conference is convened with the
6 agreement of the family, the department shall
7 file a petition with the court under this chapter
8 within five working days, excluding Saturdays,
9 Sundays, and holidays, after the date of the
10 department's assumption of temporary foster
11 custody of the child within the five day period.

12 If a child is taken into temporary foster custody
13 of the department and an ohana conference is
14 convened, the department shall arrange and
15 provide visitation between the child's legal
16 custodian as soon as practicable, but in any
17 event prior to the hearing of the petition; or

18 (B) If an ohana conference is not convened with the
19 family, the department shall file a petition with
20 the court under this chapter within three working
21 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) ~~[File a petition or ensure that a petition is filed~~
4 ~~by]~~ Refer the matter to another appropriate authorized
5 agency who may file a petition for jurisdiction of the
6 child in court under this chapter."

7 SECTION 2. Section 587-24, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§587-24 Temporary foster custody without court order.**

10 (a) When the department receives physical custody of a child
11 from the police pursuant to section 587-22(b), the department
12 shall assume temporary foster custody of a child without an
13 order of the court and without the consent of the child's family
14 regardless of whether the child's family is absent, if in the
15 discretion of the department the child is in such circumstance
16 or condition that the child's continuing in the custody or care
17 of the child's family presents a situation of imminent harm to
18 the child.

19 (b) Upon assuming temporary foster custody of a child
20 under this chapter, the department promptly shall make every
21 reasonable effort to inform a legal custodian of the child of
22 the actions taken concerning the child; provided that the

1 department may withhold such information from the child's family
2 concerning the child as, in its discretion, is deemed to be in
3 the best interests of the child.

4 (c) Upon assuming temporary foster custody of a child
5 under this chapter, the department shall place the child in
6 emergency foster care, unless the child is admitted to a
7 hospital or similar institution, while it conducts an
8 appropriate investigation; provided that placement preference
9 for emergency foster care shall be given to the appropriate
10 relative identified by the department. The department and
11 authorized agencies shall make reasonable efforts to identify
12 all relatives within six months of assuming foster custody of
13 the child.

14 (d) Any physician licensed or authorized to practice
15 medicine in this State presented with a child who is under the
16 temporary foster custody of the department shall perform such an
17 examination of the child, with or without the consent of the
18 child's family, as is required in order to determine the nature
19 and extent of any imminent harm, harm, or threatened harm to the
20 child.

21 (e) ~~[Within three]~~ If a family elects to convene an ohana
22 conference, within five working days, excluding Saturdays,

1 Sundays, or holidays, after the date of its assumption of
2 temporary foster custody, the department shall:

3 (1) Convene an ohana conference pursuant to the agreement
4 of the family. If a child is taken into temporary
5 foster custody of the department and an ohana
6 conference is convened, the department shall arrange
7 and provide visitation between the child's legal
8 custodian as soon as practicable, but in any event
9 prior to the hearing of a petition;

10 [~~+1~~] (2) Relinquish its temporary foster custody and
11 return the child to the child's legal custodian and
12 proceed pursuant to section 587-21(b) (1), (2), or (4);

13 [~~+2~~] (3) Continue its assumption of temporary foster
14 custody of the child with the child being voluntarily
15 placed in foster care by the child's legal custodian
16 and proceed pursuant to section 587-21(b) (2) or (4);
17 or

18 [~~+3~~] (4) Continue its assumption of temporary foster
19 custody of the child and proceed pursuant to section
20 587-21(b) (3).

21 (f) If an ohana conference is not convened pursuant to
22 subsection (e), within three working days, excluding Saturdays,

1 Sundays, or holidays, after the date of its assumption of
2 temporary foster custody, the department shall:

3 (1) Relinquish its temporary foster custody and return the
4 child to the child's legal custodian and proceed
5 pursuant to section 587-21(b) (1), (2), or (4);

6 (2) Continue its assumption of temporary foster custody of
7 the child with the child being voluntarily placed in
8 foster care by the child's legal custodian and proceed
9 pursuant to section 587-21(b) (2) or (4); or

10 (3) Continue its assumption of temporary foster custody of
11 the child and proceed pursuant to section
12 587-21(b) (3) ."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

Report Title:

Temporary Foster Custody; Child Protective Services;
Investigations; Ohana Conference

Description:

Offers parents the choice of convening an ohana conference within five days of the department of human services' assumption of temporary custody of a child; permits appropriate, authorized agencies to file a petition with courts for custody of a child.
(SD1)