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# A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORDS CHECKS UNDER THE CHILD  
PROTECTIVE ACT.

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

1           SECTION 1. The purpose of this Act is to amend the Child  
2 Protective Act, chapter 587A, Hawaii Revised Statutes, to allow  
3 the department of human services to conduct initial and periodic  
4 criminal history records checks of alleged perpetrators of child  
5 abuse or neglect, and all individuals who may reside in the same  
6 household with the alleged child victim, to better identify and  
7 address immediate and potential safety and risk factors.

8           SECTION 2. Chapter 587A, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11           "§587A- Authority to conduct criminal history records  
12 checks without consent. When an assessment is required pursuant  
13 to this chapter, the department is authorized to conduct  
14 criminal history record checks, without consent, of an alleged  
15 perpetrator of harm or threat of harm and all adult household  
16 members to ensure the safety of the child."



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

4 "[~~§~~587A-9~~]~~ Temporary foster custody without court  
5 order. (a) When the department receives protective custody of  
6 a 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) Make every reasonable effort to inform the child's  
12 parents of the actions taken, unless doing so would  
13 put another person at risk of harm;

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

19 (4) With authorized agencies, make reasonable efforts to  
20 identify and notify all relatives within thirty days  
21 of assuming temporary foster custody of the child; and



1 (5) Within three days, excluding Saturdays, Sundays, and  
2 holidays:

3 (A) Relinquish temporary foster custody, return the  
4 child to the child's parents, and proceed  
5 pursuant to section [~~587A-11(3)~~], 587A-11(4),  
6 [~~or~~] 587A-11(5) [~~or~~], or 587A-11(6);

7 (B) Secure a voluntary placement agreement from the  
8 child's parents to place the child in foster  
9 care, and proceed pursuant to section [~~587A-11(5)~~  
10 ~~or 587A-11(7)~~], 587A-11(6) or 587A-11(8); or

11 (C) File a petition with the court."

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

14 "[~~§~~]~~587A-11~~[~~§~~] Investigation; department powers. Upon  
15 receiving a report that a child is subject to imminent harm, has  
16 been harmed, or is subject to threatened harm, and when an  
17 assessment is required by this chapter, the department shall  
18 cause such investigation to be made as it deems to be  
19 appropriate. In conducting the investigation, the department  
20 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 to ensure the safety of the child, with or without  
11 consent;
- 12 [~~(2)~~] (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;
- 16 [~~(3)~~] (4) Resolve the matter in an informal fashion that it  
17 deems appropriate under the circumstances;
- 18 [~~(4)~~] (5) Close the matter if the department finds, after  
19 an assessment, that the child is residing with a  
20 caregiver who is willing and able to meet the child's



1 needs and provide a safe and appropriate placement for  
2 the child;

3 [~~5~~] (6) Immediately enter into a service plan:

4 (A) To safely maintain the child in the family home;  
5 or

6 (B) To place the child in voluntary foster care  
7 pursuant to a written agreement with the child's  
8 parent.

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

20 [~~6~~] (7) Assume temporary foster custody of the child and  
21 file a petition with the court within three days,



1           excluding Saturdays, Sundays, and holidays, after the  
2           date on which the department assumes temporary foster  
3           custody of the child, with placement preference being  
4           given to an approved relative; or

5           ~~[(7)]~~ (8) File a petition or ensure that a petition is  
6           filed by another appropriate authorized agency in  
7           court under this chapter."

8           SECTION 5. Statutory material to be repealed is bracketed  
9           and stricken. New statutory material is underscored.

10          SECTION 6. This Act shall take effect upon its approval.

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**Report Title:**

Child Protective Act; Criminal History Records Checks

**Description:**

Amends the Child Protective Act so that when an assessment is required, the Department of Human Services is authorized to conduct criminal history record checks without the consent of an alleged perpetrator of harm or threat of harm and all adult household members living in the family home with the alleged victim child. (SD1)

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