

1 provide their child with, the necessary support to ensure the
2 child's safety and security.

3 Consistent with the above, the legislature finds that
4 children deserve and require competent, responsible parenting
5 and safe, secure, loving, and nurturing homes, and that prompt
6 identification, reporting, investigation, services, treatment,
7 adjudication, and disposition of cases involving children who
8 have been harmed or are threatened with harm are in the best
9 interests of the children, their families, and society. The
10 legislature further recognizes that when family rehabilitation
11 and reunification are not possible, many relatives are willing
12 and able to provide a nurturing and safe placement for these
13 children.

14 This chapter therefore creates, within the jurisdiction of
15 the family court, a child protective act to ensure the safety
16 and well-being of children who have been harmed, or are in
17 circumstances that threaten harm, due to acts or omissions of
18 their parents. This chapter further is intended to provide
19 these children with permanency in a home that meets their
20 physical, emotional, psychological, educational, and social
21 needs.



1 The policy and purpose of this chapter include the
2 protection of children who have been harmed or are threatened
3 with harm; providing assistance to families to address the
4 causes for abuse and neglect; respecting and utilizing each
5 family's strengths, resources, culture, and customs; ensuring
6 that families are meaningfully engaged and children are
7 consulted age-appropriately in case planning; enlisting the
8 early and appropriate participation of ohana and the family's
9 support networks; respecting and encouraging the input and views
10 of caregivers; and ensuring a permanent home through timely
11 adoption or other permanent living arrangement, if safe
12 reunification with the family is not possible.

13 The department's child protective services provided under
14 this chapter shall make every reasonable effort to be open,
15 accessible, and communicative to the persons affected by a child
16 protective proceeding without endangering the safety and best
17 interests of the children under this chapter.

18 This chapter shall be liberally construed to serve the best
19 interests of the children affected by this chapter and the
20 purpose and policies set forth herein.



1 § -3 **Guiding principles for children in foster care.**

2 (a) The department or an authorized agency, as resource family
3 or permanent custodian, shall abide by the following guiding
4 principles and ensure that children in foster care:

5 (1) Live in a safe and healthy home, free from physical,
6 psychological, sexual, and other abuse;

7 (2) Have adequate:

8 (A) Food that is nutritious and healthy;

9 (B) Clothing;

10 (C) Medical, dental and orthodontic, and corrective
11 vision care; and

12 (D) Mental health services;

13 (3) Have supervised or unsupervised in-person contact and
14 telephone or other forms of communication with the
15 child's parents and siblings while the child is in
16 foster care, unless prohibited by court order;

17 (4) Have in-person contact with their assigned child
18 protective services worker, guardian ad litem, and, if
19 applicable, their probation officer;

20 (5) Meet with the presiding judge in their case;



- 1 (6) Be enrolled in a comprehensive health insurance plan
2 and, within forty-five days of out-of-home placement,
3 be provided with a comprehensive health assessment and
4 treatment as recommended;
- 5 (7) May freely exercise their own religious beliefs,
6 including refusing to attend any religious activities
7 and services;
- 8 (8) Consistent with the child's age and development, have
9 a personal bank account and assistance in managing
10 their personal income, unless prohibited due to safety
11 or other concerns;
- 12 (9) Have the right to attend school and participate in
13 appropriate extracurricular activities and, if a child
14 is moved during a school year, to complete the school
15 year at the same school, if practicable; and
- 16 (10) Starting at age twelve, are provided with age
17 appropriate life skills training and a transition plan
18 for appropriately aging out of the foster care system,
19 as well as written information concerning independent
20 living programs, foster youth organizations,
21 transitional planning services, and independent living



1 case management programs that are available to all
2 children in foster care who are twelve years of age or
3 older and their resource families.

4 (b) Sua sponte or upon appropriate motion, the family
5 court may issue any necessary orders to any party, including the
6 department of education, department of human services, or
7 department of health, to ensure adherence to the guiding
8 principles enumerated in subsection (a) above.

9 **PART II. DEFINITIONS**

10 § -4 **Definitions.** When used in this chapter, unless the
11 context otherwise requires:

12 "Abandoned infant" means a child who is three years old or
13 younger and:

14 (1) Whose parents, regardless of any incidental contact or
15 communication with the child, have demonstrated an
16 extreme disinterest or lack of commitment for assuming
17 parental responsibility for the child;

18 (2) The persons with whom the child resides have not known
19 the identity or whereabouts of the child's parents for
20 sixty days or more, and reasonable efforts have been
21 made to identify or locate the child's parents; or



1 (3) Whose presumed or alleged father has failed to assert
2 a claim or interest as a parent for sixty days or
3 more, if he has knowledge of the child's birth and
4 that he is the child's presumed or alleged father; and
5 whose mother also falls under the provisions of
6 paragraph (1) or (2).

7 "Adjudication" means a finding by a court that is supported
8 by a preponderance of the evidence that the child has been
9 harmed or threatened with harm

10 "Aggravated circumstances" means that:

- 11 (1) The parent has murdered, or has solicited, aided,
12 abetted, attempted, or conspired to commit the murder
13 of, another child of the parent;
- 14 (2) The parent has committed a felony assault that results
15 in serious bodily injury to the child or another child
16 of the parent;
- 17 (3) The parent's rights regarding a sibling of the child
18 have been judicially terminated or divested;
- 19 (4) The parent has tortured the child; or
- 20 (5) The child is an abandoned infant.



1 "Authorized agency" means the department, other public
2 agency, or a person or organization that is licensed by the
3 department or approved by the court to receive children for
4 control, care, maintenance, or placement.

5 "Caregiver" means an adult who is not a child's parent or
6 legal and physical custodian, and with whom the child has been
7 residing for at least six months with the verbal or written
8 consent of the child's legal and physical custodian. The status
9 of "caregiver" as used in this chapter does not pertain to
10 court-ordered or voluntary foster placement.

11 "Case plan" means the combined safe family home factors and
12 the service plan or permanent plan.

13 "Child" means a person who is born alive and is less than
14 eighteen years of age.

15 "Clear and convincing evidence" means the degree of proof
16 that will produce in the mind of the trier of fact a firm belief
17 or conviction that the fact sought to be proved is true. This
18 measure falls between the preponderance standard of typical
19 civil cases and the beyond-a-reasonable-doubt standard of
20 criminal cases.



1 "Court-appointed special advocate" means a responsible
2 adult volunteer who has been trained and is supervised by a
3 court-appointed special advocate program recognized by the
4 court, and who, when appointed by the court, serves as an
5 officer of the court in the capacity of a guardian ad litem.

6 "Criminal history record check" means an examination of an
7 individual's criminal history through fingerprint analysis or
8 name inquiry into state and national criminal history records
9 and files, including, but not limited to, the files of the
10 Hawaii criminal justice data center.

11 "Date of entry into foster care" means the earlier of the
12 date a child was first placed in foster custody by the court or
13 sixty days after the child's actual removal from the home.

14 "Default" means the status found by the court when a party
15 who has been properly served or notified of a scheduled hearing
16 fails to appear at court for the hearing or fails to plead or
17 otherwise defend, thereby allowing the court to proceed without
18 the absent party.

19 "Department" means the department of human services and its
20 authorized representatives.



1 "Family" means each legal parent of a child; the natural
2 mother, unless the child has been legally adopted; the
3 adjudicated, presumed, or concerned natural father, as defined
4 in chapter 578, unless the child has been legally adopted; each
5 parent's spouse or former spouse; each sibling or person related
6 by blood or marriage; and any other person or legal entity with:

7 (1) Legal or physical custody or guardianship of the
8 child, or

9 (2) Responsibility for the child's care.

10 For purposes of this chapter, the term "family" does not apply
11 to an authorized agency that assumes the foregoing legal status
12 or relationship with a child.

13 "Family home" means the home of the child's legal
14 custodian.

15 "Family supervision" means the legal status in which a
16 child's legal custodian is willing and able, with the assistance
17 of a service plan, to provide the child with a safe family home.

18 "Foster care" means continuous twenty-four-hour care and
19 supportive services provided for a child by an authorized
20 agency, including, but not limited to, the care, supervision,
21 guidance, and rearing of a child by a resource family.



1 "Foster custodian" means the authorized agency that has
2 foster custody of the child.

3 "Foster custody" means the legal status created when the
4 department places a child out of the family home with the
5 agreement of the legal custodian or pursuant to court order
6 after the court has determined that the child's family is not
7 presently willing and able to provide the child with a safe
8 family home, even with the assistance of a service plan.

9 "Guardian ad litem" means any person who is appointed by
10 the court under this chapter to promote the needs and interests
11 of a child or a party, including a court appointed special
12 advocate.

13 "Hanai relative" means an adult, other than a blood
14 relative, who the court or department has found by credible
15 evidence to perform or to have performed a substantial role in
16 the upbringing or material support of a child, as attested to by
17 the written or oral designation of the child or of another
18 person, including other relatives of the child.

19 "Harm" means damage or injury to a child's physical or
20 psychological health or welfare, where:



- 1 (1) The child exhibits evidence of physical harm,
2 including, but not limited to:
3 (A) Substantial or multiple skin bruising;
4 (B) Substantial external or internal bleeding;
5 (C) Serious burn;
6 (D) Poisoning;
7 (E) Fracture of any bone;
8 (F) Subdural hematoma; or
9 (G) Death; and
10 the injury is not justifiably explained, or the
11 history given concerning the condition or death is not
12 consistent with the degree or type of the condition or
13 death, or there is evidence that the condition or
14 death may not be the result of an accident;
15 (2) The child has been the victim of sexual contact or
16 conduct, including, but not limited to rape; sodomy;
17 molestation; sexual fondling; incest; prostitution;
18 obscene or pornographic photographing, filming, or
19 depiction; or other similar forms of sexual
20 exploitation;



1 (3) The child's psychological well-being has been injured
2 as evidenced by a substantial impairment in the
3 child's ability to function;

4 (4) The child is not provided in a timely manner with
5 adequate food; clothing; shelter; supervision; or
6 psychological, physical, or medical care; or

7 (5) The child is provided with dangerous, harmful, or
8 detrimental drugs as defined in section 712-1240,
9 except when a child's family administers drugs to the
10 child as directed or prescribed by a practitioner, as
11 defined in section 712-1240.

