
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. (a) The department of human services may
3 convene a task force to examine the factors in situations of
4 alleged illegal substance use by a parent, guardian, or
5 caregiver that have resulted in a child's death or serious
6 injury. If the task force is established, it shall develop a
7 plan and recommendations that will prevent children from being
8 injured or exposed to unreasonable risk of injury or neglect by
9 parents, guardians, or caregivers who test positive for illegal
10 substance use.

11 (b) The department of human services may convene a task
12 force chaired by the director of human services or the
13 director's designee to include the following members:

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



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



1 (9) A representative from a community organization with
2 expertise in substance abuse prevention and ongoing
3 services;

4 (10) A physician with expertise in substance abuse,
5 particularly methamphetamines, and a child protection
6 team background; and

7 (11) A representative from a community organization with
8 expertise on legal issues related to out-of-home care,
9 advocacy on behalf of parents, and legal
10 representation of children.

11 (c) If a task force is established, the department shall
12 submit a report of task force findings, any actions taken, and
13 any recommendations and proposed legislation to the legislature
14 no later than twenty days prior to the convening of the regular
15 session of 2010.

16 (d) If established, the task force shall cease to exist on
17 June 30, 2010.

18 PART II

19 SECTION 2. Section 587-2, Hawaii Revised Statutes, is
20 amended by adding two new definitions to be appropriately
21 inserted and to read as follows:



1 "Caregiver" means an adult, other than a child's legal
2 custodian, with whom the child has resided for a continuous
3 period of six months or more, with the verbal or written consent
4 of the child's legal custodian. The term "caregiver" shall not
5 apply to situations involving voluntary placement of a child or
6 a court order.

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

14 SECTION 3. Section 587-21, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

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

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



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



1 are available to a foster parent and a foster
2 child, including legal services, and whether the
3 caregiver has been informed of these benefits and
4 services, including information on obtaining an
5 adoption or guardianship;

6 (G) Whether the parents and the caregiver agree that
7 the caregiver can return the child to the parents
8 only with prior notification from the department;
9 and

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

14 (2) Offer a caregiver diversion or legal assistance
15 services if a need is determined, to the extent that
16 funding and services are available; provided that the
17 department has determined that the caregiver is able
18 to provide a safe home without the services offered;

19 ~~(1)~~ (3) Resolve the matter in an informal fashion
20 appropriate under the circumstances~~(+)~~, including
21 referral of the child and other family members to
22 state or community resources that provide the



1 assistance needed to address the problems in the
2 family home;

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



1 ~~[(3)]~~ (5) Assume temporary foster custody of the child
2 pursuant to section 587-24(a) and file a petition with
3 the court under this chapter within three working
4 days, excluding Saturdays, Sundays, and holidays,
5 after the date of the department's assumption of
6 temporary foster custody of the child; provided that
7 placement preference shall be given to an appropriate
8 relative identified by the department; or
9 ~~[(4)]~~ (6) File a petition or ~~[ensure that a petition is~~
10 ~~filed by]~~ refer the matter to another appropriate
11 authorized agency, which may file a petition for
12 jurisdiction of the child in court under this
13 chapter."

PART III

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2009.



Report Title:

Child Custody; Task Force; DHS

Description:

May establish a task force to examine situations resulting in a child fatality or a serious injury due to drug use by a parent, guardian, or caregiver, and develop a plan to prevent such situations from occurring. May establish 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. (HB726 HD1)

