

H.B. NO. 1357

A BILL FOR AN ACT

RELATING TO CHILD WELFARE SERVICES.

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

1 SECTION 1. Section 587-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "party" to read as
3 follows:
4 ""Party" means an authorized agency, the child, the child's
5 family member or members who are required to be summoned
6 pursuant to section 587-32(a), any other member of the child's
7 family, or any other person who is alleged in the petition filed
8 under this chapter or who is subsequently determined at any
9 child protective proceedings to be encouraging, causing, or
10 contributing to the acts or conditions which bring the child
11 within this chapter, and who has been duly served with a summons
12 and a copy of the petition filed under this chapter; provided
13 that the court may limit a party's right to participate in any
14 child protective proceeding if the court deems such limitation
15 of such party's participation to be consistent with the best
16 interests of the child and such party is not a family member who
17 is required to be summoned pursuant to section 587-32(a), except
18 as is provided in section [~~587-73(b)(4).~~] 587-73(b)(1)(D)."

1 SECTION 2. Section 587-73, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) If the court determines that the criteria set forth
4 in subsection (a) are established by clear and convincing
5 evidence [~~, the court shall order.~~] and:

6 (1) The goal of the permanent plan is for the child to be
7 adopted or remain in permanent custody, the court
8 shall order:

9 [~~(1)~~] (A) That the existing service plan be terminated and
10 that the prior award of foster custody be
11 revoked;

12 [~~(2)~~] (B) That permanent custody be awarded to an
13 appropriate authorized agency;

14 [~~(3)~~] (C) That an appropriate permanent plan be
15 implemented concerning the child whereby the
16 child will:

17 [~~(A)~~] (i) Be adopted pursuant to chapter 578;
18 provided that the court shall presume that
19 it is in the best interests of the child to
20 be adopted, unless the child is or will be
21 in the home of family or a person who has
22 become as family and who for good cause is

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1 unwilling or unable to adopt the child but
2 is committed to and is capable of being the
3 child's guardian or permanent custodian; or

4 ~~[(B) Be placed under guardianship pursuant to chapter~~
5 560; ~~or~~

6 ~~(C)]~~ (ii) Remain in permanent custody until the child
7 is subsequently adopted, placed under a
8 guardianship, or reaches the age of
9 majority, and that such status shall not be
10 subject to modification or revocation
11 except upon a showing of extraordinary
12 circumstances to the court;

13 ~~[(4)]~~ (D) That such further orders as the court deems to
14 be in the best interests of the child,
15 including, but not limited to, restricting or
16 excluding unnecessary parties from participating
17 in adoption or other subsequent proceedings, be
18 entered; and

19 ~~[(5)]~~ (E) Until adoption or guardianship is ordered, that
20 each case be set for a permanent plan review
21 hearing not later than one year after the date
22 that a permanent plan is ordered by the court,

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1 or sooner if required by federal law, and
2 thereafter, that subsequent permanent plan
3 review hearings be set not later than each year,
4 or sooner if required by federal law; provided
5 that at each permanent plan review hearing, the
6 court shall review the existing permanent plan
7 and enter such further orders as are deemed to
8 be in the best interests of the child[-] or

9 (2) The goal of the permanent plan is for the child to be
10 placed under guardianship pursuant to chapter 560, the
11 court shall order:

12 (A) That the prior award of foster custody be
13 continued and that the existing service plan be
14 terminated;

15 (B) That an appropriate permanent plan be implemented
16 concerning the child whereby the child will be
17 placed under guardianship pursuant to chapter
18 560; and

19 (C) Until the guardianship is ordered, that each case
20 be set for a permanent plan review hearing not
21 later than six months after the date that a
22 permanent plan is ordered by the court, or sooner

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO CHILD WELFARE SERVICES.

PURPOSE: To modify the provisions of chapter 587, Hawaii Revised Statutes (HRS), to specify that when the Family Court determines by clear and convincing evidence that the child's parents cannot now or in the reasonable foreseeable future provide the child with a safe family home, the department may submit a permanent plan with a goal of guardianship and the Court may award guardianship to an appropriate entity without termination of parental rights.

MEANS: Amend sections 587-2 and 587-73(b), Hawaii Revised Statutes.

JUSTIFICATION: The changes will ensure that children who cannot be reunited with their parents in a safe family home are provided with the permanency and stability of guardianship as a culturally acceptable option that is consistent with the "hanai" placement concept. This will help to ensure that family connections, important to the child, are not unnecessarily broken.

Impact on the public: The changes will allow the maintenance of family connections and relationships and decrease the number of children in foster custody.

Impact on the department and other agencies: The department will be able to proceed with guardianship for a child without terminating parental rights. This will shorten the time to achieving

permanency for a child in foster care.

Other agencies: There will be a decrease in the necessity to file petitions for guardianship following termination of parental rights and decrease the time a case would need to remain open with the Court. This bill is supportive of initiatives being pursued by the Court - Agency Collaboration Committee.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	HMS 301.
OTHER AFFECTED AGENCIES:	The Judiciary and the Department of the Attorney General
EFFECTIVE DATE:	July 1, 2007.