12 "Imminent harm" means that without intervention, there is a
13 substantial present danger that a child will be harmed or will
14 not be safe.

15 "Incapacitated person" means a person who, even with
16 appropriate and reasonably available assistance, is unable to
17 substantially:

18 (1) Comprehend the legal significance of the issues or
19 nature of the proceedings under this chapter;

20 (2) Consult with counsel; and

21 (3) Assist in preparing the person's case or strategy.



1 Incapacity shall not be solely based on a person's status
2 as a minor.

3 "Ohana conference" means a family-focused, strength-based
4 meeting conducted by trained community facilitators that is
5 designed to build and enhance the network of protection for a
6 child who is subject to a proceeding under this chapter.

7 "Parent" means any legal parent of a child; the natural
8 mother, unless the child has been legally adopted; the
9 adjudicated, presumed, or concerned natural father of the child
10 as defined in chapter 578, unless the child has been legally
11 adopted; or the legal guardians or any other legal custodians of
12 the child.

13 "Party" means an authorized agency; a child who is subject
14 to a proceeding under this chapter; the child's parents and
15 guardian ad litem; any other person who is alleged in the
16 petition or who is subsequently found at any child protective
17 proceeding to be encouraging, causing, or contributing to the
18 acts or conditions that brought the child within the scope of
19 this chapter; and any other person the court determines should
20 be made a party to the proceedings.



1 "Permanent custody" means the legal status created after
2 the termination of parental rights.

3 "Permanent plan" means a comprehensive written plan
4 prepared by an authorized agency in consultation with a child
5 and other appropriate parties, which establishes the placement
6 intended to serve as a child's permanent home after the court
7 finds that reunification with the child's parents is not the
8 permanency goal.

9 "Police officer" means a person employed by any county in
10 the State of Hawaii to enforce the laws and ordinances for
11 preserving the peace and maintaining safety and order in the
12 community, or an employee authorized by the director of public
13 safety under section 329-51 or 353C-4 to exercise the powers set
14 forth in this chapter.

15 "Preponderance of the evidence" means the degree of proof,
16 which as a whole, convinces the trier of fact that the fact
17 sought to be proved is more probable than not. "Preponderance
18 of the evidence" shall be the standard of proof required in any
19 proceeding, unless otherwise specified.



1 "Protective custody" means the legal status of a child
2 whose physical custody is assumed by a police officer under this
3 chapter.

4 "Reasonable cause to believe" means the degree of proof
5 that would cause a person of average caution to believe the
6 evidence is reasonably trustworthy.

7 "Relative" means a person related to a child by blood or
8 adoption, or a hanai relative as defined in this chapter, who,
9 as determined by the court or the department, is willing and
10 able to safely provide support to the child and the child's
11 family.

12 "Resource family" means a person or family licensed by the
13 department or another authorized agency to provide temporary
14 foster care services for children.

15 "Service plan" means a comprehensive written plan prepared
16 by an authorized agency, in which the goal of the case plan is
17 reunification of a child with the child's parents, and which is
18 developed in consultation with the child, in an age-appropriate
19 manner, and with the child's family.

20 "Temporary family supervision" means a legal status created
21 under this chapter pursuant to court order after the department



1 has filed a petition for temporary foster custody, and the court
2 or the department finds it more appropriate to return a child to
3 the child's family home pending an adjudication determination.

4 "Temporary foster custody" means a legal status created
5 under this chapter with or without a court order, whereby the
6 department temporarily assumes the duties and rights of a foster
7 custodian of a child.

8 "Termination of parental rights" means the severance of
9 parental rights.

10 "Threatened harm" means that without intervention, there is
11 an impending substantial risk of harm to a child.

12 **PART III. JURISDICTION AND VENUE**

13 § -5 **Jurisdiction.** Pursuant to section 571-11(9), the
14 court shall have exclusive original jurisdiction in a child
15 protective proceeding concerning any child who was or is found
16 within the State of Hawaii at the time specified facts and
17 circumstances occurred, are discovered, or are reported to the
18 department. The court's finding that the child's physical or
19 psychological health or welfare is subject to imminent harm, has
20 been harmed, or is subject to threatened harm by the acts or



1 omissions of the child's family, shall be based upon these facts
2 and circumstances.

3 § -6 **Venue.** A child protective proceeding under this
4 chapter may be filed in the county in which a child is found or
5 resides when the petition is filed, or in the county in which a
6 parent having legal custody of the child resides or is domiciled
7 when the petition is filed.

8 **PART IV. SAFE FAMILY HOME FACTORS AND**

9 **PRE-PETITION PROCEDURES**

10 § -7 **Safe family home factors.** (a) The following
11 factors shall be fully considered when determining whether a
12 child's family is willing and able to provide the child with a
13 safe family home:

14 (1) Facts relating to the child's current situation, which
15 shall include:

16 (A) The child's age and special needs that affect the
17 child's attachment, growth, and development;

18 (B) The child's developmental, psychological,
19 medical, and dental health status, including the
20 names of assessment and treatment providers;

21 (C) The child's peer and family relationships;



- 1 (D) The child's educational status and setting, and
- 2 the department's efforts to maintain educational
- 3 stability for the child in out-of-home placement;
- 4 (E) The child's living situation;
- 5 (F) The child's fear of being in the family home;
- 6 (G) The impact of out-of-home placement on the child;
- 7 (H) Services provided to the child and family; and
- 8 (I) The department's efforts to maintain connections
- 9 between the child and the child's siblings, if
- 10 they are living in different homes;
- 11 (2) The initial and any subsequent reports of harm and
- 12 threatened harm to the child;
- 13 (3) Dates and reasons for the child's out-of-home
- 14 placement; description, appropriateness, and location
- 15 of the placement; and who has placement
- 16 responsibility;
- 17 (4) Facts regarding the alleged perpetrators of harm to
- 18 the child, the child's parents, and other family
- 19 members who are parties to the court proceedings,
- 20 which facts shall include:
- 21 (A) Birthplace and family of origin;



- 1 (B) Manner in which they were parented;
- 2 (C) Marital and relationship history; and
- 3 (D) Prior involvement in services;
- 4 (5) Results of psychiatric, psychological, or
- 5 developmental evaluations of the child, the alleged
- 6 perpetrators, and other family members who are
- 7 parties;
- 8 (6) Whether there is a history of abusive or assaultive
- 9 conduct by the child's family members and others who
- 10 have access to the family home;
- 11 (7) Whether there is a history of substance abuse by the
- 12 child's family and others who have access to the
- 13 family home;
- 14 (8) Whether any alleged perpetrator has completed services
- 15 in relation to any history identified in paragraphs
- 16 (6) and (7), and acknowledged and accepted
- 17 responsibility for the harm to the child;
- 18 (9) Whether any non-perpetrator who resides in the family
- 19 home has demonstrated an ability to protect the child
- 20 from further harm and to ensure that any current
- 21 protective orders are enforced;



1 (10) Whether there is a support system available to the
2 child's family, including adoptive and hanai
3 relatives, friends, and faith-based or other community
4 networks;

5 (11) Attempts to locate and involve extended family,
6 friends, and faith-based or other community networks;

7 (12) Whether the child's family has demonstrated an
8 understanding and involvement in services that have
9 been recommended by the department or court-ordered as
10 necessary to effectuate a safe family home for the
11 child;

12 (13) Whether the child's family has resolved identified
13 safety issues in the family home within a reasonable
14 period of time; and

15 (14) The department's assessment, which will include the
16 demonstrated ability of the child's family to provide
17 a safe family home for the child, and recommendations.

18 (b) The court shall consider the likelihood that the
19 current situation presented in the safe family home factors set
20 forth in subsection (a) will continue in the reasonably
21 foreseeable future.



1 § -8 **Protective custody by police officer without court**
2 **order.** (a) A police officer shall assume protective custody of
3 a child without a court order and without the consent of the
4 child's family, if in the discretion of the police officer:

5 (1) The child is subject to imminent harm while in the
6 custody of the child's family;

7 (2) The child has no parent, as defined in this chapter,
8 who is willing and able to provide a safe family home
9 for the child;

10 (3) The child has no caregiver, as defined in this
11 chapter, who is willing and able to provide a safe and
12 appropriate placement for the child; or

13 (4) The child's parent has subjected the child to harm or
14 threatened harm and the parent is likely to flee with
15 the child.

16 (b) The department shall assume temporary foster custody
17 of the child when a police officer has completed the transfer of
18 protective custody of the child to the department.

19 (1) A police officer who assumes protective custody of a
20 child shall complete transfer of protective custody to



1 the department by presenting physical custody of the
2 child to the department; or

3 (2) If the child is or will be admitted to a hospital or
4 similar institution, the police officer shall
5 immediately complete the transfer of protective
6 custody to the department by notifying the department,
7 and receiving an acknowledgment from the hospital or
8 similar institution that it has been informed that the
9 child is under the temporary foster custody of the
10 department.

