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# A BILL FOR AN ACT

RELATING TO PERMANENCY HEARINGS.

**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-           Permanency hearings. (a) A permanency hearing  
5 shall be held within twelve months of a child's initial date of  
6 entry into out-of-home care or within thirty days of a judicial  
7 determination that the child is an abandoned infant or that  
8 aggravated circumstances are present and reasonable efforts to  
9 reunify a child and family are not required. The permanency  
10 hearing may be held simultaneously with a review hearing. The  
11 status of the child shall be reviewed at least every twelve  
12 months thereafter, for as long as the child remains in out-of-  
13 home care under the placement responsibility of the department.

14           (b) The court shall review the status of the case to  
15 determine whether the child is receiving appropriate services  
16 and care, that case plans are being properly implemented, and  
17 that activities are directed toward a permanent placement for



1 the child. Procedural safeguards relating to notice,  
2 participation of the parties, and appeal shall be provided  
3 according to the rules of the court. At the initial permanency  
4 hearing, the court shall:

5 (1) Determine whether the department has made reasonable  
6 efforts to finalize a permanency plan for the child  
7 within twelve months of the initial date of entry into  
8 out-of-home care;

9 (2) Determine the safety of the child and the continued  
10 need for and appropriateness of the out-of-home  
11 placement;

12 (3) Determine the extent to which each party has complied  
13 with the case plan and the progress that the family  
14 has made in making the home safe;

15 (4) Determine the extent of progress made toward resolving  
16 the problems that caused the placement and necessitate  
17 continued placement;

18 (5) Project a likely date for the child's return to a safe  
19 family home, or permanent placement out of the family  
20 home in the following order of preference: through  
21 adoption, legal guardianship, or other permanent out-  
22 of-home placement;



- 1        (6) Determine the need for a permanent plan hearing  
2            pursuant to section 587-73;
- 3        (7) Determine in the following order of preference whether  
4            and, if applicable, when the child will be:
- 5            (A) Returned to the legal custodian;  
6            (B) Placed for adoption and parental rights divested;  
7            (C) Placed in a legal guardianship;  
8            (D) Placed permanently with a fit and willing  
9            relative; or
- 10          (E) Placed in another planned permanent custody  
11            living arrangement, but only when the department  
12            has documented to the court a compelling reason  
13            for determining that it would not be in the best  
14            interests of the child to follow one of the four  
15            options specified above;
- 16        (8) In the case of a child who will not be returned to the  
17            parent, consider in-state and out-of-state placement  
18            options;
- 19        (9) Determine, in the case of a child who is placed  
20            outside of the state in which the home of the legal  
21            custodian is located, whether the out-of-state



1 placement continues to be in the best interests of the  
2 child;

3 (10) Consult, in an age-appropriate manner, with the child  
4 about the proposed permanency or transition plan; and

5 (11) Determine, in the case of a child who has attained  
6 sixteen years of age, any services needed to assist  
7 the child in making the transition from foster care to  
8 independent living.

9 (c) After considering the criteria in subsection (b), the  
10 court shall set the case for either a permanent plan hearing or  
11 a review hearing, as deemed appropriate."

12 SECTION 2. Section 587-71, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By amending subsection (e) to read:

15 "(e) If the child's family home is determined not to be  
16 safe, even with the assistance of a service plan pursuant to  
17 subsection (d), the court may [~~and if the child has been~~  
18 ~~residing without the family home for a period of twelve~~  
19 ~~consecutive months shall,~~] set the case for a show cause hearing  
20 as deemed appropriate by the court at which the child's family  
21 shall have the burden of presenting evidence to the court  
22 regarding such reasons and considerations as the family has to



1 offer as to why the case should not be set for a permanent plan  
2 hearing. Upon such show cause hearing as the court deems to be  
3 appropriate, the court shall consider the criteria set forth in  
4 section 587-73(a) (1), (2), and (4), and:

5 (1) Set the case for a [~~permanent plan~~] permanency hearing  
6 [~~and order that the authorized agency submit a report~~  
7 ~~pursuant to section 587-40~~]; or

8 (2) Proceed pursuant to this section."

9 2. By amending subsection (j) to read:

10 "(j) If the court makes a determination that aggravated  
11 circumstances are present under this section, the court shall  
12 set the case for a [~~show cause~~] permanency hearing [~~as deemed~~  
13 ~~appropriate by the court~~] within thirty days. [~~At the show~~  
14 ~~cause hearing, the child's family shall have the burden of~~  
15 ~~presenting evidence to the court regarding the reasons and~~  
16 ~~considerations as to why the case should not be set for a~~  
17 ~~permanent plan hearing.]"~~

18 3. By amending subsection (p) to read:

19 "(p) Nothing in this section shall prevent the court from  
20 setting a show cause hearing, a permanency hearing, or a  
21 permanent plan hearing at any time the court determines such a  
22 hearing to be appropriate."



