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# A BILL FOR AN ACT

RELATING TO CHILD WELFARE SERVICES.

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

1           SECTION 1. The federal Child and Family Services Review of  
2 Hawaii's child welfare system recommends the use of culturally  
3 sensitive and family strengthening diversion and other  
4 supportive services to improve the safety and well-being of  
5 children and families. This Act seeks to comply with the Child  
6 and Family Services Review's recommendations by clarifying that  
7 local customs of caring for children outside of the family home  
8 by relatives and friends and other diversion and supportive  
9 services are, where appropriate, available alternatives to the  
10 department of human services and the court assuming custody of  
11 children. This will ensure that no child is taken into custody  
12 unnecessarily and will preserve the relationships that are  
13 important to every child's well-being.

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

17           ""Caregiver" means an adult who is not the child's legal  
18 and physical custodian but with whom a child has been residing



1 for at least six months with the verbal or written consent of  
2 the child's legal and physical custodian. A "caregiver" is  
3 outside the formal child welfare system, and shall not apply to  
4 situations involving voluntary placement or court order.

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

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

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

18 (1) Close the matter if the department finds, after an  
19 assessment, that the child is residing with an  
20 appropriate caregiver who is willing and able to  
21 provide a safe home for the child;



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

3        [~~(2)~~] (3)    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)~~] (4) 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)~~] (5) File a petition or [~~ensure that a petition is~~  
10                    ~~filed by~~] refer the matter to another appropriate  
11                    authorized agency who may file a petition for  
12                    jurisdiction of the child in court under this  
13                    chapter."

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

16        "(a) A police officer shall assume protective custody of  
17        the child without a court order and without the consent of the  
18        child's family regardless of whether the child's family is  
19        absent, if in the discretion of the police officer, the child is  
20        in such circumstance or condition that the child's continuing in  
21        the custody or care of the child's family presents a situation  
22        of imminent harm to the child.



1 A police officer may assume protective custody of the child  
2 without a court order and without the consent of the child's  
3 family regardless of whether the child's family is absent, if in  
4 the discretion of the police officer:

5 (1) The child has no legal custodian or appropriate  
6 caregiver who is willing and able to provide a safe  
7 family home for the child; or

8 (2) There is evidence that the parent or legal guardian of  
9 the child has subjected the child to harm or  
10 threatened harm and that the parent or legal guardian  
11 is likely to flee the jurisdiction of the court with  
12 the child."

13 SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Calvin K. Day  
By Request

JAN 26 2009



**Report Title:**

Child Welfare Services

**Description:**

Adds definitions of "caregiver" and "safe home" to the Child Protective Act. Clarifies that local customs of caring for children outside the family home by relatives and friends are, where appropriate, available alternatives to the department of human services and the court assuming custody of children.