11 § -9 **Temporary foster custody without court order.** (a)

12 When the department receives protective custody of a child from
13 the police, the department shall:

14 (1) Assume temporary foster custody of the child if in the
15 discretion of the department, the child is subject to
16 imminent harm while in the custody of the child's
17 family;

18 (2) Make every reasonable effort to inform the child's
19 parents of the actions taken, unless doing so would
20 put another person at risk of harm;



- 1 (3) Unless the child is admitted to a hospital or similar
2 institution, place the child in emergency foster care
3 while the department conducts an appropriate
4 investigation, with placement preference being given
5 to an approved relative;
- 6 (4) The department and authorized agencies shall make
7 reasonable efforts to identify and notify all
8 relatives within thirty days of assuming temporary
9 foster custody of the child; and
- 10 (5) Within three days, excluding Saturdays, Sundays, and
11 holidays:
- 12 (A) Relinquish temporary foster custody, return the
13 child to the child's parents, and proceed
14 pursuant to section -11(3), (4), or (5);
- 15 (B) Secure a voluntary placement agreement from the
16 child's parents to place the child in foster
17 care, and proceed pursuant to section -11(5)
18 or (7); or
- 19 (C) File a petition with the court.
- 20 (b) Upon the request of the department and without regard
21 to parental consent, any physician licensed or authorized to



1 practice medicine in the State of Hawaii shall perform an
2 examination to determine the nature and extent of harm or
3 threatened harm to a child under the department's temporary
4 foster custody.

5 § -10 **Relatives; foster placement.** (a) The department
6 shall provide the child's relative an application to be the
7 child's resource family within fifteen days of the relative's
8 request to be a foster placement. If the application is
9 submitted and denied, the department shall provide the applicant
10 with the specific reasons for the denial and an explanation of
11 the procedures for an administrative appeal.

12 (b) The department and authorized agencies shall make
13 reasonable efforts to identify and notify all relatives of the
14 child within thirty days after assuming foster custody of the
15 child.

16 § -11 **Investigation.** At its discretion, and in
17 accordance with its procedures and legally adopted departmental
18 rules, the department shall investigate a report that a child is
19 subject to imminent harm, has been harmed, or is subject to
20 threatened harm. In conducting the investigation, the
21 department may:



- 1 (1) Enlist the cooperation of appropriate state and
2 federal law enforcement authorities for assistance.
3 The law enforcement authorities may conduct an
4 investigation and if conducted, shall provide to the
5 department all preliminary findings, which shall
6 include the results of a criminal history record check
7 of an alleged perpetrator of harm or threatened harm
8 to a child;
- 9 (2) Interview the child without the presence or prior
10 approval of the child's family, and temporarily assume
11 protective custody of the child for the purpose of
12 conducting the interview;
- 13 (3) Resolve the matter in an informal fashion that it
14 deems appropriate under the circumstances;
- 15 (4) Close the matter if the department finds, after an
16 assessment, that the child is residing with a
17 caregiver who is willing and able to meet the child's
18 needs and provide a safe and appropriate placement for
19 the child;
- 20 (5) Immediately enter into a service plan:



1 (A) To safely maintain the child in the family home;
2 or

3 (B) To place the child in voluntary foster care
4 pursuant to a written agreement with the child's
5 parent.

6 If the child is placed in voluntary foster care and
7 the family does not successfully complete the service
8 plan within three months after the date on which the
9 department assumed physical custody of the child, the
10 department shall file a petition. The department is
11 not required to file a petition if the parents agree
12 to adoption or legal guardianship of the child and the
13 child's safety is ensured, so long as the adoption or
14 legal guardianship hearing is conducted within six
15 months of the date on which the department assumed
16 physical custody of the child;

17 (6) Assume temporary foster custody of the child and file
18 a petition with the court within three days, excluding
19 Saturdays, Sundays, and holidays, after the date on
20 which the department assumes temporary foster custody



1 of the child, with placement preference being given to
2 an approved relative; or

3 (7) File a petition or refer the matter to another
4 appropriate authorized agency, which may file a
5 petition under this chapter.

6 **PART V. COURT PROCEEDINGS, EVIDENCE, AND ORDERS**

7 **§ -12 Petition.** (a) A petition invoking the
8 jurisdiction of the court under this chapter shall:

9 (1) Be verified and set forth:

10 (A) A concise statement of the basis for each
11 allegation of harm or threatened harm that brings
12 a child within this chapter;

13 (B) The name, birth date, gender, and residential
14 address of the child;

15 (C) The names and last known residential addresses of
16 the parents and other persons who are to be made
17 parties to the proceedings under this chapter;
18 and

19 (D) Whether the child is under the temporary foster
20 custody or foster custody of the department and,



1 if so, the date on which the department assumed
2 physical custody of the child;

3 (2) State whether any of the facts required by this
4 section cannot be determined prior to filing the
5 petition. The petition may be based on information
6 and belief, but shall state the basis thereof; and

7 (3) Include the warning that, if the petition is granted,
8 parental rights may be terminated unless the family is
9 willing and able to provide the child with a safe
10 family home within a reasonable period of time, with
11 the assistance of a service plan.

12 (b) If the court determines that the child is subject to
13 imminent harm while in the custody of the child's family, the
14 court shall order that a police officer immediately take the
15 child into protective custody and that the department
16 immediately assume temporary foster custody of the child.

17 (c) The court shall conduct:

18 (1) A temporary foster custody hearing within two days
19 after the petition is filed, excluding Saturdays,
20 Sundays, and holidays; or



1 (2) A return hearing within fifteen days after the
2 petition is filed, if the petition requests foster
3 custody or family supervision of the child.

4 (d) The court may provide rules concerning the titles,
5 filing, investigation, and form and content of petitions and
6 other pleadings and proceedings in cases under this chapter, or
7 any other matter arising in child protective proceedings.

8 § -13 **Summons and service of summons.** (a) After a
9 petition has been filed, the court shall issue a summons
10 requiring the presence of the parents and other persons who are
11 to be parties to the proceeding, as follows:

12 (1) A copy of the petition shall be attached to each
13 summons;

14 (2) The summons shall notify the parties of their right to
15 retain and be represented by counsel; and

16 (3) The summons shall state: "YOUR PARENTAL AND CUSTODIAL
17 DUTIES AND RIGHTS CONCERNING THE CHILD OR CHILDREN WHO
18 ARE THE SUBJECT OF THE ATTACHED PETITION MAY BE
19 TERMINATED IF YOU FAIL TO APPEAR ON THE DATE SET FORTH
20 IN THIS SUMMONS."



1 (b) The court may issue a summons to a parent or any
2 person having physical custody of the child, to bring the child
3 before the court at the temporary foster custody hearing or the
4 return hearing.

5 (c) The sheriff or other authorized person shall serve the
6 summons by personally delivering a certified copy to the person
7 or legal entity being summoned. A return on the summons shall
8 be filed, showing to whom, and the date and time service was
9 made. However:

10 (1) If the party to be served does not reside in the State
11 of Hawaii, service shall be made by registered or
12 certified mail addressed to the party's last known
13 address; or

14 (2) If the court finds that it is impracticable to
15 personally serve the summons, the court may order
16 service by registered or certified mail addressed to
17 the party's last known address, or by publication, or
18 both. When publication is used, the summons shall be
19 published once a week for four consecutive weeks in a
20 newspaper of general circulation in the county in
21 which the party was last known to have resided. In



1 the order for publication of the summons, the court
2 shall designate the publishing newspaper and shall set
3 the date of the last publication at no less than
4 twenty-one days before the return date. Such
5 publication shall have the same force and effect as
6 personal service of the summons.

7 (d) Service shall be completed no less than twenty-four
8 hours prior to the time set forth in the summons for a temporary
9 foster custody hearing, or no less than forty-eight hours prior
10 to the time set forth in the summons for any other hearing,
11 unless the party was present when ordered by the court to appear
12 at the hearing.

13 (e) The court may issue a warrant for the appearance of a
14 person or child, as well as issue an order pursuant to section
15 -16(b), if:

- 16 (1) The summons cannot be personally served;
17 (2) The person served fails to obey the summons;
18 (3) The court finds that service will not be effective; or
19 (4) The court finds that the best interests of the child
20 require that the child be brought into the custody of
21 the court.



1 § -14 **Notice of hearings; participation of resource**
2 **family.** (a) Notice of hearings shall be served on the parties;
3 however, no further notice is required for any party who was
4 defaulted or given actual notice of a hearing while present in
5 court. Notice of hearings shall be served no less than
6 forty-eight hours before the scheduled hearing, subject to a
7 shortening of time as ordered by the court.

8 (b) The child's current resource family shall be served
9 written notice of hearings no less than forty-eight hours before
10 a scheduled hearing; however, no further notice needs to be
11 provided to a resource family who was given actual notice of a
12 hearing while present in court, subject to a shortening of time
13 as ordered by the court.

14 (c) No hearing shall be held until the child, the child's
15 current resource family, and all parties are given notice of the
16 hearing or served, as required by this section.

17 (d) The child's current resource family is entitled to
18 participate in the proceedings to provide information to the
19 court, either in person or in writing, concerning the current
20 status of the child in their care.



1 (e) The court may not convene a hearing under this chapter
2 unless the court enters a finding that each of the parties
3 required to be notified of the hearing has been served with a
4 copy of the petition; however, if a party is required to be
5 summoned to a temporary foster custody or return hearing, but
6 has not been served with the summons, the court may proceed with
7 the hearing if:

8 (1) A reasonable effort has been made to effect personal
9 service;

10 (2) It would not be in the best interests of the child to
11 postpone the proceeding until service can be
12 effectuated; and

13 (3) The child is represented by a guardian ad litem or
14 counsel.

