

JAN 15 2014

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# A BILL FOR AN ACT

RELATING TO CHILD ABUSE.

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

1           SECTION 1. Section 587A-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~{}~~§587A-11~~}~~ Investigation; department powers~~[-]~~;  
4 rights of parents or guardians. (a) Upon receiving a report  
5 that a child is subject to imminent harm, has been harmed, or is  
6 subject to threatened harm, the department shall cause such  
7 investigation to be made as it deems to be appropriate. In  
8 conducting the investigation, the department may:

9           (1) Enlist the cooperation and assistance of appropriate  
10 state and federal law enforcement authorities, who may  
11 conduct an investigation and, if an investigation is  
12 conducted, shall provide the department with all  
13 preliminary findings, including the results of a  
14 criminal history record check of an alleged  
15 perpetrator of harm or threatened harm to the child;

16           (2) Interview the child without the presence or prior  
17 approval of the child's family and temporarily assume



1 protective custody of the child for the purpose of  
2 conducting the interview;

3 (3) Resolve the matter in an informal fashion that it  
4 deems appropriate under the circumstances;

5 (4) Close the matter if the department finds, after an  
6 assessment, that the child is residing with a  
7 caregiver who is willing and able to meet the child's  
8 needs and provide a safe and appropriate placement for  
9 the child;

10 (5) Immediately enter into a service plan:

11 (A) To safely maintain the child in the family home;  
12 or

13 (B) To place the child in voluntary foster care  
14 pursuant to a written agreement with the child's  
15 parent.

16 If the child is placed in voluntary foster care and  
17 the family does not successfully complete the service  
18 plan within three months after the date on which the  
19 department assumed physical custody of the child, the  
20 department shall file a petition. The department is  
21 not required to file a petition if the parents agree  
22 to adoption or legal guardianship of the child and the



1 child's safety is ensured; provided that the adoption  
2 or legal guardianship hearing is conducted within six  
3 months of the date on which the department assumed  
4 physical custody of the child;

5 (6) Assume temporary foster custody of the child and file  
6 a petition with the court within three days, excluding  
7 Saturdays, Sundays, and holidays, after the date on  
8 which the department assumes temporary foster custody  
9 of the child, with placement preference being given to  
10 an approved relative; or

11 (7) File a petition or ensure that a petition is filed by  
12 another appropriate authorized agency in court under  
13 this chapter.

14 (b) If the department conducts an investigation or enlists  
15 the cooperation and assistance of appropriate state and federal  
16 law enforcement authorities to conduct an investigation pursuant  
17 to subsection (a), at the time of any initial face-to-face  
18 contact with the child's parent or guardian during the  
19 investigation, the department or appropriate law enforcement  
20 authority shall provide the parent or guardian with written  
21 notice that:



- 1        (1) The parent or guardian is not required to permit the  
2                    department or law enforcement authority to enter the  
3                    residence of the parent or guardian;
- 4        (2) The parent or guardian is not required to speak with  
5                    the department or law enforcement authority at that  
6                    time;
- 7        (3) The parent or guardian is entitled to seek  
8                    representation of an attorney and have an attorney  
9                    present when the parent or guardian is questioned by  
10                   the department or law enforcement authority;
- 11       (4) Any statement made by the parent, guardian, or other  
12                   family member may be used against the parent or  
13                   guardian in a hearing initiated pursuant to chapter  
14                   587A;
- 15       (5) The representative of the department or law  
16                   enforcement authority is not an attorney and cannot  
17                   provide legal advice to the parent or guardian;
- 18       (6) The parent or guardian is not required to sign any  
19                   document presented by the department or law  
20                   enforcement authority, including but not limited to a  
21                   release of claims or a service agreement, and is



1 entitled to have an attorney review any document  
2 before the parent or guardian agrees to sign; and

3 (7) A failure of the parent or guardian to communicate  
4 with the department or law enforcement authority may  
5 have serious consequences, which may include the  
6 filing of a petition under chapter 587A and the  
7 assumption of temporary foster custody of the child by  
8 the department; therefore it is in the parent's or  
9 guardian's best interest to speak with the department  
10 or law enforcement authority or immediately seek the  
11 advice of a qualified attorney.

12 (c) The department or appropriate law enforcement  
13 authority shall make reasonable efforts to ensure that the  
14 notice provided to a parent or guardian under this section is  
15 written in a manner that will be understood by the parent or  
16 guardian, including but not limited to ensuring that the notice  
17 is written in a language understood by the parent or guardian.

18 (d) The department or appropriate law enforcement  
19 authority shall request the parent or guardian to sign and date  
20 the notice required by subsection (a) as evidence of having  
21 received the notice. If the parent or guardian refuses to sign  
22 and date the notice upon request, the department or law



# S.B. NO. 2003

1 enforcement authority shall specifically indicate on the notice  
2 the department's or law enforcement authority's request to sign  
3 and the parent or guardian's refusal to do so. The department  
4 or law enforcement authority shall sign the notice as witness to  
5 the parent's or guardian's refusal to sign and provide the  
6 parent or guardian with a copy of the signed notice at the time  
7 of the initial face-to-face contact with the parent or  
8 guardian."

9 SECTION 2. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Shiranne Chun Oakland*



# S.B. NO. 2003

**Report Title:**

Child Abuse or Neglect; Parents and Guardians; Reports; Notice; Rights; Department of Human Services

**Description:**

Specifies certain rights of a parent or guardian after the department of human services receives a report concerning child abuse or neglect. Requires written notice to be provided to a parent or guardian at the time of any initial face-to-face-contact with a child's parent or guardian regarding reported child abuse or neglect.

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

