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# A BILL FOR AN ACT

RELATING TO YOUTH.

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

**PART I**

1  
2 SECTION 1. The legislature finds that Hawaii is one of the  
3 safest and healthiest places in the nation for children and  
4 youth. However, many of Hawaii's youth are not immune to daily  
5 threats to their health and safety. Every year, youth run away  
6 from homes where abuse, neglect, and domestic violence are  
7 commonplace, or from schools where intolerable bullying becomes  
8 a major barrier to educational achievement. Without access to  
9 safe places, youth in these situations are vulnerable and may be  
10 victimized by predatory adults who lure them into alcohol and  
11 substance abuse or prostitution.

12 In October 2012, these concerns were discussed during the  
13 annual children and youth summit sponsored by the legislature's  
14 keiki caucus. In these discussions, youth expressed concerns  
15 over a lack of safe places. Youth were interested in accessing  
16 places where they could seek safety from intolerable home or  
17 school environments without fear of being judged, detained, or  
18 criminalized as a runaway. Youth also expressed interest in



1 being able to access other youth-specific advice, guidance,  
2 programs, and services, including guidance and counseling for  
3 suicide prevention, teen pregnancy prevention, tobacco  
4 cessation, and alcohol and substance abuse support. Finally,  
5 youth wished to access safe places where they could have fun  
6 without the fear of being harassed, bullied, or pressured by  
7 other youth or adults. At the end of the summit, participating  
8 youth identified the need for safe places as one of their  
9 highest priorities.

10 The purpose of this part is to:

- 11 (1) Require the office of youth services to coordinate a  
12 two-year safe places for youth pilot program, which  
13 will coordinate a network of safe places that youth  
14 can access for safety and where they may obtain  
15 advice, guidance, programs, and services; and  
16 (2) Establish and fund the position of safe places for  
17 youth pilot program coordinator.

18 SECTION 2. (a) The office of youth services shall  
19 coordinate a safe places for youth pilot program in partnership  
20 with private organizations. The primary objective of the pilot  
21 program shall be to coordinate a network that youth may access  
22 for safety and where they may obtain advice, guidance, programs,



1 and services. All youth shall be eligible for services at the  
2 safe places.

3 (b) There is established the position of safe places for  
4 youth pilot program coordinator. The coordinator shall:

5 (1) Coordinate the safe places for youth network;

6 (2) Partner with an entity to maintain an updated listing  
7 of safe places statewide;

8 (3) Provide ongoing training of organizations designated  
9 as safe places for youth in areas including emergency  
10 response and trauma;

11 (4) Partner with the department of education, Hawaii state  
12 student council, peer education programs, private  
13 schools, and other youth services organizations to  
14 build awareness of the safe places for youth network;  
15 and

16 (5) Convene an annual meeting of safe places for youth  
17 organizations and other interested parties to identify  
18 emerging needs, provide feedback on program  
19 effectiveness, and provide an opportunity to recommend  
20 improvements to the pilot program.



1 (c) The safe places for youth pilot program shall provide  
2 access to and linkage with services and programs needed by  
3 youth, including but not limited to:

- 4 (1) Domestic violence prevention or reduction;
- 5 (2) Violence and trauma recovery and support;
- 6 (3) Human trafficking resources and prevention;
- 7 (4) Suicide prevention;
- 8 (5) Resources targeted at teenagers, including teen  
9 pregnancy prevention;
- 10 (6) Tobacco cessation;
- 11 (7) Alcohol and substance abuse support;
- 12 (8) Assistance for youth to achieve their educational and  
13 vocational goals; and
- 14 (9) Other relationship building and life skills.

15 (d) The office of youth services shall coordinate a  
16 comprehensive network of safe places for youth to assist youth  
17 in obtaining the advice and guidance they need.

18 (e) The safe places for youth pilot program shall cease to  
19 exist on June 30, 2015.

20 (f) The office of youth services shall submit a report to  
21 the legislature no later than September 1, 2014. The report  
22 shall include the program's accomplishments, number of youths



1 assisted by the program, any proposed legislation, and a  
2 recommendation as to whether the program should be made  
3 permanent.

4 (g) For the purposes of this section:

5 "Safe places" means physical and virtual places of safety  
6 for youth.

7 "Youth" means any person twenty-one years of age or  
8 younger.

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2013-2014 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2014-2015 for the position of safe places for youth pilot  
14 program coordinator and for residential options for the pilot  
15 program.

16 The sums appropriated shall be expended by the department  
17 of human services office of youth services for the purposes of  
18 this part.