15 **§ -15 Duties, rights, and liability of authorized**

16 **agencies.** (a) Family supervision vests in an authorized agency
17 the following duties and rights, subject to such restrictions as
18 the court deems to be in the best interests of a child:

19 (1) To monitor and supervise the child and the child's
20 family members who are parties. Monitoring and
21 supervision shall include, but not be limited to,



1 reasonable access to each of the family members who
2 are parties and reasonable access into the child's
3 family home; and

4 (2) To place the child in foster care and thereby assume
5 temporary foster custody or foster custody of the
6 child. The authorized agency shall immediately notify
7 the court when such placement occurs. Upon
8 notification, the court shall set the case for:

9 (A) A temporary foster custody hearing within three
10 days, excluding Saturdays, Sundays, and holidays;

11 or

12 (B) If jurisdiction has been established, a periodic
13 review hearing within ten days of the child's
14 placement.

15 The temporary foster custody hearing or the periodic
16 review hearing may be held at a later date, only if
17 the court finds it to be in the best interests of the
18 child.

19 (b) Foster custody vests in an authorized agency the
20 following duties and rights:



- 1 (1) To determine where and with whom the child shall be
2 placed in foster care; however, the child shall not be
3 placed in foster care outside the State of Hawaii
4 without prior order of the court;
- 5 (2) To permit the child to return to the family from which
6 the child was removed, unless otherwise ordered by the
7 court. The child's return may occur only if no party
8 objects to such placement, and prior written notice is
9 given to the court and to all parties stating that
10 there is no objection of any party to the child's
11 return. Upon the child's return to the family,
12 temporary foster custody or foster custody shall be
13 automatically revoked, and the child and the child's
14 family members who are parties shall be placed under
15 temporary family supervision or the family supervision
16 of the authorized agency;
- 17 (3) To ensure that the child is provided in a timely
18 manner with adequate food, clothing, shelter,
19 psychological care, physical care, medical care,
20 supervision, and other necessities;



- 1 (4) To monitor whether the child is being provided with an
2 appropriate education;
- 3 (5) To provide consents that are required for the child's
4 physical or psychological health or welfare,
5 including, but not limited to, ordinary medical,
6 dental, psychiatric, psychological, educational,
7 employment, recreational, or social needs;
- 8 (6) To provide consents for any other medical or
9 psychological care or treatment, including, but not
10 limited to, surgery, if the persons who are otherwise
11 authorized to provide the consent are unable or
12 unwilling to consent. Such care or treatment must be
13 deemed necessary for the child's physical or
14 psychological health or welfare by two physicians or
15 two psychologists, whichever is appropriate, who are
16 licensed or authorized to practice in the State of
17 Hawaii;
- 18 (7) To provide consent for the child's application for a
19 driver's instruction permit, provisional driver's
20 license, or driver's license;



1 (8) To provide consent to the recording of a statement
2 pursuant to section -21; and

3 (9) To provide the court with information concerning the
4 child.

5 The court, in its discretion, may vest foster custody of a
6 child in any authorized agency or subsequently authorized
7 agencies, if the court finds that it is in the child's best
8 interests to do so. The rights and duties that are so assumed
9 by an authorized agency shall supersede the rights and duties of
10 any legal or permanent custodian of the child.

11 Unless otherwise provided in this section or as otherwise
12 ordered by the court, a child's family shall retain the
13 following rights and responsibilities after a transfer of
14 temporary foster custody or foster custody, to the extent that
15 the family possessed the rights and responsibilities prior to
16 the transfer of temporary foster custody or foster custody: the
17 right of reasonable supervised or unsupervised visitation at the
18 discretion of the authorized agency; the right to consent to
19 adoption, to marriage, or to major medical or psychological care
20 or treatment; and the continuing responsibility to support the
21 child, including, but not limited to, repayment for the cost of



1 any care, treatment, or other service provided by the authorized
2 agency or the court for the child's benefit.

3 (c) Permanent custody vests in an authorized agency the
4 following duties and rights:

5 (1) To assume the parental and custodial duties and rights
6 of a legal custodian and family member;

7 (2) To determine where and with whom the child shall live;
8 however, the child shall not be placed outside the
9 State of Hawaii without prior order of the court;

10 (3) To ensure that the child is timely provided with
11 adequate food, clothing, shelter, psychological care,
12 physical care, medical care, supervision, and other
13 necessities;

14 (4) To monitor whether the child is being provided with an
15 appropriate education;

16 (5) To provide all consents that are required for the
17 child's physical or psychological health or welfare,
18 including, but not limited to, medical, dental,
19 psychiatric, psychological, educational, employment,
20 recreational, and social needs;



1 (6) To provide consent for the child's application for a
2 driver's instruction permit, provisional driver's
3 license, or driver's license;

4 (7) To provide consent to adoption, change of name, and
5 marriage; and

6 (8) To submit a written report to the court if the child
7 leaves the home of the permanent custodian for a
8 period of seven consecutive days. The report shall
9 state the child's current situation and shall be
10 submitted on or before the tenth day, excluding
11 Saturdays, Sundays, and holidays, after the child
12 leaves the home.

13 (d) An authorized agency shall not be liable to third
14 party persons for the acts of the child solely by reason of the
15 agency's status as foster custodian or permanent custodian of
16 the child.

17 § -16 **Guardian ad litem.** (a) The court shall appoint a
18 guardian ad litem for a child to serve throughout the pendency
19 of the child protective proceedings under this chapter.

20 (b) The court may appoint a guardian ad litem for an
21 incapacitated adult party.



1 (1) Upon the request of any party or sua sponte, the court
2 may order a professional evaluation of an adult party
3 to determine the party's capacity to substantially:

4 (A) Comprehend the legal significance of the issues
5 and nature of the proceedings under this chapter;

6 (B) Consult with counsel; and

7 (C) Assist in preparing the party's case or strategy.

8 (2) If the court orders a professional evaluation, the
9 party shall be examined by a physician, psychologist,
10 or other individual appointed by the court who is
11 qualified to evaluate the party's alleged impairment.

12 (A) Unless otherwise directed by the court, the
13 examiner shall promptly file a written report
14 with the court which shall contain:

15 (i) A description of the nature, type, and
16 extent of the party's specific cognitive and
17 functional capabilities and limitations;

18 (ii) An evaluation of the party's mental and
19 physical condition and if appropriate,
20 educational potential, adaptive behavior,
21 and social skills;



- 1 (iii) A prognosis for improvement and a
- 2 recommendation as to the appropriate
- 3 treatment or habilitation plan; and
- 4 (iv) The dates of any assessments or examinations
- 5 upon which the report is based.
- 6 (B) Upon the request of any party or sua sponte, and
- 7 after such hearing as the court deems
- 8 appropriate, the court may appoint a guardian ad
- 9 litem for an adult party only after a
- 10 determination, by clear and convincing evidence,
- 11 that:
- 12 (i) The party is an incapacitated person; and
- 13 (ii) The party's identified needs cannot be met
- 14 by less restrictive means, including the use
- 15 of appropriate and reasonably available
- 16 assistance.
- 17 (c) A guardian ad litem shall, unless otherwise ordered by
- 18 the court:
- 19 (1) Have access to the child or incapacitated adult;
- 20 (2) Have the authority to inspect and receive copies of
- 21 any records, notes, and electronic recordings



1 concerning the child or incapacitated adult that are
2 relevant to the proceedings filed under this chapter.

3 This authority shall exist even without the consent of
4 the child, incapacitated adult, or individuals and
5 authorized agencies that have control of the child or
6 incapacitated adult;

7 (3) Be given notice of all hearings and proceedings
8 involving the child or incapacitated adult, whether
9 civil or criminal, including grand juries, and shall
10 protect the best interests of those parties therein;

11 (4) Make face-to-face contact with the child or
12 incapacitated adult in that child's or incapacitated
13 adult's family or resource family home at least once
14 every three months;

15 (5) Report to the court and all parties in writing at six
16 month intervals regarding such guardian ad litem's
17 activities on behalf of the child or the incapacitated
18 adult's best interests, and recommend how the court
19 should proceed in the best interests of that child or
20 incapacitated adult; and



1 (6) Inform the court of the child or incapacitated adult's
2 opinions and requests. If the child's opinions and
3 requests differ from those being advocated by the
4 guardian ad litem, the court shall determine whether
5 it is in the child's best interests to appoint an
6 attorney for the child concerning such issues.

7 (d) The court shall, for an incapacitated adult:

8 (1) Grant a guardian ad litem only those powers
9 necessitated by the incapacitated adult's limitations
10 and demonstrated needs; and

11 (2) Make appointive and other orders that will encourage
12 the development of the incapacitated adult's maximum
13 self-reliance and independence.

14 (e) Unless otherwise ordered by the court, the attorney
15 for a child or for an incapacitated adult shall take
16 instructions from the child's or incapacitated adult's guardian
17 ad litem.

18 (f) The fees and costs of a guardian ad litem appointed
19 pursuant to this section may be paid by the court, unless the
20 party for whom counsel is appointed has an independent estate
21 sufficient to pay such fees and costs. The court may order the



1 appropriate parties to pay or reimburse the fees and costs of
2 the guardian ad litem and any attorney appointed for the child.

3 **§ -17 Court-appointed attorneys.** (a) The court shall
4 appoint an attorney to represent a parent who is indigent based
5 on court-established guidelines, unless the parent retains, or
6 waives the right to, an attorney.

7 (b) Unless otherwise ordered by the court, the attorney
8 for a child or for an incapacitated adult shall take
9 instructions from the child's or incapacitated adult's guardian
10 ad litem.

11 (c) Attorneys who are appointed by the court to represent
12 indigent parents may be paid by the court, unless the party for
13 whom counsel is appointed has an independent estate sufficient
14 to pay such fees and costs. The court may order the appropriate
15 parties to pay or reimburse the fees and costs of an attorney
16 appointed for the child.

