

JAN 20 2017

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# 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-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

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

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



- 1           (2) Conduct a criminal history record check of an alleged  
2           perpetrator and all adults living in the family home,  
3           with or without consent, to ensure the safety of the  
4           child;
- 5           (3) Interview the child without the presence or prior  
6           approval of the child's family and temporarily assume  
7           protective custody of the child for the purpose of  
8           conducting the interview;
- 9           (4) Resolve the matter in an informal fashion that it  
10          deems appropriate under the circumstances;
- 11          (5) Close the matter if the department finds, after an  
12          assessment, that the child is residing with a  
13          caregiver who is willing and able to meet the child's  
14          needs and provide a safe and appropriate placement for  
15          the child;
- 16          (6) Immediately enter into a service plan:
- 17                (A) To safely maintain the child in the family home;  
18                or  
19                (B) To place the child in voluntary foster care  
20                pursuant to a written agreement with the child's  
21                parent.



1           If the child is placed in voluntary foster care and  
2           the family does not successfully complete the service  
3           plan within three months after the date on which the  
4           department assumed physical custody of the child, the  
5           department shall file a petition. The department is  
6           not required to file a petition if the parents agree  
7           to adoption or legal guardianship of the child and the  
8           child's safety is ensured; provided that the adoption  
9           or legal guardianship hearing is conducted within six  
10          months of the date on which the department assumed  
11          physical custody of the child;

12          (7) Assume temporary foster custody of the child and file  
13          a petition with the court within three days, excluding  
14          Saturdays, Sundays, and holidays, after the date on  
15          which the department assumes temporary foster custody  
16          of the child, with placement preference being given to  
17          an approved relative; or

18          (8) File a petition or ensure that a petition is filed by  
19          another appropriate authorized agency in court under  
20          this chapter.



1        (b) If the department conducts an investigation or enlists  
2 the cooperation and assistance of appropriate state and federal  
3 law enforcement authorities to conduct an investigation pursuant  
4 to subsection (a), at the time of any initial face-to-face  
5 contact with the child's parent or guardian during the  
6 investigation, the department or appropriate law enforcement  
7 authority shall provide the parent or guardian with written  
8 notice that:

9        (1) The parent or guardian is not required to permit the  
10 department or law enforcement authority to enter the  
11 residence of the parent or guardian;

12        (2) The parent or guardian is not required to speak with  
13 the department or law enforcement authority at that  
14 time;

15        (3) The parent or guardian is entitled to seek  
16 representation of an attorney and have an attorney  
17 present when the parent or guardian is questioned by  
18 the department or law enforcement authority;

19        (4) Any statement made by the parent, guardian, or other  
20 family member may be used against the parent or



- 1           guardian in a hearing initiated pursuant to this  
2           chapter;
- 3       (5) The representative of the department or law  
4           enforcement authority is not an attorney and cannot  
5           provide legal advice to the parent or guardian;
- 6       (6) The parent or guardian is not required to sign any  
7           document presented by the department or law  
8           enforcement authority, including but not limited to a  
9           release of claims or a service agreement, and is  
10          entitled to have an attorney review any document  
11          before the parent or guardian agrees to sign; and
- 12       (7) A failure of the parent or guardian to communicate  
13          with the department or law enforcement authority may  
14          have serious consequences, which may include the  
15          filing of a petition under this chapter and the  
16          assumption of temporary foster custody of the child by  
17          the department; therefore it is in the parent's or  
18          guardian's best interest to speak with the department  
19          or law enforcement authority or immediately seek the  
20          advice of a qualified attorney.



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

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INTRODUCED BY: Josh [Signature]  
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# S.B. NO. 745

**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.*

