
A BILL FOR AN ACT

RELATING TO FOSTER CHILDREN.

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

1 SECTION 1. The legislature finds that the Preventing Sex
2 Trafficking and Strengthening Families Act of 2014, Public Law
3 113-183, expands the opportunities for children in foster care
4 to participate equally in age or developmentally appropriate
5 extracurricular, social, and cultural activities as their
6 classmates and peers in accordance with the "reasonable and
7 prudent parent standard"; and requires children in foster care,
8 fourteen years of age and older, to be included in case planning
9 and be informed of their rights and options available to them.

10 The Preventing Sex Trafficking and Strengthening Families
11 Act, title 42 United States Code section §675(10)(A)(2014),
12 defines the "reasonable and prudent parent standard" as "the
13 standard characterized by careful and sensible parental
14 decisions that maintain the health, safety, and best interests
15 of a child while at the same time encouraging the emotional and
16 developmental growth of the child, that a caregiver shall use
17 when determining whether to allow a child in foster care under



1 the responsibility of the State to participate in
2 extracurricular, enrichment, and social activities."

3 The legislature finds that to encourage and allow resource
4 caregivers and child caring institutions to make reasonable
5 parenting decisions and to remove barriers to recruitment and
6 retention of high quality resource caregivers, adding qualified
7 immunity from liability for resource caregivers and child caring
8 institutions to section 346-17, Hawaii Revised Statutes,
9 protects and enhances the capacity of resource caregivers and
10 child caring institutions to encourage and support children to
11 participate in ordinary childhood activities as long as the
12 decision was made using the federal Reasonable and Prudent
13 Parent Standard as defined in title 42 United States Code
14 section §675(10)(A).

15 The Preventing Sex Trafficking and Strengthening Families
16 Act also requires children in foster care, fourteen years of age
17 and older, to be included in case planning and be informed of
18 their rights and options available to them. The federal act
19 lowered the age from sixteen to fourteen years old in
20 recognition that those children should be included in the
21 important planning processes that will strengthen their self-



1 sufficiency and better prepare them for successful transition
2 from foster care and into adulthood.

3 Compared to their peers, young people who have experienced
4 foster care are more likely to become homeless and unemployed
5 when they age out of foster care, are less likely to complete
6 high school or postsecondary education, and are more likely to
7 have physical, developmental, and mental health challenges.
8 Unlike their peers, most lose their support system when they
9 reach age eighteen and are discharged from state custody.

10 The purpose of this Act is to bring the State into
11 compliance with the Preventing Sex Trafficking and Strengthening
12 Families Act of 2014, expand the opportunities for children in
13 foster care to participate equally in age or developmentally
14 appropriate extracurricular, social, and cultural activities as
15 their classmates and peers by providing qualified immunity from
16 liability for resource caregivers and child caring institutions,
17 and lower the age from sixteen to fourteen years of age of
18 children in foster care who are to be consulted in development
19 of their foster care plan.



1 SECTION 2. Section 346-16, Hawaii Revised Statutes, is
2 amended by amending the definition of "foster boarding home" to
3 read as follows:

4 "~~["Foster boarding]~~ "Resource family home" means any
5 boarding home in which:

6 (1) One or more, but fewer than six, minor children are
7 received; and

8 (2) Six or more minor siblings are placed together in the
9 best interests of the children,

10 for care and maintenance apart from their parents or guardians
11 on a twenty-four hour basis for fee or charge."

12 SECTION 3. Section 346-17, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§346-17 Child placing organizations, child caring
15 institutions, and ~~[foster boarding]~~ resource family homes;
16 authority over, investigation of, and standards for. (a) No
17 child placing organization shall engage in the investigation,
18 placement, and supervision of minor children in foster care
19 unless it meets the standards of conditions, management, and
20 competence set by the department of human services.



1 (b) No child caring institution shall receive minor
2 children for care and maintenance unless it meets the standards
3 of conditions, management, and competence to care for and
4 ~~[train]~~ educate children set by the department.

5 (c) No ~~[foster boarding]~~ resource family home shall
6 receive for care and maintenance any child unless:

7 (1) It meets with the standards of conditions, management,
8 and competence set by the department; and

9 (2) The ~~[foster boarding]~~ resource family home applicant
10 successfully completes ~~[foster parent]~~ resource
11 caregiver training; provided that ~~[after July 1,~~
12 ~~1999,]~~ new special licensed or relative ~~[foster]~~
13 resource family home ~~[care providers]~~ caregivers
14 licensed for a specific child or children shall
15 successfully complete ~~[foster parent]~~ resource
16 caregiver training within the first year following
17 placement of the first child into the new special
18 licensed or relative ~~[foster]~~ resource family home.