17 **§ -18 Reports to be submitted by the department and**
18 **authorized agencies.** (a) Unless otherwise ordered by the
19 court, the department or other authorized agencies shall file
20 written reports with the court:



1 (1) Concurrent with the filing of a petition invoking the
2 jurisdiction of the court under this chapter; and

3 (2) No less than fifteen days before a scheduled return
4 hearing, periodic review hearing, permanency hearing,
5 or termination of parental rights hearing; however,
6 additional information may be submitted to the court
7 up to the date of the hearing.

8 (b) The reports shall include:

9 (1) An assessment of each safe family home factor and the
10 family's progress with recommended or court-ordered
11 services;

12 (2) A recommended service plan or permanent plan that
13 references the pertinent safe family home factors; and

14 (3) A recommendation documenting the basis for any other
15 orders, including, but not limited to, protective
16 orders.

17 (c) The department or other authorized agencies shall
18 submit to the court any report, in its entirety, pertaining to
19 the child or the child's family that has been prepared by a
20 child protective services multidisciplinary team or consultant.



1 (d) A written report submitted pursuant to this section
2 shall be admissible and relied upon to the extent of its
3 probative value in any proceeding under this chapter, subject to
4 the right of any party to examine or cross-examine the preparer
5 of the report as to any matter in the report.

6 § -19 **Expert testimony by department social worker.** A
7 person employed by the department as a social worker in the
8 areas of child protective services or child welfare services
9 shall be presumed to be qualified to testify as an expert in the
10 area of child protective or child welfare services. Upon
11 reasonable notice to counsel for the department, any party may
12 request the court to qualify a specific witness as an expert.

13 § -20 **Inadmissibility of evidence in other state actions**
14 **or proceedings.** The court may order that testimony or other
15 evidence produced by a party in a proceeding under this chapter
16 shall be inadmissible as evidence in any other state civil or
17 criminal action or proceeding, if the court deems such an order
18 to be in the best interests of the child.

19 § -21 **Admissibility of evidence; testimony by a child.**

20 (a) Any statement relating to an allegation of imminent harm,



1 harm, or threatened harm that a child has made to any person
2 shall be admissible in evidence.

3 (b) In deciding whether there is reasonable cause to
4 believe that a child is subject to imminent harm, the court may
5 consider relevant hearsay evidence when direct testimony is
6 unavailable, or when it is impractical to subpoena witnesses who
7 will be able to testify to facts based on personal knowledge.

8 (c) A child's recorded statement shall be admissible in
9 evidence in any proceeding under this chapter, provided that:

- 10 (1) The statement is recorded on film, audiotape, or
11 videotape, or by other reliable electronic means;
- 12 (2) The recording equipment used is capable of producing
13 an accurate recording, the equipment was operated by a
14 competent person, and the recording is accurate and
15 has not been altered; and
- 16 (3) Every person on the recording is identified.

17 (d) A child may be directed by the court to testify under
18 circumstances deemed by the court to be in the best interests of
19 the child and the furtherance of justice. Such circumstances
20 may include an on-the-record interview of the child in chambers,



1 with only those parties present during the interview as the
2 court deems to be in the best interests of the child.

3 § **-22 Unavailability of specified privileges.** The
4 following privileges shall not be available to exclude evidence
5 of imminent harm, harm, or threatened harm in any proceeding
6 under this chapter:

- 7 (1) The physician-patient privilege;
8 (2) The psychologist-client privilege;
9 (3) The spousal privilege; and
10 (4) The victim-counselor privilege.

11 § **-23 Effect of oral orders.** Orders orally stated by
12 the court on the record in a proceeding under this chapter shall
13 have full force and effect upon the date of the hearing until
14 further order of the court. All oral orders shall be reduced to
15 writing as soon as is practicable.

16 § **-24 Motions to vacate or modify prior orders.** In
17 considering a party's motion to vacate or modify prior orders,
18 the court need not commence a trial or hearing de novo, but
19 rather, after such further hearing as the court deems to be
20 appropriate, may proceed to enter such orders as are in the best
21 interests of the child.



1 § **-25 Conduct of hearing in child protective**

2 **proceedings.** (a) The court shall hear child protective
3 proceedings without a jury at a hearing separate from those for
4 adults.

5 (b) The general public shall be excluded from these
6 proceedings. Only parties found by the court to have a direct
7 interest in the case shall be admitted to the hearing.

8 (c) The court has discretion to exclude the child from the
9 hearing at any time.

10 (d) If a party is without counsel or a guardian ad litem,
11 the court shall inform the party of the right to be represented
12 by counsel and the right to appeal.

13 § **-26 Temporary foster custody hearing.** (a) When the
14 department assumes temporary foster custody of a child and files
15 a petition pursuant to this chapter, the court shall conduct a
16 temporary foster custody hearing within two days after the
17 petition is filed, excluding Saturdays, Sundays, and holidays.
18 The purpose of a temporary foster custody hearing is to
19 determine whether a child's safety continues to require
20 protection prior to an adjudicatory determination at a return
21 hearing.



1 (b) The temporary foster custody hearing may be continued
2 for a period not to exceed fifteen days if the court determines
3 that further investigation would be in the child's best
4 interests.

5 (c) After reviewing the petition and any reports submitted
6 by the department, and considering all information pertaining to
7 the safe family home factors, the court shall order:

- 8 (1) That the child be immediately released from the
9 department's temporary foster custody, placed in
10 temporary family supervision, and returned to the
11 child's family home with the assistance of services,
12 upon finding that the child's family is able to
13 provide a safe family home with services; or
- 14 (2) That the child continue in the department's temporary
15 foster custody, upon finding that there is reasonable
16 cause to believe that continued placement in foster
17 care is necessary to protect the child from imminent
18 harm; however, in making this determination, the court
19 shall consider whether:
- 20 (A) Before the child was placed in foster care, the
21 department made reasonable efforts to prevent or



1 eliminate the need for removing the child from
2 the child's family home;

3 (B) The alleged or potential perpetrator of the
4 imminent harm, harm, or threatened harm should be
5 removed from the family home rather than
6 continuing the child's placement in foster care.
7 The child's family shall have the burden of
8 establishing that it is in the child's best
9 interests to remove the child, rather than the
10 alleged or potential perpetrator, from the family
11 home; and

12 (C) Every reasonable effort has been or is being made
13 to place siblings or psychologically bonded
14 children together, unless such placement is not
15 in the children's best interests.

16 (d) The court shall conduct a return hearing on the
17 petition within fifteen days after the temporary foster custody
18 hearing.

19 (e) The court may further order that:

20 (1) Any party undergo a physical, developmental,
21 psychological, or psychiatric evaluation and that a



1 written or oral report be submitted or communicated to
2 the court and all parties before the next court
3 hearing;

4 (2) The child's family members who are parties provide the
5 department or another authorized agency the names and
6 addresses of other relatives and friends who are
7 potential visitation supervisors or resource families
8 for the child;

9 (3) The child's family members who are parties be
10 permitted reasonable supervised or unsupervised
11 visitation with the child at the discretion of the
12 child's guardian ad litem, the department, or another
13 authorized agency;

14 (4) The court and the parties view a video or listen to an
15 audio recording of the child's statements at such time
16 and in such manner as the court deems appropriate;

17 (5) A criminal history record check be conducted by the
18 department or another authorized agency concerning a
19 party who is an alleged or potential perpetrator of
20 imminent harm, harm, or threatened harm to the child;

21 (6) The entry of a protective order;



1 (7) The department or another authorized agency prepare a
2 written or oral supplemental report;

3 (8) The child's guardian ad litem visit the child's family
4 home and resource family home, be present during
5 supervised visitation, and prepare a written or oral
6 report that includes specific recommendations
7 concerning services and assistance to the family; and

8 (9) Any other orders that the court deems necessary.

9 (f) Any party may file a motion, or the court may order
10 sua sponte, a temporary foster custody hearing or rehearing at
11 any time after a petition is filed, in order to determine
12 whether the child should be placed in temporary foster custody
13 to ensure the child's safety pending a scheduled return hearing.

14 § -27 **Service plan.** (a) The service plan shall
15 provide:

16 (1) The specific steps required to ameliorate the safe
17 family home factors that caused the child harm or to
18 be threatened with harm. These specific steps shall
19 include treatment and services that will be provided;
20 actions completed; specific measurable and behavioral



- 1 changes that must be achieved; and responsibilities
2 assumed;
- 3 (2) Whether ohana conferencing will be conducted for
4 family finding and family group decision making;
- 5 (3) The respective responsibilities of the child, the
6 parents, legal guardian or custodian, the department,
7 other family members, and treatment providers, and a
8 description and expected outcomes of the services
9 required to achieve the permanency goal;
- 10 (4) The required frequency and types of contact between
11 the assigned social worker and the child and the
12 family;
- 13 (5) The time frames during which services will be
14 provided, actions must be completed, and
15 responsibilities must be discharged;
- 16 (6) Notice to the parents that their failure to
17 substantially achieve the objectives described in the
18 service plan within the time frames established may
19 result in termination of their parental rights;
- 20 (7) Notice to the parents that if the child has been in
21 foster care under the responsibility of the department



1 for an aggregate of fifteen out of the most recent
2 twenty-two months from the child's date of entry into
3 foster care, the department is required to file a
4 motion to set a termination of parental rights
5 hearing; and

6 (8) Any other terms and conditions that the court or the
7 authorized agency deem necessary to the success of the
8 service plan.

9 (b) Services and assistance to the family that are
10 required by a service plan shall be presented in a manner that
11 can be understood by and does not overwhelm the parties.