19 **PART II**

20 SECTION 4. The purpose of this part is to help eliminate  
21 any preference in child custody decisions that unfairly favors



1 one parent more than the other parent of a child; provided that  
2 nothing in this part is intended to negatively affect the child.

3 SECTION 5. Section 571-46, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) In actions for divorce, separation, annulment,  
6 separate maintenance, or any other proceeding where there is at  
7 issue a dispute as to the custody of a minor child, the court,  
8 during the pendency of the action, at the final hearing, or any  
9 time during the minority of the child, may make an order for the  
10 custody of the minor child as may seem necessary or proper. In  
11 awarding the custody, the court shall be guided by the following  
12 standards, considerations, and procedures:

13 (1) Custody should be awarded to ~~[either parent or to]~~  
14 ensure the inclusion of both parents ~~[according to the~~  
15 ~~best interests]~~ in the raising of the child, ~~[and the~~  
16 ~~court also may consider frequent, continuing,]~~ to  
17 ensure maximum continuing, physical, emotional, and  
18 meaningful contact ~~[of each parent with the child]~~  
19 with both parents unless the court finds that a parent  
20 is unable to act in the best interest of the child;

21 (2) Custody may be awarded to persons other than the  
22 father or mother whenever the award serves the best



1 interest of the child. Any person who has had de  
2 facto custody of the child in a stable and wholesome  
3 home and is a fit and proper person shall be entitled  
4 prima facie to an award of custody;

5 (3) If a child is of sufficient age and capacity to  
6 reason, so as to form an intelligent preference, the  
7 child's wishes as to custody shall be considered and  
8 be given due weight by the court;

9 (4) Whenever good cause appears therefor, the court may  
10 require an investigation and report concerning the  
11 care, welfare, and custody of any minor child of the  
12 parties. When so directed by the court, investigators  
13 or professional personnel attached to or assisting the  
14 court, hereinafter referred to as child custody  
15 evaluators, shall make investigations and reports that  
16 shall be made available to all interested parties and  
17 counsel before hearing, and the reports may be  
18 received in evidence if no objection is made and, if  
19 objection is made, may be received in evidence;  
20 provided the person or persons responsible for the  
21 report are available for cross-examination as to any  
22 matter that has been investigated; and provided



1 further that the court shall define the requirements  
2 to be a court-appointed child custody evaluator, the  
3 standards of practice, ethics, policies, and  
4 procedures required of court-appointed child custody  
5 evaluators in the performance of their duties for all  
6 courts, and the powers of the courts over child  
7 custody evaluators to effectuate the best interests of  
8 a child in a contested custody dispute pursuant to  
9 this section. Where there is no child custody  
10 evaluator available that meets the requirements and  
11 standards, or any child custody evaluator to serve  
12 indigent parties, the court may appoint a person  
13 otherwise willing and available;

- 14 (5) The court may hear the testimony of any person or  
15 expert, produced by any party or upon the court's own  
16 motion, whose skill, insight, knowledge, or experience  
17 is such that the person's or expert's testimony is  
18 relevant to a just and reasonable determination of  
19 what is for the best physical, mental, moral, and  
20 spiritual well-being of the child whose custody is at  
21 issue;





- 1           (6) Any custody award shall be subject to modification or  
2           change whenever the best interests of the child  
3           require or justify the modification or change and,  
4           wherever practicable, the same person who made the  
5           original order shall hear the motion or petition for  
6           modification of the prior award;
- 7           (7) Reasonable visitation rights shall be awarded to  
8           parents, grandparents, siblings, and any person  
9           interested in the welfare of the child in the  
10          discretion of the court, unless it is shown that  
11          rights of visitation are detrimental to the best  
12          interests of the child;
- 13          (8) The court may appoint a guardian ad litem to represent  
14          the interests of the child and may assess the  
15          reasonable fees and expenses of the guardian ad litem  
16          as costs of the action, payable in whole or in part by  
17          either or both parties as the circumstances may  
18          justify;
- 19          (9) In every proceeding where there is at issue a dispute  
20          as to the custody of a child, a determination by the  
21          court that family violence has been committed by a  
22          parent raises a rebuttable presumption that it is



1           detrimental to the child and not in the best interest  
2           of the child to be placed in sole custody, joint legal  
3           custody, or joint physical custody with the  
4           perpetrator of family violence. In addition to other  
5           factors that a court shall consider in a proceeding in  
6           which the custody of a child or visitation by a parent  
7           is at issue, and in which the court has made a finding  
8           of family violence by a parent:

