
A BILL FOR AN ACT

RELATING TO CHILD PROTECTIVE ACT COURT PROCEEDINGS.

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

1 SECTION 1. During the 2010 regular session, the
2 legislature passed Senate Bill No. 2716, which was enacted as
3 Act 135, Session Laws of Hawaii 2010, and codified as chapter
4 587A, Hawaii Revised Statutes, the Child Protective Act. Act
5 135 was a comprehensive update of chapter 587, Hawaii Revised
6 Statutes, the former Child Protective Act, which was repealed.
7 The provisions of Act 135 ensured the State's compliance with
8 federal Title IV-E requirements so that Hawaii remains eligible
9 for approximately \$40,000,000 in annual federal funding.
10 Subsequent to the enactment of chapter 587A, it has become
11 necessary to clarify wording in the law to further ensure
12 consistency in practice and compliance with federal
13 requirements.

14 SECTION 2. Section 587A-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " ~~[+]§587A-5[+]~~ **Jurisdiction.** Pursuant to section 571-
17 11(9), the court shall have exclusive original jurisdiction in a
18 child protective proceeding concerning ~~[any]~~:



1 (1) Any child who is or was found within the State at the
2 time specified facts and circumstances occurred, are
3 discovered, or are reported to the department. These
4 facts and circumstances constitute the basis for the
5 court's finding that the child's physical or
6 psychological health or welfare is subject to imminent
7 harm, has been harmed, or is subject to threatened
8 harm by the acts or omissions of the child's
9 family[-]; or

10 (2) Any prior proceeding under chapter 587."

11 SECTION 3. Section 587A-27, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The service plan shall provide:

14 (1) The specific steps necessary to facilitate the return
15 of the child to a safe family home, if the proposed
16 placement of the child is in foster care under foster
17 custody. These specific steps shall include treatment
18 and services that will be provided, actions completed,
19 specific measurable and behavioral changes that must
20 be achieved, and responsibilities assumed;



- 1 (2) Whether an ohana conference will be conducted for
2 [~~fact~~] family finding and family group decision
3 making;
- 4 (3) The respective responsibilities of the child, the
5 parents, legal guardian or custodian, the department,
6 other family members, and treatment providers, and a
7 description and expected outcomes of the services
8 required to achieve the permanency goal;
- 9 (4) The required frequency and types of contact between
10 the assigned social worker, the child, and the family;
- 11 (5) The time frames during which services will be
12 provided, actions must be completed, and
13 responsibilities must be discharged;
- 14 (6) Notice to the parents that their failure to
15 substantially achieve the objectives described in the
16 service plan within the time frames established may
17 result in termination of their parental rights;
- 18 (7) Notice to the parents that if the child has been in
19 foster care under the responsibility of the department
20 for an aggregate of fifteen out of the most recent
21 twenty-two months from the child's date of entry into
22 foster care, the department is required to file a



1 motion to set a termination of parental rights
2 hearing, and the parents' failure to provide a safe
3 family home within two years from the date when the
4 child was first placed under foster custody by the
5 court, may result in the parents' parental rights
6 being terminated; and
7 (8) Any other terms and conditions that the court or the
8 authorized agency deem necessary to the success of the
9 service plan."

10 SECTION 4. Section 587A-28, Hawaii Revised Statutes, is
11 amended by amending subsection (e) to read as follows:

12 "(e) If the court finds that the child's physical or
13 psychological health or welfare has been harmed or is subject to
14 threatened harm by the acts or omissions of the child's family,
15 the court:

- 16 (1) Shall enter a finding that the court has jurisdiction
17 pursuant to section 587A-5;
- 18 (2) Shall enter a finding regarding whether, before the
19 child was placed in foster care, the department made
20 reasonable efforts to prevent or eliminate the need to
21 remove the child from the child's family home;
- 22 (3) Shall enter orders:



- 1 (A) That the child be placed in foster custody if the
2 court finds that the child's remaining in the
3 family home is contrary to the welfare of the
4 child and the child's parents are not willing and
5 able to provide a safe family home for the child,
6 even with the assistance of a service plan; or
- 7 (B) That the child be placed in family supervision if
8 the court finds that the child's parents are
9 willing and able to provide the child with a safe
10 family home with the assistance of a service
11 plan;
- 12 (4) Shall determine whether aggravated circumstances are
13 present.
- 14 (A) If aggravated circumstances are present, the
15 court shall:
- 16 (i) Conduct a permanency hearing within thirty
17 days, and the department shall not be
18 required to provide the child's parents with
19 an interim service plan or interim
20 visitation; and
- 21 (ii) Order the department to file, within sixty
22 days after the court's finding that



1 aggravated circumstances are present, a
2 motion to [~~set the case for a termination of~~
3 ~~parental rights hearing.~~] terminate parental
4 rights unless the department has documented
5 in the safe family home factors or other
6 written report submitted to the court a
7 compelling reason why it is not in the best
8 interest of the child to file such a motion.