12 (c) The court shall ensure that each term, condition, and
13 consequence of the service plan has been thoroughly explained
14 to, understood by, and agreed to by each member of the child's
15 family whom the authorized agency deems to be necessary to the
16 success of the service plan. The court shall thereafter order
17 the service plan into effect, and order the distribution of
18 copies to each family member or person who is a party to the
19 service plan. If a member of a child's family whom the
20 authorized agency deems to be necessary to the success of the
21 service plan cannot understand or refuses to agree to the terms,



1 conditions, and consequences of the service plan, the court
2 shall conduct a hearing to determine the terms, conditions, and
3 consequences of a service plan that will ensure a safe home for
4 the child.

5 § **-28 Return hearing.** (a) When a petition has been
6 filed, the court shall conduct a return hearing within fifteen
7 days of:

8 (1) The filing of the petition; or

9 (2) The date a decision is announced by the court during a
10 temporary foster custody hearing.

11 (b) At the return hearing, if it is established that a
12 party required to be notified has not been served prior to the
13 hearing, the court shall:

14 (1) Order the method of service of summons that the court
15 deems to be appropriate, based upon the available
16 information; and

17 (2) Set a continued return hearing and

18 (A) The court may waive the appearance of any party
19 at the continued return hearing; and

20 (B) If service of summons is ordered to be made by
21 mail or publication, the court shall set the



1 continued return hearing no less than twenty-one
2 days after the date of service as evidenced by
3 the signature of the recipient on a return
4 receipt or the date of the last publication.

5 (c) At a continued return hearing, the court shall:

- 6 (1) Enter the default of the party who was served but
7 failed to appear at the continued return hearing;
- 8 (2) Order the party who was served to appear on the date
9 of the next scheduled hearing in the case; or
- 10 (3) Set a hearing on the oral motion to vacate prior
11 orders, if a party appears at the hearing and moves
12 the court to vacate or modify prior orders. The
13 moving party shall file a written motion and serve the
14 other parties with proper written notice of the motion
15 and the hearing date.

16 (d) At the return hearing, the court shall decide:

- 17 (1) Whether the child's physical or psychological health
18 or welfare has been harmed or is subject to threatened
19 harm by the acts or omissions of the child's parents;
- 20 (2) Whether the child should be placed in foster custody
21 or under family supervision; and



1 (3) What services should be provided to the child's
2 parents.

3 (e) If the court finds that the child's physical or
4 psychological health or welfare has been harmed or is subject to
5 threatened harm by the acts or omissions of the child's parents,
6 the court:

7 (1) Shall enter a finding that the court has jurisdiction
8 pursuant to section -5;

9 (2) Shall enter a finding regarding whether, before the
10 child was placed in foster care, the department made
11 reasonable efforts to prevent or eliminate the need
12 for removing the child from the child's family home;

13 (3) Shall enter orders:

14 (A) That the child be placed in foster custody if the
15 court finds that the child's remaining in the
16 family home is contrary to the welfare of the
17 child and the child's parents are not willing and
18 able to provide a safe family home for the child,
19 even with the assistance of a service plan; or

20 (B) That the child be placed in family supervision if
21 the court finds that the child's parents are



1 willing and able to provide the child with a safe
2 family home, with the assistance of a service
3 plan;

4 (4) Shall determine whether aggravated circumstances are
5 present.

6 (A) If aggravated circumstances are present, the
7 court shall:

8 (i) Conduct a permanency hearing within thirty
9 days, and the department shall not be
10 required to provide the child's parents with
11 an interim service plan or interim
12 visitation; and

13 (ii) Order the department to file, within sixty
14 days after finding that aggravated
15 circumstances are present, a motion to set
16 the case for a termination of parental
17 rights hearing.

18 (B) If aggravated circumstances are not present, the
19 court shall order that the department make
20 reasonable efforts to reunify the child with the



1 child's parents and order an appropriate service
2 plan;

3 (5) Shall order reasonable supervised or unsupervised
4 visits for the child and the child's family, including
5 with the child's siblings, unless such visits are
6 determined to be unsafe or detrimental to the child;

7 (6) Shall order each of the child's natural parents to
8 complete the medical information forms and release the
9 medical information required under section 578-14.5,
10 to the department. If the child's natural parents
11 refuse to complete the forms or to release the
12 information, the court may order the release of the
13 information over the parents' objections;

14 (7) Shall determine whether each party understands that
15 unless the family is willing and able to provide the
16 child with a safe family home, even with the
17 assistance of a service plan, within the reasonable
18 period of time specified in the service plan, their
19 respective parental and custodial duties and rights
20 shall be subject to termination;



- 1 (8) Shall determine the child's date of entry into foster
2 care, as defined in this chapter;
- 3 (9) Shall set a periodic review hearing to be conducted no
4 later than six months after the date of entry into
5 foster care and a permanency hearing to be held no
6 later than twelve months after the date of entry into
7 foster care;
- 8 (10) Shall set a status conference, as the court deems
9 appropriate, to be conducted no later than ninety days
10 after the return hearing; and
- 11 (11) May order that:
 - 12 (A) Any party participate in, complete, be liable
13 for, and make every good faith effort to arrange
14 payment for such services or treatment as are
15 authorized by law and that are determined to be
16 in the child's best interests;
 - 17 (B) A child be examined by a physician, surgeon,
18 psychiatrist, or psychologist; and
 - 19 (C) A child receive treatment, including
20 hospitalization or placement in other suitable



1 facilities, as is determined to be in the child's
2 best interests.

3 (f) If the court finds that the child's physical or
4 psychological health or welfare has not been harmed nor
5 subjected to threatened harm by the acts or omissions of the
6 child's parents, the court shall enter an order dismissing the
7 petition and shall state the grounds for dismissal.

8 (g) Nothing in this section shall prevent the court from
9 setting a termination of parental rights hearing at any time the
10 court deems appropriate.

11 § -29 **Show cause hearing.** At any stage of the
12 proceeding, the court may set a show cause hearing at which a
13 child's parents shall have the burden of presenting evidence as
14 to why the case should not be set for a termination of parental
15 rights or legal guardianship hearing.

16 § -30 **Periodic review hearing.** (a) The court shall set
17 a periodic review hearing to be conducted no later than six
18 months after a child's date of entry into foster care.
19 Thereafter, the court shall conduct periodic review hearings at
20 intervals of no longer than six months until the court's
21 jurisdiction is terminated. The court may set a case for a



1 periodic review hearing upon the motion of a party at any time,
2 if the court deems the hearing to be in the best interests of
3 the child.

4 (b) At each periodic review hearing, the court shall
5 review the status of the case to determine whether the child is
6 receiving appropriate services and care, whether the case plan
7 is being properly implemented, and whether the department's or
8 authorized agency's activities are directed toward a permanent
9 placement for the child. At the hearing, the court shall:

- 10 (1) Determine whether the child is safe;
- 11 (2) Determine the continued need for and appropriateness
12 of the out-of-home placement;
- 13 (3) Determine the extent to which each party has complied
14 with the case plan and the family's progress in making
15 their home safe for the child;
- 16 (4) Determine the family's progress in resolving the
17 problems that caused the child harm or to be
18 threatened with harm and, if applicable, the necessity
19 for continued out-of-home placement of the child;
- 20 (5) Project a likely date for:
- 21 (A) The child's return to a safe family home; or



1 (B) The child's permanent placement out of the family
2 home in the following order of preference:

3 (i) Adoption;

4 (ii) Legal guardianship;

5 (iii) Other permanent out-of-home placement;

6 (6) Evaluate visitation arrangements; and

7 (7) Issue any other appropriate orders.

8 (c) If the child has been in foster care under the
9 responsibility of the department for an aggregate of fifteen out
10 of the most recent twenty-two months from the date of entry into
11 foster care, the department shall file a motion to set the
12 matter for a termination of parental rights hearing, unless:

13 (1) The department has documented in the safe family home
14 factors or other written report submitted to the
15 court, a compelling reason why it would not be in the
16 best interests of the child to file a motion; or

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



1 Nothing in this section shall prevent the department from
2 filing a motion to set a termination of parental rights hearing
3 if the department determines that the criteria for terminating
4 parental rights are present.

5 § -31 **Permanency hearing.** (a) A permanency hearing
6 shall be conducted within twelve months of the child's date of
7 entry into foster care or within thirty days of a judicial
8 determination that the child is an abandoned infant or that
9 aggravated circumstances are present. A permanency hearing shall
10 be conducted at least every twelve months thereafter for as long
11 as the child remains in foster care under the placement
12 responsibility of the department.

