

JAN 18 2024

A BILL FOR AN ACT

RELATING TO THE CHILD PROTECTIVE ACT.

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 ""Exigent circumstances" means there is reasonable cause to
6 believe that immediately assuming protective custody and
7 temporary foster custody of a child is necessary to protect the
8 child from serious harm that is likely to occur before a court
9 order can be obtained pursuant to section 587A-11(9)."

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[~~+~~] and no reasonable
14 efforts other than removal of the child from the family home
15 will adequately prevent the harm."



1 SECTION 2. Section 587A-8, Hawaii Revised Statutes, is
2 amended by amending its title and subsection (a) to read as
3 follows:

4 "[~~+~~]**§587A-8**[~~+~~] **Protective custody by police officer**
5 **[without court order]**. (a) A police officer shall assume
6 protective custody of a child [~~without~~]:

7 (1) Upon order of the court; or

8 (2) Without a court order [~~and without the consent of the~~
9 ~~child's family,~~] if in the discretion of the police officer, the
10 officer determines that[~~+~~

11 ~~(1) The child is subject to imminent harm while in the~~
12 ~~custody of the child's family;~~

13 ~~(2) The child has no parent, as defined in this chapter,~~
14 ~~who is willing and able to provide a safe family home~~
15 ~~for the child;~~

16 ~~(3) The child has no caregiver, as defined in this~~
17 ~~chapter, who is willing and able to provide a safe and~~
18 ~~appropriate placement for the child; or~~

19 ~~(4) The child's parent has subjected the child to harm or~~
20 ~~threatened harm and the parent is likely to flee with~~
21 ~~the child.] exigent circumstances are present."~~



1 SECTION 3. Section 587A-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§587A-9 Temporary foster custody [~~without court order~~].**

4 (a) [~~When the department receives protective custody of a child~~
5 ~~from the police, the~~] The department shall[~~+~~

6 ~~(1) Assume~~] assume temporary foster custody of [~~the~~] a
7 child:

8 (1) Upon order of the court; or

9 (2) Without a court order, upon the transfer of protective
10 custody from a police officer if, in the discretion of
11 the department, the department determines that [~~the~~
12 child is subject to imminent harm while in the custody
13 of the child's family,] exigent circumstances are
14 present.

15 (b) When the department assumes temporary foster custody
16 of a child, the department shall:

17 [~~(2)~~] (1) Make every reasonable effort to inform the
18 child's parents of the actions taken, unless doing so
19 would put another person at risk of harm;

20 [~~(3)~~] (2) Unless the child is admitted to a hospital or
21 similar institution, place the child in emergency



1 foster care while the department conducts an
2 appropriate investigation, with placement preference
3 being given to an approved relative;

4 ~~[(4)]~~ (3) With authorized agencies, make reasonable efforts
5 to identify and notify all relatives within thirty
6 days of assuming temporary foster custody of the
7 child; and

8 ~~[(5)]~~ (4) Within three days, excluding Saturdays, Sundays,
9 and holidays:

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

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

17 (C) File a temporary foster custody petition with the
18 court.

19 ~~[(b)]~~ (c) Upon the request of the department and without
20 regard to parental consent, any physician licensed or authorized
21 to practice medicine in the State shall perform an examination



1 to determine the nature and extent of harm or threatened harm to
2 the child under the department's temporary foster custody."

3 SECTION 4. Section 587A-11, Hawaii Revised Statutes, is
4 amended to read as follows:

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

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

19 (2) Conduct a criminal history record check of an alleged
20 perpetrator and all adults living in the family home,



1 with or without consent, to ensure the safety of the
2 child;

3 (3) Interview the child without the presence or prior
4 approval of the child's family and temporarily assume
5 protective custody of the child for the purpose of
6 conducting the interview;

7 (4) Resolve the matter in an informal fashion that it
8 deems appropriate under the circumstances;

9 (5) Close the matter if the department finds, after an
10 assessment, that the child is residing with a
11 caregiver who is willing and able to meet the child's
12 needs and provide a safe and appropriate placement for
13 the child;

14 (6) Immediately enter into a service plan:

15 (A) To safely maintain the child in the family home;
16 or

17 (B) To place the child in voluntary foster care
18 pursuant to a written agreement with the child's
19 parent.

20 If the child is placed in voluntary foster care and
21 the family does not successfully complete the service



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

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

16 (8) File a petition or ensure that a petition is filed by
17 another appropriate authorized agency in court under
18 this chapter[~~or~~]; or

19 (9) File a petition and seek an order for protective
20 custody if there is reasonable cause to believe that
21 the child is subject to imminent harm, as follows:



1 (A) The department may submit a written application
2 to the court and the court may issue an order of
3 protective custody without notice and without a
4 hearing;

5 (B) If the court finds reasonable cause to believe
6 that the child is subject to imminent harm, the
7 court shall order that a police officer
8 immediately take the child into protective
9 custody and that the department immediately
10 assume temporary foster custody of the child
11 pursuant to section 587A-8(b); and

12 (C) If the court issues an order for protective
13 custody, the court shall order a police officer
14 to make every reasonable effort to personally
15 serve the child's parents and any person who has
16 physical custody of the child with copies of the
17 order and the department's application submitted
18 pursuant to subparagraph (A)."

19 SECTION 5. Section 587A-21, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



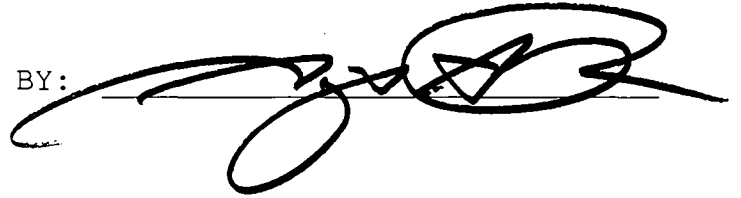
1 "(b) In deciding [~~in temporary foster custody hearings~~
2 whether there is reasonable cause to believe that a child is
3 subject to imminent harm for orders for protective custody or in
4 temporary foster custody hearings, the court may consider
5 relevant hearsay evidence when direct testimony is unavailable
6 or when it is impractical to subpoena witnesses who will be able
7 to testify to facts based on personal knowledge."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2025.

11

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and difficult to decipher, but it appears to be a name with a prominent initial.

S.B. NO. 2245

Report Title:

DHS; Police Officers; Child Protective Act; Exigent
Circumstances; Imminent Harm; Order for Protective Custody

Description:

Adds a definition for "exigent circumstances" and amends the definition of "imminent harm" under the Child Protective Act. Clarifies the circumstances when police officers shall assume protective custody of a child and when the Department of Human Services shall assume temporary foster custody of a child. Allows for the Department of Human Services to file a petition and seek an order for protective custody if there is reasonable cause to believe that a child is subject to imminent harm. Effective 7/1/2025.

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

