

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HUMAN SERVICES.

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

1 SECTION 1. Section 587A-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When the department receives protective custody of a
4 child from the police, the department shall:

5 (1) Assume temporary foster custody of the child if, in
6 the discretion of the department, the department
7 determines that the child is subject to imminent harm
8 while in the custody of the child's family;

9 (2) Make every reasonable effort to inform the child's
10 parents of the actions taken, unless doing so would
11 put another person at risk of harm;

12 (3) Unless the child is admitted to a hospital or similar
13 institution, place the child in emergency foster care
14 while the department conducts an appropriate
15 investigation, with placement preference being given
16 to an approved relative;



- 1 (4) With authorized agencies, make reasonable efforts to
2 identify and notify all relatives within thirty days
3 of assuming temporary foster custody of the child; and
4 (5) Within three days, excluding Saturdays, Sundays, and
5 holidays:
6 (A) Relinquish temporary foster custody, return the
7 child to the child's parents, and proceed
8 pursuant to section [~~587A-11(4)~~], 587A-11(b)(4),
9 (5), or (6);
10 (B) Secure a voluntary placement agreement from the
11 child's parents to place the child in foster
12 care, and proceed pursuant to section [~~587A-~~
13 ~~11(6)~~] 587A-11(b)(6) or (8); or
14 (C) File a petition with the court."

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

17 "**§587A-11 Investigation; department powers.** (a) Upon
18 receiving a report that a child is subject to imminent harm, has
19 been harmed, or is subject to threatened harm, and when an
20 assessment is required by this chapter, the department shall



1 cause such investigation to be made as it deems to be
2 appropriate.

3 (b) In conducting the investigation, the department shall:

4 (1) At the time of the initial face-to-face contact,
5 provide the parent with written notice of the parent's
6 rights. Those rights shall be provided to the parent
7 in a document that shall be developed by the
8 department and include the following:

9 (A) The parent is not required to permit the
10 department or a police officer to enter the
11 residence of the parent;

12 (B) The parent must be given the allegations prior to
13 an interview;

14 (C) The parent is not required to speak with the
15 department at that time;

16 (D) The parent has the right to record the interview;

17 (E) The parent is entitled to seek representation of
18 an attorney and have an attorney present when the
19 parent is questioned by the department;



- 1 (F) Any statement made by the parent or any family
2 member may be used against the parent in a
3 hearing initiated pursuant to this chapter;
- 4 (G) Neither the department nor the police officer is
5 an attorney, and neither may provide legal advice
6 to the parent;
- 7 (H) The parent is not required to sign any document
8 presented by the department or a police officer,
9 including but not limited to a release of claims
10 or service agreement, and is entitled to have an
11 attorney review any document before the parent
12 agrees to sign; and
- 13 (I) A failure of the parent to communicate with the
14 department or a police officer may have serious
15 consequences, which may include the filing of a
16 petition under this chapter and the assumption of
17 temporary foster custody of the child by the
18 department; therefore, it is in the parent's best
19 interest to speak with the department or
20 immediately seek the advice of a qualified
21 attorney;



- 1 (2) Make reasonable efforts to ensure that the notice
2 provided to a parent under this subsection is written
3 in a manner that will be understood by the parent,
4 including but not limited to ensuring that the notice
5 is written in a language understood by the parent;
- 6 (3) Request the parent to sign and date the notice as
7 evidence of having received the notice. If the parent
8 refuses to sign and date the notice upon request, the
9 department shall specifically indicate on the notice
10 the request to sign and the parent's refusal to do so.
11 The department shall sign the notice as witness to the
12 parent's refusal to sign and provide the parent with a
13 copy of the signed notice at the time of the initial
14 face-to-face contact with the parent; and
- 15 (4) Except when an initial contact with a parent results
16 in the immediate or same-day placement of a child into
17 emergency foster care, the notice provided under this
18 subsection shall be implemented, retained in the
19 child's case file, and attached to a court petition in
20 the event of a subsequent removal to foster custody.
- 21 (c) In conducting the investigation, the department may:



- 1 (1) Enlist the cooperation and assistance of appropriate
2 state and federal law enforcement authorities, who may
3 conduct an investigation and, if an investigation is
4 conducted, shall provide the department with all
5 preliminary findings, including the results of a
6 criminal history record check of an alleged
7 perpetrator of harm or threatened harm to the child;
- 8 (2) Conduct a criminal history record check of an alleged
9 perpetrator and all adults living in the family home,
10 with or without consent, to ensure the safety of the
11 child;
- 12 (3) Interview the child without the presence or prior
13 approval of the child's family and temporarily assume
14 protective custody of the child for the purpose of
15 conducting the interview; provided that when a child
16 is interviewed at school, the interview shall be
17 recorded and retained in the case file for use in any
18 subsequent court proceeding;
- 19 (4) Resolve the matter in an informal fashion that it
20 deems appropriate under the circumstances;



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

6 (6) Immediately enter into a service plan:

7 (A) To safely maintain the child in the family home;
8 or

9 (B) To place the child in voluntary foster care
10 pursuant to a written agreement with the child's
11 parent.

12 If the child is placed in voluntary foster care and
13 the family does not successfully complete the service
14 plan within three months after the date on which the
15 department assumed physical custody of the child, the
16 department shall file a petition. The department is
17 not required to file a petition if the parents agree
18 to adoption or legal guardianship of the child and the
19 child's safety is ensured; provided that the adoption
20 or legal guardianship hearing is conducted within six

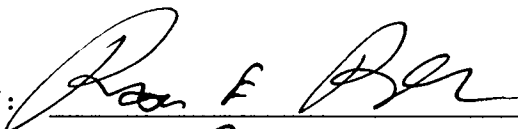


1 months of the date on which the department assumed
2 physical custody of the child;
3 (7) Assume temporary foster custody of the child and file
4 a petition with the court within three days, excluding
5 Saturdays, Sundays, and holidays, after the date on
6 which the department assumes temporary foster custody
7 of the child, with placement preference being given to
8 an approved relative; or
9 (8) File a petition or ensure that a petition is filed by
10 another appropriate authorized agency in court under
11 this chapter."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY: 
BR



S.B. NO. 2435

Report Title:

Department of Human Services; Children; Imminent Harm;
Investigation; Written Notice

Description:

Requires the department of human services to provide written notice to a parent of the parent's rights when conducting an investigation regarding a child who is or may be subject to imminent harm.

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