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

18 (c) At each permanency hearing, the court shall make
19 written findings pertaining to:

20 (1) The extent to which each party has complied with the
21 service plan and progressed in making the home safe;



- 1 (2) Whether the current placement of the child continues
2 to be appropriate and in the best interests of the
3 child or if another in-state or out-of-state placement
4 should be considered;
- 5 (3) The court's projected timetable for reunification or,
6 if the current placement is not expected to be
7 permanent, placement in an adoptive home, with a legal
8 guardian, or under the permanent custody of the
9 department;
- 10 (4) Whether the department has made reasonable efforts, in
11 accordance with the safety and well-being of the
12 child, to:
- 13 (A) Place siblings, who have been removed from the
14 family home, with the same resource family,
15 adoptive placement, or legal guardians; and
- 16 (B) Provide for frequent visitation or other on-going
17 interactions in the case of siblings who are not
18 living in the same household;
- 19 (5) The appropriate permanency goal for the child,
20 including whether a change in goal is necessary;



- 1 (6) Whether the department has made reasonable efforts to
2 finalize the permanency goal that is in effect for the
3 child and a summary of those efforts;
- 4 (7) The date by which the permanency goal for the child is
5 to be achieved;
- 6 (8) In the case of a child who has attained sixteen years
7 of age, the services needed to assist the child with
8 the transition from foster care to independent living;
- 9 (9) Consulting with the child in an age appropriate manner
10 about the proposed plan for permanency or transition
11 from foster care to independent living;
- 12 (d) At each permanency hearing, the court shall order:
- 13 (1) The child's reunification with a parent(s); or
14 (2) The child's continued placement in foster care, where:
- 15 (A) Reunification is expected to occur within a time
16 frame that is consistent with the developmental
17 needs of the child;
- 18 (B) The safety and health of the child can be
19 adequately safeguarded; and
- 20 (C) The child has not been in foster care for a total
21 of twelve consecutive months or an aggregate of



1 at least fifteen out of the last twenty-two
2 months from the date of entry into foster care;
3 or

4 (3) A permanent plan with a goal of:

5 (A) Placing the child for adoption and when the
6 department will file a motion to set the matter
7 for terminating parental rights;

8 (B) Placing the child for legal guardianship if the
9 department documents and presents to the court a
10 compelling reason why termination of parental
11 rights and adoption are not in the best interests
12 of the child; or

13 (C) Awarding permanent custody to the department or
14 an authorized agency, if the department documents
15 and presents to the court a compelling reason why
16 adoption and legal guardianship are not in the
17 best interests of the child.

18 (e) At each permanency hearing where a permanent plan is
19 ordered, the court shall make appropriate orders to ensure
20 timely implementation of the permanent plan and to ensure that
21 the plan is accomplished within a specified period of time.



1 (f) A permanency hearing may be held concurrently with a
2 periodic review hearing.

3 (g) If the child has been in foster care under the
4 responsibility of the department for an aggregate of fifteen out
5 of the most recent twenty-two months from the date of entry into
6 foster care, the department shall file a motion to set the
7 matter for a termination of parental rights hearing unless:

8 (1) The department has documented in the safe family home
9 factors or other written report submitted to the
10 court, a compelling reason why it would not be in the
11 best interests of the child to file a motion; or

12 (2) The department has not provided to the family of the
13 child, consistent with the time period required in the
14 service plan, such services as the department deems
15 necessary for the safe return of the child to the
16 family home.

17 Nothing in this section shall prevent the department from
18 filing a motion to set a termination of parental rights hearing
19 if the department determines that the criteria for terminating
20 parental rights are present.

21 § -32 **Permanent plan.** (a) The permanent plan shall:



- 1 (1) State whether the permanency goal for a child will be
- 2 achieved through adoption, legal guardianship, or
- 3 permanent custody;
- 4 (2) Establish a reasonable period of time by which the
- 5 adoption or legal guardianship will be finalized;
- 6 (3) Document:
- 7 (A) If adoption is not the goal, a compelling reason
- 8 why legal guardianship or permanent custody is
- 9 the most appropriate permanency goal for the
- 10 child; or
- 11 (B) If adoption or guardianship is not the goal, a
- 12 compelling reason why permanent custody is the
- 13 most appropriate permanency goal for the child;
- 14 (4) Establish other related goals, including those
- 15 pertaining to the stability of the child's placement;
- 16 education; health; therapy; counseling; relationship
- 17 with the child's birth family, including visits, if
- 18 any; cultural connections; and preparation for
- 19 independent living;



1 (5) Describe, if a child has reached the age of sixteen,
2 the services needed to assist the child with the
3 transition from foster care to independent living; and

4 (6) Describe the methods for achieving the goals and
5 objectives set forth in paragraphs (4) and (5).

6 (b) A permanent plan prepared for a periodic review
7 hearing or a permanency hearing shall describe:

8 (1) Progress toward achieving the goal of the plan;

9 (2) Proposed revisions to the goal of the plan and the
10 reasons for the revisions; and

11 (3) Proposed revisions to the methods for achieving the
12 goals of the plan and objectives, and the reasons for
13 the revisions.

14 § -33 **Termination of parental rights hearing.** (a) At a
15 termination of parental rights hearing, the court shall
16 determine whether there exists clear and convincing evidence
17 that:

18 (1) A child's parent whose rights are subject to
19 termination is not presently willing and able to
20 provide his or her child with a safe family home, even
21 with the assistance of a service plan;



1 (2) It is not reasonably foreseeable that the child's
2 parent whose rights are subject to termination will
3 become willing and able to provide the child with a
4 safe family home, even with the assistance of a
5 service plan, within a reasonable period of time,
6 which shall not exceed two years from the child's date
7 of entry into foster care;

8 (3) The proposed permanent plan is in the best interests
9 of the child. In reaching this determination, the
10 court shall:

11 (A) Presume that it is in the best interests of the
12 child to be promptly and permanently placed with
13 responsible and competent substitute parents and
14 families in a safe and secure home; and

15 (B) Give greater weight to the presumption that the
16 permanent plan is in the child's best interests,
17 the younger the child is upon the child's date of
18 entry into foster care; and

19 (4) The child consents to the permanent plan if the child
20 is at least fourteen years old, unless the court
21 consults with the child in camera and finds that it is



1 in the best interests of the child to proceed without
2 the child's consent.

3 (b) If the court determines that the criteria set forth in
4 subsection (a) are established by clear and convincing evidence
5 and the goal of the permanent plan is for the child to be
6 adopted or remain in permanent custody, the court shall order:

7 (1) That the child's parent's parental rights are
8 terminated;

9 (2) Termination of the existing service plan and
10 revocation of the prior award of foster custody;

11 (3) That permanent custody of the child be awarded to an
12 appropriate authorized agency;

13 (4) An appropriate permanent plan;

14 (5) The entry of any other orders the court deems to be in
15 the best interests of the child, including, but not
16 limited to, restricting or excluding unnecessary
17 parties from participating in adoption or other
18 subsequent proceedings;

19 (6) Unless otherwise ordered by the court or until the
20 child is adopted, a child's family member shall
21 retain, to the extent that the family member possessed



1 the responsibility prior to the termination of
2 parental rights, the continuing responsibility to
3 support the child, including, but not limited to,
4 repaying the cost of any and all care, treatment, or
5 any other service provided by the permanent custodian,
6 any subsequent permanent custodian, other authorized
7 agency, or the court for the child's benefit;

8 (7) A family member may be permitted visitation with the
9 child at the discretion of the permanent custodian.

10 The court may review the exercise of such discretion
11 and may order that a family member be permitted such
12 visitation as is in the best interests of the child;

13 (8) An order terminating parental rights entered under
14 this chapter shall not operate to terminate the mutual
15 rights of inheritance of the child and the child's
16 family members or any other benefit to which the child
17 may be entitled, until the child has been adopted;

18 (9) The court, in its discretion, may vest permanent
19 custody of a child in an authorized agency or in
20 subsequently authorized agencies, as the court deems
21 to be in the best interests of the child; and



1 (10) If the department receives a report that the child has
2 been harmed or is subject to threatened harm by the
3 acts or omissions of the permanent custodians of the
4 child, the department may automatically assume either
5 family supervision over the child and the child's
6 permanent custodian or foster custody of the child.
7 In any event, the department shall immediately notify
8 the court and the court shall set the case for a
9 permanency hearing within ten days after the
10 department receives such a report, unless the court
11 deems a later date to be in the best interests of the
12 child.

13 (c) If the court determines that the criteria set forth in
14 subsection (a) are not established by clear and convincing
15 evidence, the court shall order:

- 16 (1) The preparation of a plan to achieve permanency for
17 the child;
- 18 (2) The entry of any orders that the court deems to be in
19 the best interests of the child;
- 20 (3) A periodic review hearing to be held within six months
21 after the date of the last permanency hearing; and



1 (4) A permanency hearing to be held within twelve months
2 of the date of the last permanency hearing.

3 (d) Absent compelling reasons, if the child has been in
4 foster care under the department's responsibility for an
5 aggregate of fifteen out of the most recent twenty-two months
6 from the date of entry into foster care, the department shall
7 file a motion to set the matter for a termination of parental
8 rights hearing.

9 § -34 **Reinstatement of parental rights.** (a) A child
10 who is subject to an active proceeding under this chapter; the
11 child's guardian ad litem; the child's attorney, if any; or the
12 department may file a motion to reinstate the terminated
13 parental rights of the child's parents in a proceeding under
14 this chapter, where the following circumstances exist:

15 (1) The child has been in permanent custody for at least
16 twelve months; and

17 (2) The child is fourteen years of age or older.

18 (b) A motion to reinstate parental rights shall be filed
19 with the court and shall describe the factors supporting a
20 reinstatement of parental rights. The court shall order a



1 preliminary hearing to be held within ninety days and shall give
2 prior notice to:

3 (1) The former parent whose rights are sought to be
4 reinstated;

5 (2) The child's guardian ad litem;

6 (3) The department; and

7 (4) The child's resource family.

8 (c) The motion shall be denied if the parent whose rights
9 are sought to be reinstated cannot be located.

10 (d) Within seven days before the preliminary hearing on
11 the motion, the department and the child's guardian ad litem
12 shall submit reports to the court that address:

13 (1) The material change in circumstances since the
14 termination of parental rights;

15 (2) The reasons parental rights were terminated and the
16 date of the termination order;

17 (3) A parent's willingness to resume contact with the
18 child and to have parental rights reinstated;

19 (4) The child's willingness to resume contact with the
20 parent and to have parental rights reinstated;



1 (5) A parent's willingness and ability to be involved in
2 the child's life and to accept physical custody of the
3 child; and

4 (6) Other relevant information.