1 SECTION 3. Section 587-72, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§587-72 Review hearings. (a) Except for good cause  
4 shown, the court shall set each case for review hearing not  
5 later than six months after the date that a service plan is  
6 ordered by the court and, thereafter, the court shall set  
7 subsequent review hearings at intervals of no longer than six  
8 months until the court's jurisdiction has been terminated or the  
9 court has ordered a permanent plan and has set the case for a  
10 permanent plan review hearing. The court may set a case for a  
11 review hearing upon the motion of a party at any time if the  
12 hearing is deemed by the court to be in the best interests of  
13 the child.

14 (b) Upon each review hearing, the court shall consider  
15 fully all relevant prior and current information pertaining to  
16 the safe family home guidelines, as set forth in section 587-25,  
17 including but not limited to the report submitted pursuant to  
18 section 587-40, and:

19 (1) Determine whether the child's family is presently  
20 willing and able to provide the child with a safe  
21 family home without the assistance of a service plan  
22 and, if so, the court shall terminate jurisdiction;



- 1           (2) Determine whether the child's family is presently  
2           willing and able to provide the child with a safe  
3           family home with the assistance of a service plan and,  
4           if so, the court shall return the child or continue  
5           the placement of the child in the child's family home  
6           under the family supervision of the appropriate  
7           authorized agency;
- 8           (3) If the child's family home is determined, pursuant to  
9           paragraph (2) not to be safe, even with the assistance  
10          of a service plan, order that the child remain or be  
11          placed under the foster custody of the appropriate  
12          authorized agency;
- 13          (4) Determine whether the parties have complied with,  
14          performed, and completed every term and condition of  
15          the service plan that was previously court ordered;
- 16          (5) Order revisions to the existing service plan, after  
17          satisfying section 587-71(h), as the court, upon a  
18          hearing that the court deems to be appropriate,  
19          determines to be in the best interests of the child;  
20          provided that a copy of the revised service plan shall  
21          be incorporated as part of the order;



- 1           (6) Enter further orders as the court deems to be in the  
2           best interests of the child;
- 3           (7) Determine whether aggravated circumstances are present  
4           and, if so, the court shall set the case for a [~~show~~  
5           ~~cause~~] permanency hearing [~~as the court deems~~  
6           ~~appropriate~~] within thirty days [~~. At the show cause~~  
7           ~~hearing, the child's family shall have the burden of~~  
8           ~~presenting evidence to the court regarding the reasons~~  
9           ~~and considerations as to why the case should not be~~  
10          ~~set for a permanent plan hearing~~]; and
- 11          (8) If the child has been residing outside the family home  
12          for twelve consecutive months from the initial date of  
13          entry into out-of-home care, set the case for a [~~show~~  
14          ~~cause~~] permanency hearing [~~as deemed appropriate by~~  
15          ~~the court. At the show cause hearing, the child's~~  
16          ~~family shall have the burden of presenting evidence to~~  
17          ~~the court regarding the reasons and considerations as~~  
18          ~~to why the case should not be set for a permanent plan~~  
19          ~~hearing]~~."
- 20          (c) In any case that a permanent plan hearing is not  
21          deemed to be appropriate, the court shall:





1           (1) Make a finding that the parties understand that unless  
2           the family is willing and able to provide the child  
3           with a safe family home, even with the assistance of a  
4           service plan, within the reasonable period of time  
5           specified in the service plan, their respective  
6           parental and custodial duties and rights shall be  
7           subject to termination; and

8           (2) Set the case for a review hearing within six months.

9           (d) If the child has been residing outside of the family  
10          home for an aggregate of fifteen out of the most recent twenty-  
11          two months from the initial date of entry into out-of-home care,  
12          the department shall file a motion to set the matter for a  
13          permanent plan hearing unless:

14           (1) The department has documented in the safe family home  
15           guidelines prepared pursuant to section 587-25(a), a  
16           compelling reason why it would not be in the best  
17           interests of the child to file a motion; or

18           (2) The State has not provided to the family of the child,  
19           consistent with the time period in the service plan,  
20           such services as the department deems necessary for  
21           the safe return of the child to the family home;



1 provided that nothing in this section shall prevent the  
2 department from filing such a motion to set a permanent plan  
3 hearing if the department has determined that the criteria in  
4 section 587-73(a) are present.

5 (e) If the child's family home is determined not to be  
6 safe, even with the assistance of a service plan pursuant to  
7 subsection (b) (2), the court may set the case for a show cause  
8 hearing as deemed appropriate by the court, at which the child's  
9 family shall have the burden of presenting evidence to the court  
10 regarding any reasons and considerations that the family has to  
11 offer as to why the case should not be set for a permanent plan  
12 hearing. At a show cause hearing that the court deems to be  
13 appropriate, the court shall consider the criteria set forth in  
14 section 587-73(a) (1), (2), and (4), and:

- 15 (1) Set the case for a permanency hearing; or  
16 (2) Otherwise proceed pursuant to this section."

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2050.



S.B. NO. 912  
S.D. 2  
H.D. 1

**Report Title:**

Permanency Hearings

**Description:**

Amends the Child Protective Act to ensure compliance with federal Title IV-E hearing requirements. Effective July 1, 2050. (SB912 HD1)

SB912 HD1 HMS 2009-3374

