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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-4, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding a new definition to be appropriately inserted  
4 and to read:

5 "Immediate harm" means an active, present danger to a  
6 child that is observable, and that, without immediate  
7 intervention, there is reasonable cause to believe that serious  
8 harm to the child will result in the time it would take to  
9 obtain a court order pursuant to section 587A-12."

10 2. By amending the definition of "imminent harm" to read:

11 "Imminent harm" means [that without intervention within  
12 the next ninety days, there is reasonable cause to believe that  
13 harm to the child will occur or reoccur.] observed circumstances  
14 or behaviors that can be documented demonstrating that there is  
15 a substantial risk that harm to the child will occur or reoccur,  
16 but that immediate harm is not occurring to the child."



1 SECTION 2. Section 587A-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[§]587A-8[§]~~ Protective custody by police officer  
4 without court order. (a) A police officer shall assume  
5 protective custody of a child without a court order and without  
6 the consent of the child's family ~~[, if in the discretion of the~~  
7 ~~police officer, the officer determines that:]~~ if there is no  
8 time to obtain a court order and the officer observes and can  
9 articulate on the initial police report that:

- 10 (1) The child is subject to ~~[imminent]~~ immediate harm  
11 while in the custody of the child's family;
- 12 (2) The child has no parent, as defined in this chapter,  
13 who is willing and able to provide a safe family home  
14 for the child;
- 15 (3) The child has no caregiver, as defined in this  
16 chapter, who is willing and able to provide a safe and  
17 appropriate placement for the child; or
- 18 (4) The child's parent has subjected the child to harm or  
19 threatened harm and the parent is likely to flee with  
20 the child.



1 (b) The department shall assume temporary foster custody  
2 of the child when a police officer has completed the transfer of  
3 protective custody of the child to the department as follows:

4 (1) A police officer who assumes protective custody of a  
5 child shall complete transfer of protective custody to  
6 the department by presenting physical custody of the  
7 child to the department; or

8 (2) If the child is or will be admitted to a hospital or  
9 similar institution, the police officer shall  
10 immediately complete the transfer of protective  
11 custody to the department by notifying the department  
12 and receiving an acknowledgment from the hospital or  
13 similar institution that it has been informed that the  
14 child is under the temporary foster custody of the  
15 department.

16 (c) The officer who assumes protective custody of a child  
17 pursuant to subsection (a) shall provide to the department an  
18 initial written report containing documented observations of the  
19 behaviors and circumstances that formed the basis for the  
20 child's immediate removal within twenty-four hours of assuming



1 protective custody of the child or the next business day after  
2 assuming protective custody of the child."

3 SECTION 3. Section 587A-9, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

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

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

11 (2) Obtain a copy of the initial police report from the  
12 police officer who assumed protective custody of the  
13 child within the time frame provided in section  
14 587A-8(c);

15 (3) Within twenty-four hours of obtaining an initial  
16 police report pursuant to paragraph (2), file a  
17 petition for a protective order on behalf of the  
18 child, which shall attach a copy of the initial police  
19 report;

20 [~~2~~] (4) Make every reasonable effort to inform the  
21 child's parents of the actions taken~~7~~ and provide a



1           copy of the initial police report, unless doing so  
2           would put another person at risk of harm;

3       ~~[(3)]~~ (5) Unless the child is admitted to a hospital or  
4           similar institution, place the child in emergency  
5           foster care while the department conducts an  
6           appropriate investigation, with placement preference  
7           being given to an approved relative;

8       ~~[(4)]~~ (6) With authorized agencies, make reasonable efforts  
9           to identify and notify all relatives within thirty  
10          days of assuming temporary foster custody of the  
11          child; and

12       ~~[(5)]~~ (7) Within three days, excluding Saturdays, Sundays,  
13          and holidays:

14           (A) Relinquish temporary foster custody, return the  
15           child to the child's parents, and proceed  
16           pursuant to section 587A-11(4), (5), or (6);

17           (B) Secure a voluntary placement agreement from the  
18           child's parents to place the child in foster  
19           care, and proceed pursuant to section 587A-11(6)  
20           or (8); or



1           (C) File a petition with the court[-] that shall  
2                           attach a copy of the initial police report."

3           SECTION 4. Section 587A-12, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5           "(b) If the court determines that the child is subject to  
6 ~~[imminent]~~ immediate harm while in the custody of the child's  
7 family, the court shall order that a police officer immediately  
8 take the child into protective custody and that the department  
9 immediately assume temporary foster custody of the child."

10          SECTION 5. Section 587A-26, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12          "(a) When the department assumes temporary foster custody  
13 or seeks to assume temporary foster custody of a child and files  
14 a petition pursuant to this chapter, the court shall conduct a  
15 temporary foster custody hearing within two days after the  
16 petition is filed, excluding Saturdays, Sundays, and holidays.  
17 The purpose of a temporary foster custody hearing is to  
18 determine whether a child's safety continues to require  
19 protection prior to an adjudicatory determination at a return  
20 hearing."



1           SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 7. This Act shall take effect on December 31,  
4 2050.



**Report Title:**

Child Protective Act; Department of Human Services; Immediate Harm; Police Report; Temporary Custody

**Description:**

Establishes a definition for "immediate harm" and amends the definition of "imminent harm" for the purpose of the Child Protective Act. Requires a police officer to assume protective custody of a child without a court order or consent of the child's family if there is no time to obtain a court order; and the officer observes and can articulate on the initial police report that the child is subject to immediate harm while in the custody of the child's family. Requires a police officer who assumes protective custody of a child on grounds that the child is subject to immediate harm to provide a written report detailing the observations justifying the immediate removal to the Department of Human Services within twenty-four hours or the next business day of assuming custody of the child. Requires the Department of Human Services to file a petition for a protective order on behalf of the child and attach a copy of the initial police report within twenty-four hours of receiving the initial police report and provide a copy of the initial police report to the child's parents. Effective 12/31/2050. (SD1)

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