9 (B) If aggravated circumstances are not present[7] or
10 there is a compelling reason why it is not in the
11 best interest of the child to file a motion to
12 terminate parental rights, the court shall order
13 that the department make reasonable efforts to
14 reunify the child with the child's parents and
15 order an appropriate service plan;

16 (5) Shall order reasonable supervised or unsupervised
17 visits for the child and the child's family, including
18 with the child's siblings, unless [~~such~~] the visits
19 are determined to be unsafe or detrimental to, and not
20 in the best interests of, the child;

21 (6) Shall order each of the child's birth parents to
22 complete the medical information forms and release the



1 medical information required under section 578-14.5,
2 to the department. If the child's birth parents
3 refuse to complete the forms or to release the
4 information, the court may order the release of the
5 information over the parents' objections;

6 (7) Shall determine whether each party understands that
7 unless the family is willing and able to provide the
8 child with a safe family home, even with the
9 assistance of a service plan, within the reasonable
10 period of time specified in the service plan, their
11 respective parental and custodial duties and rights
12 shall be subject to termination;

13 (8) Shall determine the child's date of entry into foster
14 care as defined in this chapter;

15 (9) Shall set a periodic review hearing to be conducted no
16 later than six months after the date of entry into
17 foster care and a permanency hearing to be held no
18 later than twelve months after the date of entry into
19 foster care;

20 (10) Shall set a status conference, as the court deems
21 appropriate, to be conducted no later than ninety days
22 after the return hearing; and



1 (11) May order that:

2 (A) Any party participate in, complete, be liable
3 for, and make every good faith effort to arrange
4 payment for [~~such~~] the services or treatment as
5 are authorized by law and that are determined to
6 be in the child's best interests;

7 (B) The child be examined by a physician, surgeon,
8 psychiatrist, or psychologist; and

9 (C) The child receive treatment, including
10 hospitalization or placement in other suitable
11 facilities, as is determined to be in the child's
12 best interests."

13 SECTION 5. Section 587A-30, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[§]587A-30[§]~~ **Periodic review hearing.** (a) The court
16 shall set a periodic review hearing to be conducted no later
17 than six months after a child's date of entry into foster care.
18 Thereafter, the court shall conduct periodic review hearings at
19 intervals of no longer than six months until the court's
20 jurisdiction is terminated~~[-]~~, unless the child is in the
21 permanent custody of the department or an authorized agency. If
22 the child is in the permanent custody of the department or an



1 authorized agency, the court shall conduct permanency hearings
2 at intervals of no longer than six months until the court's
3 jurisdiction is terminated. The court may set a case for a
4 periodic review hearing upon the motion of a party at any time,
5 if the court deems the hearing to be in the best interests of
6 the child.

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

13 (1) Determine whether the child is safe[+] and enter an
14 order that:

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

21 (B) The child be placed in family supervision if the
22 court finds that the child's parents are willing



1 and able to provide the child with a safe family
2 home with the assistance of a service plan; or
3 (C) Terminates jurisdiction if the court finds that
4 the child's parents are willing and able to
5 provide the child with a safe family home without
6 the assistance of a service plan;

7 (2) Determine the continued need for and appropriateness
8 of the out-of-home placement;

9 (3) Determine the extent to which each party has complied
10 with the case plan and the family's progress in making
11 their home safe for the child;

12 (4) Determine the family's progress in resolving the
13 problems that caused the child harm or to be
14 threatened with harm and, if applicable, the necessity
15 for continued out-of-home placement of the child;

16 (5) Project a likely date for:

17 (A) The child's return to a safe family home; or

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

20 (i) Adoption;

21 (ii) Legal guardianship; or

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



- 1 (6) Evaluate visitation arrangements; and
2 (7) Issue such further or other appropriate orders as it
3 deems to be in the best interests of the child.

