

S.B. NO. 2848

JAN 23 2014

A BILL FOR AN ACT

RELATING TO NOTICE TO CHILDREN PURSUANT TO THE CHILD PROTECTIVE ACT.

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

1 SECTION 1. Section 587A-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] §587A-13 [.]~~ **Summons and service of summons.** (a)

4 After a petition has been filed, the court shall issue a summons
5 requiring the presence of the parents and other persons to be
6 parties to the proceeding~~[.]~~ except the child, as follows:

7 (1) A copy of the petition shall be attached to each
8 summons;

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

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

16 (b) The court may issue a summons to a parent or any
17 person having physical custody of the child to bring the child

1 before the court at the temporary foster custody hearing or the
2 return hearing.

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

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

12 (2) If the court finds that it is impracticable to
13 personally serve the summons, the court may order
14 service by registered or certified mail addressed to
15 the party's last known address, or by publication, or
16 both. When publication is used, the summons shall be
17 published once a week for four consecutive weeks in a
18 newspaper of general circulation in the county in
19 which the party was last known to have resided. In
20 the order for publication of the summons, the court
21 shall designate the publishing newspaper and shall set
22 the date of the last publication at no less than
23 twenty-one days before the return date. Such

1 publication shall have the same force and effect as
2 personal service of the summons.

3 (d) The petitioner shall notify the child of a hearing
4 under this section no less than twenty-four hours prior to the
5 time of the hearing.

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

12 [~~(e)~~] (f) The court may issue a warrant for the appearance
13 of a person or child, as well as issue an order pursuant to
14 section 587A-16(b), if:

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

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

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

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5 INTRODUCED BY: *James Mendoza*

6 BY REQUEST

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Report Title:

Child Protective Act; Notice to children

Description:

The court, after a chapter 587A, Hawaii Revised Statutes, petition has been filed, shall issue a summons requiring the presence of the parents and other persons to be parties to the proceeding, except the child. The petitioner is to notify the child of the hearing no less than twenty-four hours prior to the hearing.

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

SB. NO. 2848

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO NOTICE TO CHILDREN PURSUANT TO THE CHILD PROTECTIVE ACT.

PURPOSE: To provide minors notice of the petition on their behalf pursuant to chapter 587A, Hawaii Revised Statutes, proceedings through a notice by the petitioner rather than have them served with a summons by a law enforcement officer.

MEANS: Amend section 587A-13, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently section 587A-13, HRS, Child Protective Act, requires that the children be served with the petition and summons by a law enforcement officer like any other party. Being served a summons by a law enforcement officer is not the best nor the most therapeutic and supportive way to serve any child. Current law would have a sheriff serve the child victim at school or elsewhere without anyone there to explain what the petition means.

The recommended change will require the petitioner to notify the child of the petition filed on the child's behalf in a more therapeutic and supportive way instead of a law enforcement officer just dropping off the documents with children who may be too young to understand. The notice will include information on the initial hearing date and time of the hearing and the right of the child to participate in the hearing should the child choose to do so.

This amendment will correct an oversight when the Child Protective Act was amended by Act 135, Session Laws of Hawaii 2010.

Impact on the public: A child will be notified of the chapter 587A petition filed on the child's behalf through a notice rather than being served by a law enforcement officer. This is a more therapeutic and supportive way to provide notice to the child rather than the current law, which could have a sheriff serve the child victim with a petition at school or elsewhere without anyone there to explain what the petition means.

Impact on the department and other agencies: The department will need to deliver the notice and petition to the child.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 301.

OTHER AFFECTED AGENCIES: The Judiciary; Department of the Attorney General.

EFFECTIVE DATE: Upon approval.