
A BILL FOR AN ACT

RELATING TO CHILD PROTECTION.

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

1 SECTION 1. Section 587A-27, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The service plan shall provide:

- 4 (1) The specific steps necessary to facilitate the return
5 of the child to a safe family home, if the proposed
6 placement of the child is in foster care under foster
7 custody. These specific steps shall include treatment
8 and services that will be provided~~[r]~~ to the child and
9 to the perpetrator of the abuse, as necessary, actions
10 completed, specific measurable and behavioral changes
11 that must be achieved, and responsibilities assumed;
- 12 (2) Whether an ohana conference will be conducted for
13 family finding and family group decision making;
- 14 (3) The respective responsibilities of the child, the
15 parents, legal guardian or custodian, the department,
16 other family members, and treatment providers, and a
17 description and expected outcomes of the services
18 required to achieve the permanency goal;



- 1 (4) The required frequency and types of contact between
2 the assigned social worker, the child, and the family;
- 3 (5) The time frames during which services will be
4 provided, actions must be completed, and
5 responsibilities must be discharged;
- 6 (6) Notice to the parents that their failure to
7 substantially achieve the objectives described in the
8 service plan within the time frames established may
9 result in termination of their parental rights;
- 10 (7) Notice to the parents that if the child has been in
11 foster care under the responsibility of the department
12 for an aggregate of fifteen out of the most recent
13 twenty-two months from the child's date of entry into
14 foster care, the department is required to file a
15 motion to set a termination of parental rights
16 hearing, and the parents' failure to provide a safe
17 family home within two years from the date when the
18 child was first placed under foster custody by the
19 court, may result in the parents' parental rights
20 being terminated; and



1 (8) Any other terms and conditions that the court or the
2 authorized agency deem necessary to the success of the
3 service plan."

4 SECTION 2. Section 587A-28, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

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

- 7 (1) Whether the child's physical or psychological health
8 or welfare has been harmed or is subject to threatened
9 harm by the acts or omissions of the child's family;
- 10 (2) Whether the child should be placed in foster custody
11 or under family supervision; ~~and~~ provided that in
12 making that decision, the court shall consider whether
13 the alleged or potential perpetrator of imminent harm,
14 harm, or threatened harm should be removed from the
15 family home rather than continuing the child's
16 placement in foster care. The child's family shall
17 have the burden of establishing that it is in the
18 child's best interest to remove the child from the
19 family home, rather than remove the alleged or
20 potential perpetrator; and
- 21 (3) What services should be provided to the child's
22 parents."



1 SECTION 3. Section 587A-30, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

9 (1) Determine whether the child is safe and enter orders:

10 (A) That the child be placed in foster custody if the
11 court finds that the child's remaining in the
12 family home is contrary to the welfare of the
13 child and the child's parents are not willing and
14 able to provide a safe family home for the child,
15 even with the assistance of a service plan;
16 provided that in making that decision, the court
17 shall consider whether the alleged or potential
18 perpetrator of imminent harm, harm, or threatened
19 harm should be removed from the family home
20 rather than continuing the child's placement in
21 foster care. The child's family shall have the
22 burden of establishing that it is in the child's



1 best interest to remove the child from the family
2 home, rather than remove the alleged or potential
3 perpetrator;

4 (B) That the child be placed in family supervision if
5 the court finds that the child's parents are
6 willing and able to provide the child with a safe
7 family home with the assistance of a service
8 plan; or

9 (C) To terminate jurisdiction if the court finds that
10 the child's parents are willing and able to
11 provide the child with a safe family home without
12 the assistance of a service plan;

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

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

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

22 (5) Project a likely date for:



- 1 (A) The child's return to a safe family home; or
- 2 (B) The child's permanent placement out of the family
- 3 home in the following order of preference:
- 4 (i) Adoption;
- 5 (ii) Legal guardianship; or
- 6 (iii) Other permanent out-of-home placement;
- 7 (6) Evaluate visitation arrangements; and
- 8 (7) Issue such further or other appropriate orders as it
- 9 deems to be in the best interests of the child."

10 SECTION 4. Section 587A-31, Hawaii Revised Statutes, is
 11 amended by amending subsection (d) to read as follows:

- 12 "(d) At each permanency hearing, the court shall order:
- 13 (1) The child's reunification with a parent or parents;
- 14 (2) The child's continued placement in foster care, where:
- 15 (A) The court has considered whether the alleged or
- 16 potential perpetrator of imminent harm, harm, or
- 17 threatened harm should be removed from the family
- 18 home rather than continuing the child's placement
- 19 in foster care. The child's family shall have
- 20 the burden of establishing that it is in the
- 21 child's best interests to remove the child from



1 the family home, rather than remove the alleged
2 or potential perpetrator;

3 ~~[(A)]~~ (B) Reunification is expected to occur within a
4 time frame that is consistent with the
5 developmental needs of the child; and

6 ~~[(B)]~~ (C) The safety and health of the child can be
7 adequately safeguarded; or

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

9 (A) Placing the child for adoption and when the
10 department will file a motion to set the matter
11 for the termination of parental rights;

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

17 (C) Awarding permanent custody to the department or
18 an authorized agency, if the department documents
19 and presents to the court a compelling reason why
20 adoption and legal guardianship are not in the
21 best interests of the child."



1 SECTION 5. Section 587A-38, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) The protective order may require a party to leave the
4 party's dwelling or residence during the period of time in which
5 the protective order is in effect~~[.]~~; provided that the court
6 shall consider whether the alleged or potential perpetrator of
7 imminent harm, harm, or threatened harm should be removed from
8 the family home rather than continuing the child's placement in
9 foster care. The child's family shall have the burden of
10 establishing that it is in the child's best interest to remove
11 the child from the family home, rather than remove the alleged
12 or potential perpetrator."

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Child Abuse; Child Protection

Description:

Establishes a preference for allowing an abused child, who has been removed from the family home, to return to the home, by placing the burden on the child's family to establish that it is in the child's best interest to remove the child from the home, rather than remove the alleged or potential perpetrator. (SD2)

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