19 (d) The department shall adopt rules pursuant to chapter
20 91 relating to:



1 (1) Standards for the organization and administration of
2 child placing organizations; and

3 (2) Standards ~~[ef]~~ for the conditions, management,
4 operations, and competence of child caring
5 institutions and resource family homes for the care
6 ~~[and training]~~, education, and protection of minor
7 children ~~[in child caring institutions and foster~~
8 ~~boarding homes; and~~

9 ~~(3) Standards of conditions and competence of operation of~~
10 ~~foster boarding homes as may be necessary to protect~~
11 ~~the welfare of children].~~

12 (e) All rules of the department shall have the force and
13 effect of law, and any violation thereof or of this section
14 shall be punishable by a fine of not more than \$200.

15 (f) As a condition for a certificate of approval, any
16 organization, institution, or ~~[foster boarding]~~ resource family
17 home, including all adults residing in the ~~[foster boarding]~~
18 resource family home, shall:

19 (1) Meet all standards and requirements established by the
20 department;



1 (2) Be subject to criminal history record checks in
2 accordance with section 846-2.7, and child abuse and
3 neglect registry checks, in accordance with
4 departmental procedures; and

5 (3) Provide consent to the department or its designee to
6 obtain criminal history record and child abuse and
7 neglect registry information.

8 New employees of the organization, institution, or home shall be
9 fingerprinted within five working days of employment.

10 (g) Upon approval of the organization, institution, or
11 [~~foster boarding~~] resource family home, the department or its
12 authorized agents shall issue a certificate of approval that
13 shall continue in force for one year or for two years if the
14 organization, institution, or [~~foster boarding~~] resource family
15 home meets the criteria established by the department, unless
16 sooner revoked for cause. The certificate shall be renewed by
17 the department or its authorized agents, after annual or
18 biennial investigation, if the investigation discloses that the
19 organization, institution, or [~~foster boarding~~] resource family
20 home continues to meet the standards set by the department. The
21 certificate of approval shall be a permit to operate the child



1 placing organization, child caring institution, or [~~foster~~
2 ~~boarding~~] resource family home, and no person or organization
3 shall operate or maintain the organization, institution, or
4 [~~foster boarding~~] resource family home without the certificate.

5 (h) Any child placing organization, child caring
6 institution, or [~~foster boarding~~] resource family home shall be
7 subject to review or investigation at any time and in a manner,
8 place, and form as may be prescribed by the department or its
9 authorized agents.

10 (i) As used in this section, [~~foster parent~~] "resource
11 caregiver training" means training or instruction in special
12 skills and knowledge to care for foster children.

13 (j) The department or its designee shall request:

- 14 (1) A criminal history record check through the Hawaii
15 criminal justice data center on all operators,
16 employees, and new employees of child care
17 institutions, child placing organizations, and [~~foster~~
18 ~~boarding~~] resource family homes, including all adults
19 residing in the [~~foster boarding~~] resource family
20 homes, subject to [~~licensure~~] checks pursuant to
21 section 846-2.7; and



1 (2) A child abuse and neglect registry check on all
2 operators, employees, and new employees of child care
3 institutions, child placing organizations, and adults
4 residing in a [~~foster boarding~~] resource family home
5 subject to licensure in accordance with departmental
6 procedures.

7 (k) The department may deny a certificate of approval if
8 an operator, employee, or new employee of a child care
9 institution or child placing organization's facility, or any
10 adult residing in a [~~foster boarding~~] resource family home, was
11 convicted of a crime other than a minor traffic violation
12 involving a fine of \$50 or less and if the department finds that
13 the criminal history record or child abuse registry history of
14 an operator, employee, new employee, or adult residing in a
15 [~~foster boarding~~] resource family home poses a risk to the
16 health, safety, or well-being of the children in care.

17 (l) The department or its designee shall make a name
18 inquiry into the criminal history records for the first two
19 years of certification of a [~~foster boarding~~] resource family
20 home and annually or biennially thereafter and into the child



1 abuse and neglect registry in accordance with departmental
2 procedures depending on the certification status of the home.

3 (m) Except as provided below, any entity or person issued
4 a certificate of approval pursuant to this section shall be
5 immune from liability in a civil action to recover damages for
6 injury, death, or loss to a person or property for any act or
7 omission made in connection with and under the authority of the
8 certificate of approval. This subsection shall not apply if:

- 9 (1) The act or omission was outside the scope of the
- 10 certificate of approval; or
- 11 (2) The act or omission was with malicious purpose, in bad
- 12 faith, or in a reckless manner."

