
A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 PART I

2 SECTION 1. (a) The department of human services shall
3 convene a task force to examine the factors in situations of
4 alleged illegal substance use by a parent, guardian, or
5 caregiver that have resulted in a child's death or serious
6 injury. The task force shall develop a plan and recommendations
7 that will prevent children from being injured or exposed to
8 unreasonable risk of injury or neglect by parents, guardians, or
9 caregivers who test positive for illegal substance use.

10 (b) The department of human services shall convene a task
11 force chaired by the director of human services or the
12 director's designee to include the following members:

13 (1) A representative from the department of health alcohol
14 and drug abuse division to provide expertise regarding
15 services, assessment, and treatment of substance
16 abusing parents;

17 (2) A representative from the department of health adult
18 mental health division to provide expertise regarding



- 1 issues related to parents with co-occurring substance
2 abuse and mental health issues, treatment modalities,
3 and treatment effectiveness;
- 4 (3) A representative from the department of human services
5 child protective services to provide expertise as
6 responders to reports of abuse, assessment and
7 prevention services, and monitoring;
- 8 (4) A representative from the Honolulu police department
9 to provide expertise as first responders, and assess
10 child safety and the need for protective custody;
- 11 (5) The chair of the senate committee on human services,
12 or a designee;
- 13 (6) The chair of the senate committee on health, or a
14 designee;
- 15 (7) The chair of the house of representatives committee on
16 human services, or a designee;
- 17 (8) The chair of the house of representatives committee on
18 health, or a designee;
- 19 (9) A representative from a community organization with
20 expertise in substance abuse prevention and ongoing
21 services;



1 "Safe home" means a home, other than a child's family home,
2 where the child has resided with the consent of the child's
3 legal custodian, and where a caregiver has demonstrated an
4 ongoing willingness and ability to provide a residence where the
5 child is not subject to harm or threatened harm, as determined
6 by the department. A safe home shall not apply to situations
7 involving voluntary placement of a child or a court order."

8 SECTION 3. Section 587-21, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Upon satisfying itself as to the course of action
11 that should be pursued to best accord with the purpose of this
12 chapter, the department shall:

13 (1) Terminate the investigation if the child is residing
14 with a caregiver in a safe home; provided that there
15 is documentation of the following:

16 (A) The concerns, findings, and problems that
17 initially warranted the department's involvement;

18 (B) The specific needs of parents, the specific
19 services offered to address those needs, and
20 whether the parents declined services;



- 1 (C) The parents' acknowledgment that they understand
2 the risks of having their parental rights
3 terminated;
- 4 (D) Whether the caregiver is eligible to be licensed
5 as a foster parent by the department; provided
6 that the department has the discretion to
7 determine that, even if the caregiver's home is
8 not in total accordance with relevant foster care
9 licensing standards, the home is a safe home;
- 10 (E) The length of time the child can live with the
11 caregiver and the agreed-upon conditions for the
12 child's return, including any period for advance
13 mandatory notice from the caregiver to the
14 department if the caregiver seeks to permanently
15 return the child to the child's legal custodian;
- 16 (F) Whether the caregiver and the child shall be
17 entitled to the same benefits and services that
18 are available to a foster parent and a foster
19 child, including legal services, and whether the
20 caregiver has been informed of these benefits and
21 services, including information on obtaining an
22 adoption or guardianship;



1 (G) Whether the parents and the caregiver agree that
2 the caregiver can return the child to the parents
3 only with prior notification from the department;
4 and

5 (H) That the child's legal custodian agrees to place
6 the child with the caregiver, or that the child's
7 legal custodian cannot be located based on
8 available information;

9 (2) If the department determines there is a need, a
10 caregiver may be offered diversion or legal assistance
11 services, to the extent that funding and services are
12 available; provided that the department has determined
13 that the caregiver is able to provide a safe home
14 without the services offered;

15 ~~[(1)]~~ (3) Resolve the matter in an informal fashion
16 appropriate under the circumstances [7], including
17 referral of the child and other family members to
18 state or community resources that provide the
19 assistance needed to address the problems in the
20 family home;

21



1 [~~(2)~~] (4) Seek to enter into a service plan, without filing
2 a petition in court, with members of the child's
3 family and other authorized agency as the department
4 deems necessary to the success of the service plan,
5 including the member or members of the child's family
6 who have legal custody of the child. The service plan
7 may include an agreement with the child's family to
8 voluntarily place the child in the foster custody of
9 the department or other authorized agency~~[7]~~; provided
10 that placement preference shall be given to an
11 appropriate relative identified by the department, or
12 to place the child and the necessary members of the
13 child's family under the family supervision of the
14 department or other authorized agency; provided
15 further that if a service plan is not successfully
16 completed within six months, the department shall file
17 a petition or ensure that a petition is filed by
18 another appropriate authorized agency in court under
19 this chapter and the case shall be reviewed as is
20 required by federal law;

21 [~~(3)~~] (5) Assume temporary foster custody of the child
22 pursuant to section 587-24(a) and file a petition with



1 the court under this chapter within three working
 2 days, excluding Saturdays, Sundays, and holidays,
 3 after the date of the department's assumption of
 4 temporary foster custody of the child; provided that
 5 placement preference shall be given to an appropriate
 6 relative identified by the department; or
 7 ~~[(4)]~~ (6) File a petition or ~~[ensure that a petition is~~
 8 ~~filed by]~~ refer the matter to another appropriate
 9 authorized agency, which may file a petition for
 10 jurisdiction of the child in court under this
 11 chapter."

PART III

13 SECTION 4. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2009.

16

INTRODUCED BY:

John Chay

John M. Magaw

J. Michael Linn

Tom Brown

JAN 23 2009



Report Title:

Child Custody; Task Force; DHS

Description:

Establishes a task force to examine situations resulting in a child fatality or a serious injury due to drug use by a parent, guardian, or caregiver, and develop a plan to prevent such situations from occurring. Establishes a system for the Department of Human Services to allow children to continue to reside in pre-existing caregivers' safe homes rather than enter into foster care, subject to certain conditions.

