
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 legislature finds that over thirty per cent
3 of children in foster care, or approximately one thousand
4 children, are of Hawaiian ancestry and native Hawaiian
5 communities and families have expressed concern that cultural
6 needs are not considered as heavily as they should be in the
7 placement of foster children.

8 Additionally, the federal child and family services review
9 of Hawaii's child welfare system recommends the use of
10 culturally sensitive and family strengthening diversion and
11 other supportive services to improve the safety and well-being
12 of children and families.

13 The purpose of this Act is to comply with the federal child
14 and family services review's recommendations by clarifying that
15 local customs of caring for children outside of the family home
16 by relatives and friends and other diversion and supportive
17 services are, where appropriate, available alternatives to the
18 department of human services and the court assuming custody of



1 children. This will ensure that no child is taken into custody
2 unnecessarily and will preserve the relationships that are
3 important to every child's well being.

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

7 "Caregiver" means an adult who is not the child's legal
8 and physical custodian but with whom a child has been residing
9 for at least six months with the verbal or written consent of
10 the child's legal and physical custodian. A "caregiver" is
11 outside the formal child welfare system, and shall not apply to
12 situations involving voluntary placement or court order.

13 "Safe home" means a home, other than the family home, where
14 a child has resided with the consent of the child's legal and
15 physical custodian, and where a caregiver has demonstrated a
16 willingness and ability to provide a home where the child is not
17 subject to harm or threatened harm, as determined by the
18 department. A "safe home" is outside the formal child welfare
19 system, and shall not apply to situations involving voluntary
20 placement or court order."

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



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

4 (1) Close the matter if the department finds, after an
5 assessment, that the child is residing with an
6 appropriate caregiver who is willing and able to
7 provide a safe home for the child;

8 ~~[(1)]~~ (2) Resolve the matter in an informal fashion
9 appropriate under the circumstances;

10 ~~[(2)]~~ (3) Seek to enter into a service plan, without filing
11 a petition in court, with members of the child's
12 family and other authorized agency as the department
13 deems necessary to the success of the service plan,
14 including the member or members of the child's family
15 who have legal custody of the child. The service plan
16 may include an agreement with the child's family to
17 voluntarily place the child in the foster custody of
18 the department or other authorized agency~~[-]~~; provided
19 that placement preference shall be given to an
20 appropriate relative identified by the department, or
21 to place the child and the necessary members of the
22 child's family under the family supervision of the



1 department or other authorized agency; provided
2 further that if a service plan is not successfully
3 completed within six months, the department shall file
4 a petition or ensure that a petition is filed by
5 another appropriate authorized agency in court under
6 this chapter and the case shall be reviewed as is
7 required by federal law;

8 ~~[(3)]~~ (4) Assume temporary foster custody of the child
9 pursuant to section 587-24(a) and file a petition with
10 the court under this chapter within three working
11 days, excluding Saturdays, Sundays, and holidays,
12 after the date of the department's assumption of
13 temporary foster custody of the child; provided that
14 placement preference shall be given to an appropriate
15 relative identified by the department; or

16 ~~[(4)]~~ (5) File a petition or ~~[ensure that a petition is~~
17 ~~filed by]~~ refer the matter to another appropriate
18 authorized agency who may file a petition for
19 jurisdiction of the child in court under this
20 chapter."

21 SECTION 4. Section 587-22, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 a person other than a child's parent to play a substantial role
 2 in the material support and upbringing of the child. In many
 3 cases, the people raising children of Hawaiian ancestry in a
 4 hanai relationship are the children's grandparents. However,
 5 due to age and economic circumstances, many caregivers in a
 6 hanai relationship are unable to satisfy the department of human
 7 services' requirements for the licensing of foster parents,
 8 resulting in children being taken into the department's custody.

9 SECTION 6. Section 346-17, Hawaii Revised Statutes, is
 10 amended by amending subsection (d) to read as follows:

11 "(d) The department shall adopt rules pursuant to chapter
 12 91 relating to:

13 (1) Standards for the organization and administration of
 14 child placing organizations;

15 (2) Standards of conditions, management, and competence
 16 for the care and training of minor children in child
 17 caring institutions and foster boarding homes; and

18 (3) Standards of conditions and competence of operation of
 19 foster boarding homes as may be necessary to protect
 20 the welfare of children[-];

21 provided that all rules of the department regarding the
 22 licensing process for foster parents or the certification



1 process of foster family boarding homes may consider the
2 recognition and respect of the Hawaiian culture and of hanai
3 relationships."

4 SECTION 7. The department of human services shall submit a
5 report to the legislature of its findings and recommendations,
6 rules to be adopted, and if necessary, proposed legislation, no
7 later than twenty days prior to the convening of the regular
8 session of 2010.

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Child Welfare Services; Foster Care; Hanai

Description:

Allows rules adopted by the department of human services for the foster care licensing process to include recognition of and respect for Hawaiian culture and hanai relationships. Adds definitions for "caregiver" and "safe home" to the Child Protective Act. Clarifies that hanai relationships are available alternatives for child custody. (HB798 HD1)