13 SECTION 4. Section 587A-3, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The department or an authorized agency, as resource
16 family or permanent custodian, shall abide by the following
17 guiding principles and ensure that a child in foster care:

- 18 (1) Lives in a safe and healthy home, free from physical,
- 19 psychological, sexual, and other abuse;
- 20 (2) Has adequate:
 - 21 (A) Food that is nutritious and healthy;



- 1 (B) Clothing;
- 2 (C) Medical care, dental and orthodontic services,
- 3 and corrective vision care; and
- 4 (D) Mental health services;
- 5 (3) Has supervised or unsupervised in-person, telephone,
- 6 or other forms of contact with the child's parents and
- 7 siblings while the child is in foster care, unless
- 8 prohibited by court order;
- 9 (4) Has in-person contact with the child's assigned child
- 10 protective services worker, guardian ad litem, and if
- 11 applicable, the child's probation officer;
- 12 (5) Meets with the presiding judge in the child's case;
- 13 (6) Is enrolled in a comprehensive health insurance plan
- 14 and, within forty-five days of out-of-home placement,
- 15 is provided with a comprehensive health assessment and
- 16 treatment as recommended;
- 17 (7) May freely exercise the child's own religious beliefs,
- 18 including the refusal to attend any religious
- 19 activities and services;
- 20 (8) Has a personal bank account and assistance in managing
- 21 the child's personal income consistent with the



1 child's age and development, unless safety or other
2 concerns require otherwise;

3 (9) Has the right to attend school [~~and participate in~~
4 ~~appropriate extracurricular activities~~] and, if the
5 child is moved during a school year, has the right to
6 complete the school year at the same school, if
7 practicable; [~~and~~]

8 (10) Beginning at age twelve, is provided with age-
9 appropriate life skills training and a transition plan
10 for appropriately moving out of the foster care
11 system, as well as written information concerning
12 independent living programs, foster youth
13 organizations, transitional planning services, and
14 independent living case management programs that are
15 available to all children in foster care who are
16 twelve years of age or older and their resource
17 families[-]; and

18 (11) Participates in extracurricular, enrichment, cultural,
19 and social activities; provided that the child caring
20 institution or resource caregiver authorizes the
21 participation in accordance with the reasonable and



1 prudent parent standard as defined in 42 United States
2 Code section 675."

3 SECTION 5. Section 587A-31, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

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

- 7 (1) The extent to which each party has complied with the
8 service plan and progressed in making the home safe;
- 9 (2) Whether the current placement of the child continues
10 to be appropriate and in the best interests of the
11 child or if another in-state or out-of-state placement
12 should be considered;
- 13 (3) The court's projected timetable for reunification or,
14 if the current placement is not expected to be
15 permanent, placement in an adoptive home, with a legal
16 guardian, or under the permanent custody of the
17 department or an authorized agency;
- 18 (4) Whether the department has made reasonable efforts, in
19 accordance with the safety and well-being of the
20 child, to:



- 1 (A) Place siblings who have been removed from the
2 family home with the same resource family,
3 adoptive placement, or legal guardians; and
- 4 (B) Provide for frequent visitation or other ongoing
5 interactions with siblings who are not living in
6 the same household;
- 7 (5) The appropriate permanency goal for the child,
8 including whether a change in goal is necessary;
- 9 (6) Whether the department has made reasonable efforts to
10 finalize the permanency goal in effect for the child
11 and a summary of those efforts;
- 12 (7) The date by which the permanency goal for the child is
13 to be achieved;
- 14 (8) In the case of a child who has attained [~~sixteen~~
15 fourteen years of age, the services needed to assist
16 the child with the transition from foster care to
17 independent living; and
- 18 (9) Consultations with the child in an age-appropriate
19 manner about the proposed plan for permanency or
20 transition from foster care to independent living."



1 SECTION 6. Section 587A-32, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The permanent plan shall:

4 (1) State whether the permanency goal for the child will
5 be achieved through adoption, legal guardianship, or
6 permanent custody;

7 (2) Establish a reasonable period of time by which the
8 adoption or legal guardianship shall be finalized;

9 (3) Document:

10 (A) A compelling reason why legal guardianship or
11 permanent custody is in the child's best
12 interests if adoption is not the goal; or

13 (B) A compelling reason why permanent custody is in
14 the child's best interests if adoption or legal
15 guardianship is not the goal;

16 (4) Establish other related goals, including those
17 pertaining to the stability of the child's placement;
18 education; health; therapy; counseling; relationship
19 with the child's birth family, including visits, if
20 any; cultural connections; and preparation for
21 independent living;



1 (5) If a child has reached the age of [~~sixteen~~,] fourteen,
2 describe the services needed to assist the child with
3 the transition from foster care to independent living;
4 and

5 (6) Describe the methods for achieving the goals and
6 objectives set forth in paragraphs (4) and (5)."

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

9 SECTION 8. This Act shall take effect on July 1, 2016.



Report Title:
Foster Children

Description:

Updates the wording from "foster boarding home" to "resource family home" and "foster parents" to "resource caregivers"; establishes qualified immunity for resource caregivers and child caring institutions; adds the requirement that resource caregivers and child care institutions use the reasonable and prudent parent standard when authorizing children in foster care to participate in activities; and changes the age from sixteen to fourteen years of age for children in foster care to be involved in their foster care plans. (HB2350 HD1)

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