9           (A) The court shall consider as the primary factor  
10           the safety and well-being of the child and of the  
11           parent who is the victim of family violence;

12           (B) The court shall consider the perpetrator's  
13           history of causing physical harm, bodily injury,  
14           or assault or causing reasonable fear of physical  
15           harm, bodily injury, or assault to another  
16           person; and

17           (C) If a parent is absent or relocates because of an  
18           act of family violence by the other parent, the  
19           absence or relocation shall not be a factor that  
20           weighs against the parent in determining custody  
21           or visitation;



- 1           (10) A court may award visitation to a parent who has  
2                   committed family violence only if the court finds that  
3                   adequate provision can be made for the physical safety  
4                   and psychological well-being of the child and for the  
5                   safety of the parent who is a victim of family  
6                   violence;
- 7           (11) In a visitation order, a court may:
- 8                   (A) Order an exchange of a child to occur in a  
9                   protected setting;
- 10                  (B) Order visitation supervised by another person or  
11                  agency;
- 12                  (C) Order the perpetrator of family violence to  
13                  attend and complete, to the satisfaction of the  
14                  court, a program of intervention for perpetrators  
15                  or other designated counseling as a condition of  
16                  the visitation;
- 17                  (D) Order the perpetrator of family violence to  
18                  abstain from possession or consumption of alcohol  
19                  or controlled substances during the visitation  
20                  and for twenty-four hours preceding the  
21                  visitation;



- 1 (E) Order the perpetrator of family violence to pay a  
2 fee to defray the costs of supervised visitation;
- 3 (F) Prohibit overnight visitation;
- 4 (G) Require a bond from the perpetrator of family  
5 violence for the return and safety of the child.  
6 In determining the amount of the bond, the court  
7 shall consider the financial circumstances of the  
8 perpetrator of family violence;
- 9 (H) Impose any other condition that is deemed  
10 necessary to provide for the safety of the child,  
11 the victim of family violence, or other family or  
12 household member; and
- 13 (I) Order the address of the child and the victim to  
14 be kept confidential;
- 15 (12) The court may refer but shall not order an adult who  
16 is a victim of family violence to attend, either  
17 individually or with the perpetrator of the family  
18 violence, counseling relating to the victim's status  
19 or behavior as a victim as a condition of receiving  
20 custody of a child or as a condition of visitation;



- 1 (13) If a court allows a family or household member to  
2 supervise visitation, the court shall establish  
3 conditions to be followed during visitation;
- 4 (14) A supervised visitation center shall provide a secure  
5 setting and specialized procedures for supervised  
6 visitation and the transfer of children for visitation  
7 and supervision by a person trained in security and  
8 the avoidance of family violence; and
- 9 (15) The court may include in visitation awarded pursuant  
10 to this section visitation by electronic communication  
11 provided that the court shall additionally consider[+  
12 ~~(A)---The~~] the potential for abuse or misuse of the  
13 electronic communication, including the equipment used  
14 for the communication, by the person seeking  
15 visitation or by persons who may be present during the  
16 visitation or have access to the communication or  
17 equipment; [~~(B)---Whether~~] whether the person seeking  
18 visitation has previously violated a temporary  
19 restraining order or protective order; and [~~(C)---~~  
20 ~~whether~~] whether adequate provision can be made for  
21 the physical safety and psychological well-being of  
22 the child and for the safety of the custodial parent.



1 The court may set conditions for visitation by  
2 electronic communication, including visitation  
3 supervised by another person or occurring in a  
4 protected setting. Visitation by electronic  
5 communication shall not be used to:

6 (A) Replace or substitute an award of custody or  
7 physical visitation except where:

8 (i) Circumstances exist that make a parent  
9 seeking visitation unable to participate in  
10 physical visitation, including military  
11 deployment; or

12 (ii) Physical visitation may subject the child to  
13 physical or extreme psychological harm; or

14 (B) Justify or support the relocation of a custodial  
15 parent."

16 **PART III**

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 2030.



**Report Title:**

Office of Youth Services; Safe Places for Youth; Keiki Caucus;  
Minors; Joint Custody; Appropriation

**Description:**

Requires the Office of Youth Services to coordinate a Safe Places for Youth Pilot Program to coordinate a network that youth may access for safety and where they may obtain advice, guidance, programs, and services. Appropriates funds. Provides that in awarding custody and visitation of a minor child, the court shall consider the preference that custody be awarded to both parents to ensure maximum continuing physical, emotional, and meaningful contact with both parents. Effective July 1, 2030. (SD1)

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