5 (e) At a preliminary hearing on the motion, the court may
6 order a trial home placement and a temporary reinstatement of
7 parental rights upon finding that:

8 (1) There has been a material change in circumstances;

9 (2) A parent is willing to provide care for the child;

10 (3) A parent is able to provide a safe family home or the
11 home can be made safe with the assistance of services;
12 and

13 (4) A trial home placement is in the child's best
14 interests.

15 (f) If the court issues a temporary order of reinstatement
16 of parental rights:

17 (1) The child shall be conditionally placed in the
18 physical care of the parent for a period not to exceed
19 six months;

20 (2) The department shall develop a permanent plan for
21 reunification and shall ensure that transition



1 services are provided to the family, as appropriate;
2 and

3 (3) The court shall hold a hearing on the motion to
4 reinstate parental rights after the child has been
5 placed with the parent for six months.

6 (g) The department has the authority to assess the trial
7 home placement and to rescind the trial home placement according
8 to the child's best interests.

9 (h) At a final hearing on the motion to reinstate parental
10 rights, the court may issue a final order of reinstatement of
11 parental rights and terminate its jurisdiction if the trial home
12 placement has been successful. In making its final decision,
13 the court shall determine whether the moving party has proven by
14 clear and convincing evidence that:

15 (1) Reinstatement of parental rights is in the best
16 interests of the child, taking into consideration:

17 (A) Whether a parent has remedied the conditions that
18 caused the termination of parental rights;

19 (B) The age and maturity of the child, and the
20 child's ability to express a preference; and



1 § **-37 Failure to comply with terms and conditions of an**
2 **order of the court.** If a party fails to comply with the terms
3 and conditions of an order issued by the court under this
4 chapter, the court may apply the provisions of section 710-1077
5 and any other provisions available under the law.

6 § **-38 Protective order.** (a) After a petition has been
7 filed with the court under this chapter, the court, upon such
8 hearing as the court deems to be appropriate, may issue a
9 protective order to restrain any party from contacting,
10 threatening, or physically abusing any other party or a child,
11 if the court finds that a protective order is necessary to
12 prevent "domestic abuse" (as that term and its component terms
13 are defined in section 586-1) or a recurrence of domestic abuse.

14 (b) The protective order shall enjoin a party to be
15 restrained from performing any combination of the following
16 acts:

- 17 (1) Contacting, threatening, or physically abusing any
18 protected party or child;
- 19 (2) Contacting, threatening, or physically abusing any
20 person residing at the dwelling or residence of any
21 protected party or child; and



1 (3) Entering or visiting the dwelling or residence of any
2 protected party or child.

3 (c) The protective order may provide for further relief as
4 the court deems necessary to prevent the occurrence or
5 recurrence of domestic abuse.

6 (d) The protective order may require a party to leave the
7 party's dwelling or residence during the period of time in which
8 the protective order is in effect.

9 (e) The protective order shall be binding not only upon
10 any party against whom the protective order is directed, but
11 also upon each such party's officers, agents, servants,
12 employees, attorneys, and any other persons in active concert or
13 participation with each such party.

14 (f) The court may order that an individual be made a party
15 for the limited purpose of issuing a protective order against
16 that individual.

17 (g) Upon application and a hearing, the court may modify
18 the terms of, or terminate, an existing protective order.

19 (h) Any party may provide to appropriate law enforcement
20 authorities a copy of a protective order issued pursuant to this
21 section.



1 § **-39 Notice and service of protective order.** (a) A
2 protective order issued pursuant to section -38 shall be
3 served either personally or by certified mail on each party to
4 be restrained. In the case where a party was present at the
5 hearing during which the protective order was issued, that party
6 shall be deemed to have notice of the order.

7 (b) The court may order the police department to serve a
8 protective order issued pursuant to section -38 upon each
9 party to be restrained, to accompany a protected party to that
10 party's dwelling or residence, and to place the protected party
11 in possession of that party's dwelling or residence.

12 (c) Within twenty-four hours after its issuance, a
13 protective order issued pursuant to section -38 shall be
14 transmitted by the clerk of the court to the appropriate county
15 police department.

16 § **-40 Court records.** The court shall keep a record of
17 all child protective proceedings under this chapter. The
18 written reports, photographs, x-rays, or other information that
19 are submitted to the court may be made available to other
20 appropriate persons, who are not parties, only upon an order of
21 the court. The court may issue this order upon determining that



1 such access is in the best interests of the child or serves some
2 other legitimate purpose.

3 As set forth in legally adopted departmental rules and
4 consistent with applicable laws, the department may disclose
5 information in the court record without order of the court,
6 unless otherwise ordered by the court.

7 **§ -41 Payment for service or treatment provided to a**
8 **party or for a child's care, support, treatment.** (a) Whenever
9 a service or treatment is provided to a party, or whenever care,
10 support, or treatment of a child is provided under this chapter,
11 the court may order the payment of such expenses by the persons
12 or legal entities who are legally responsible for the same,
13 after reasonable notice and hearing as the court directs.

14 (b) The provisions of section 571-52 and all other
15 remedies available under the law shall be applicable to enforce
16 orders issued pursuant to this section.

17 **§ -42 Educational, medical, dental, and recreational**
18 **needs.** Upon the first day of placement, a child's resource
19 family shall have the authority, for the child placed in the
20 resource family's care:



1 (1) To consent to routine educational and recreational
2 needs and activities, except for purposes regulated
3 under title 8, chapters 53 and 56, of the Hawaii
4 Administrative Rules; and

5 (2) To seek and obtain ordinary medical and dental care,
6 immunizations, and well-baby and well-child medical
7 services.

8 § -43 **Child protective review panel.** (a) The
9 department shall establish a child protective review panel to
10 review each case of child abuse or neglect that leads to near
11 fatality or death as a result of acts or omissions of the
12 child's legal caretaker. Based upon its review, the panel shall
13 submit a report of its findings and recommendations to the
14 director. The department shall appoint members of the child
15 protective review panel, who may include, but are not limited
16 to:

- 17 (1) Any physician treating the child for abuse;
18 (2) Any child protective services worker assigned to the
19 case and the worker's supervisor;
20 (3) The guardian ad litem for the child, appointed under
21 section -16, if applicable;



1 (4) The members of the child's multidisciplinary team or a
2 child protective services consultant; and

3 (5) Other child protective services workers and
4 supervisors.

5 (b) Members of the child protective review panel shall
6 serve without compensation and shall not be reimbursed for
7 costs, except for state employees serving within the scope of
8 their employment, who shall receive compensation and
9 reimbursements as provided by law or by collective bargaining.

10 (c) Members of the child protective review panel shall be
11 immune from any liability for injuries and damages arising from
12 the panel's report under subsection (a).

13 (d) This section shall not be construed as interfering
14 with any authority of the department or the courts to remove, to
15 place, or to order any disposition on custody of an abused child
16 under this chapter."

17 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§346- Health assessment. The department shall ensure
21 the provision of a comprehensive health assessment for each



1 child in out-of-home placement forty-five days before or after
2 an initial placement."

3 SECTION 3. Chapter 346, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "~~§346-~~ Motor vehicle insurance. The parents of a child
7 under foster care who has obtained a driver's license shall pay
8 the costs of the child's motor vehicle insurance, unless the
9 court determines the parents to be financially unable to pay the
10 costs, in which case the child's insurance costs shall be paid
11 pursuant to sections 431:10C-407 and 431:10C-410."

12 SECTION 4. Chapter 350, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "~~§350-~~ Authorization for color photographs, x-rays, and
16 radiological or other diagnostic examination. (a) Any child
17 health professional or paraprofessional, physician licensed or
18 authorized to practice medicine in this State, registered nurse
19 or licensed practical nurse, hospital or similar institution's
20 personnel engaged in the admission, examination, care, or
21 treatment of patients, medical examiner, coroner, social worker,



1 or police officer, who has before the person a child who the
2 person reasonably believes has been harmed, shall make every
3 good faith effort to take or cause to be taken color photographs
4 of the areas of trauma visible on the child. If medically
5 indicated, such person may take or cause to be taken x-rays of
6 the child or cause a radiological or other diagnostic
7 examination to be performed on the child.

8 (b) Color photographs, x-rays, radiological, or other
9 diagnostic examination reports that show evidence of imminent
10 harm, harm, or threatened harm to a child immediately shall be
11 forwarded to the department."

12 SECTION 5. Chapter 350, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§350- Disclosure of records. (a) The department shall
16 disclose to foster parents and the foster child's principal
17 treating physician copies of the foster child's complete medical
18 records in the department's physical custody and relevant social
19 history within thirty days of foster placement.



1 (b) If a child is active in the child protective service
2 system, physicians may share with other physicians, orally or in
3 writing, or both, medical information without parental consent.

4 (c) Any records or information released to a foster
5 child's foster parents, or the foster child's principal treating
6 physician pursuant to subsection (a), or any information shared
7 by one physician with another physician pursuant to subsection
8 (b), shall remain confidential in accordance with section
9 350-1.4."

10 SECTION 6. Effective upon approval of this Act, sections
11 321-342, 321-471, 325-101, 346-16, 346-65, 350-2, 350-3, 571-2,
12 571-11, 571-41, 571-46, 571-61, 577-28, 578-1, 578-2, 578-14.5,
13 626-1-Rule 505.5, and 706-606.3, Hawaii Revised Statutes, are
14 amended by replacing the reference to chapter 587, Hawaii
15 Revised Statutes, with the reference to the new replacement
16 chapter in section 1 of this Act.

17 SECTION 7. Chapter 587, Hawaii Revised Statutes, is
18 repealed.

19 SECTION 8. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 2010.

21



Report Title:

Child Protective Act

Description:

Establishes child protective provisions in the Hawaii Revised Statutes that are consistent with federal Title IV-E provisions.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