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

10 (1) The department has documented in the safe family home
11 factors or other written report submitted to the court
12 a compelling reason why it is not in the best interest
13 of the child to file a motion; or

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

19 (d) Nothing in this section shall prevent the department
20 from filing a motion to [~~set a termination of parental rights~~
21 ~~hearing~~] terminate parental rights if the department determines
22 that the criteria for terminating parental rights are present."



1 SECTION 6. Section 587A-31, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending its title and subsection (a) to read:

4 "[+]§587A-31[+] **Permanency hearing.** (a) A permanency
5 hearing shall be conducted within twelve months of the child's
6 date of entry into foster care or within thirty days of a
7 judicial determination that the child is an abandoned infant or
8 that aggravated circumstances are present. A permanency hearing
9 shall be conducted at least every twelve months thereafter for
10 as long as the child remains in foster care under the placement
11 responsibility of the department[-] or an authorized agency or
12 every six months thereafter if the child remains in the
13 permanent custody of the department or an authorized agency."

14 2. By amending subsections (c) and (d) to read:

15 "(c) At each permanency hearing, the court shall make
16 written findings pertaining to:

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

19 (2) Whether the current placement of the child continues
20 to be appropriate and in the best interests of the
21 child or if another in-state or out-of-state placement
22 should be considered;



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



- 1 (8) In the case of a child who has attained sixteen years
2 of age, the services needed to assist the child with
3 the transition from foster care to independent living;
4 and
- 5 (9) Consultations with the child in an age-appropriate
6 manner about the proposed plan for permanency or
7 transition from foster care to independent living.
- 8 (d) At each permanency hearing, the court shall order:
- 9 (1) The child's reunification with a parent or parents;
- 10 (2) The child's continued placement in foster care, where:
- 11 (A) Reunification is expected to occur within a time
12 frame that is consistent with the developmental
13 needs of the child; and
- 14 (B) The safety and health of the child can be
15 adequately safeguarded; or
- 16 (3) A permanent plan with a goal of:
- 17 (A) Placing the child for adoption and when the
18 department will file a motion to set the matter
19 for the termination [†]of[†] parental rights;
- 20 (B) Placing the child for legal guardianship if the
21 department documents and presents to the court a
22 compelling reason why termination of parental



1 rights and adoption are not in the best interests
2 of the child; or

3 (C) Awarding permanent custody to the department or
4 an authorized agency, if the department documents
5 and presents to the court a compelling reason why
6 adoption and legal guardianship are not in the
7 best interests of the child."

8 3. By amending subsection (g) to read:

9 "(g) If the child has been in foster care under the
10 responsibility of the department for a total of twelve
11 consecutive months or an aggregate of fifteen out of the most
12 recent twenty-two months from the date of entry into foster
13 care, the department shall file a motion to [~~set the matter for~~
14 ~~a termination of parental rights hearing~~] terminate parental
15 rights, unless:

16 (1) The department has documented in the safe family home
17 factors or other written report submitted to the
18 court, a compelling reason why it is not in the best
19 interest of the child to file a motion; or

20 (2) The department has not provided to the family of the
21 child, consistent with the time period required in the
22 service plan, such services as the department deems



1 necessary for the safe return of the child to the
2 family home.

3 (h) Nothing in this section shall prevent the department
4 from filing a motion to [~~set a termination of parental rights~~
5 ~~hearing~~] terminate parental rights if the department determines
6 that the criteria for terminating parental rights are present."

7 SECTION 7. Section 587A-33, Hawaii Revised Statutes, is
8 amended by amending subsection (i) to read as follows:

9 "(i) Absent compelling reasons, if the child has been in
10 foster care under the department's responsibility for an
11 aggregate of fifteen out of the most recent twenty-two months
12 from the date of entry into foster care, the department shall
13 file a motion to [~~set the matter for a termination of parental~~
14 ~~rights hearing.~~] terminate parental rights."

15 SECTION 8. Section 587A-34, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) At a preliminary hearing on the motion, the court
18 shall continue the prior award of permanent custody and may
19 order a trial home placement and a temporary reinstatement of
20 parental rights upon finding that:

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

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



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

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

6 SECTION 9. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Child Protective Act Hearings

Description:

To ensure that Child Protective Act hearings in Chapter 587A, Hawaii Revised Statutes, are consistent with federal Title IV-E provisions. (HB1064 HD2)

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

