

# S.B. NO. 2790

JAN 24 2018

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## A BILL FOR AN ACT

RELATING TO THE RIGHTS OF CHILDREN IN FOSTER CARE.

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

1           SECTION 1. The Hawaii Revised Statutes, chapter 587A is  
2 amended by adding to part I a new section to be appropriately  
3 designated and to read as follows:

4           "§587A- Rights of children in foster care. (a) The  
5 department or an authorized agency shall ensure that a child in  
6 foster care will:

7           (1) Live in a safe and healthy home, free from physical,  
8           psychological, sexual, and other abuse;

9           (2) Receive adequate food, shelter, and clothing;

10          (3) Receive adequate medical care, dental services,  
11          corrective vision care and mental health services;

12          (4) Be enrolled in a comprehensive health insurance plan  
13          and, within forty-five days of out-of-home placement,  
14          be provided with a comprehensive health assessment and  
15          recommended treatment;

16          (5) Have regular supervised or unsupervised in-person,  
17          telephone, or other forms of contact with the child's

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1 parents and siblings while the child is in foster  
2 care, unless the contact is either prohibited by court  
3 order or is deemed to be unsafe by the child's child  
4 welfare services worker, therapist, guardian ad litem,  
5 or court appointed special advocate. Withholding  
6 visitation shall not be used as punishment. If the  
7 department denies supervised or unsupervised visits  
8 with the child's parents or siblings:

9 (A) If all parties, including the child, agree to the  
10 denial of the visits, the department shall submit  
11 a written report to the court within five working  
12 days to document the reasons why the visits are  
13 being denied; or

14 (B) If any party, including the child, disagrees with  
15 the denial of the visits, the department shall  
16 file a motion for immediate review within five  
17 working days and the motion must include the  
18 specific reasons why visits are being denied;

19 (6) Receive notice of court hearings and if the child  
20 wishes to attend the hearings, to ensure that the  
21 child is transported to the court hearings;

22 (7) Have in-person contact with the child's assigned child

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- 1            welfare services worker;
- 2            (8) Have the ability to exercise the child's own religious
- 3            beliefs, including the refusal to attend any religious
- 4            activities and services;
- 5            (9) Have a personal bank account if requested, and
- 6            assistance in managing the child's personal income
- 7            consistent with the child's age and development,
- 8            unless safety or other concerns require otherwise;
- 9            (10) Be able to participate in extracurricular, enrichment,
- 10           cultural, and social activities; provided that if a
- 11           child caring institution or resource caregiver
- 12           authorizes the participation, it must be in accordance
- 13           with the reasonable and prudent parenting standard, as
- 14           defined in title 42 United States Code section
- 15           675(10)(A);
- 16           (11) Beginning at age twelve, be provided with age-
- 17           appropriate life skills training and a transition plan
- 18           for appropriately moving out of the foster care system
- 19           which also includes reunification or other permanency,
- 20           as well as written information concerning independent
- 21           living programs, foster youth organizations,
- 22           transitional planning services that are available to

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1 all children in foster care who are twelve years of  
2 age or older and their resource families;

3 (12) Have the right to be involved in developing a case  
4 plan and planning for the child's future, if the child  
5 is fourteen or older;

6 (13) If the child is fourteen or older, receive the child's  
7 credit report, free of charge, annually through the  
8 child's time in foster care - and to receive  
9 assistance with interpreting the report and resolving  
10 inaccuracies including, when feasible, assistance from  
11 the child's guardian ad litem;

12 (14) If the child has been in foster care for more than six  
13 months, and is aging out of care, receive assistance  
14 in obtaining certain personal records such as an  
15 official or certified copy of the child's United  
16 States birth certificate, a Social Security card  
17 issued by the Commissioner of Social Security, health  
18 insurance information, a copy of the child's medical  
19 records, or information to access the child's medical  
20 records, a driver's license or state identification  
21 card issued by the State in accordance with the

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1 requirements of the REAL ID Act of 2005, Pub.L. 109-  
2 13, 119 Stat. 302;

3 (b) A child in foster care also has the following  
4 additional rights:

5 (1) To be treated fairly and equally and receive care and  
6 services that are culturally responsive and free from  
7 discrimination based on race, ethnicity, color,  
8 national origin, ancestry, immigration status, gender,  
9 gender identity, gender expression, sexual  
10 orientation, religion, physical and mental disability,  
11 pregnant or parenting status, or the fact that the  
12 child is in foster care;

13 (2) To meet with and speak to the presiding judge in the  
14 child's case;

15 (3) To have regular in person contact with the child's  
16 court appointed guardian ad litem, court appointed  
17 special advocate, and probation officer;

18 (4) To ask for an attorney, if the child's opinions and  
19 requests differ from those being advocated by the  
20 guardian ad litem pursuant to section 587A-16(c)(6);

21 (5) To attend school and to remain in the child's school  
22 of origin unless determined not in the child's best

1 interest, and to be provided cost-effective  
2 transportation to be maintained in the child's school  
3 of origin; if the child changes school during a school  
4 year, the child should be enrolled immediately in the  
5 new school;

6 (6) To receive educational records to the same extent as  
7 all other students;

8 (c) Sua sponte or upon appropriate motion, the family  
9 court may issue any necessary orders to any party, including the  
10 department, the department of education, the department of  
11 health, the guardian ad litem, the court appointed special  
12 advocate, or the probation officer to ensure the child is  
13 provided with the rights enumerated in subsections (a) and (b)."

14 SECTION 2. Section 587A-3, Hawaii Revised Statutes, is  
15 repealed.

16 [~~"§ 587A-3 Guiding principles for children in foster care.~~

17 ~~(a) The department or an authorized agency, as resource family~~  
18 ~~or permanent custodian, shall abide by the following guiding~~  
19 ~~principles and ensure that a child in foster care:~~

20 ~~(1) Lives in a safe and healthy home, free from physical,~~  
21 ~~psychological, sexual, and other abuse;~~

22 ~~(2) Has adequate:~~

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- 1           ~~(A) Food that is nutritious and healthy;~~
- 2           ~~(B) Clothing;~~
- 3           ~~(C) Medical care, dental and orthodontic services,~~
- 4                     ~~and corrective vision care; and~~
- 5           ~~(D) Mental health services;~~
- 6       ~~(3) Has supervised or unsupervised in person, telephone,~~
- 7           ~~or other forms of contact with the child's parents and~~
- 8           ~~siblings while the child is in foster care, unless~~
- 9           ~~prohibited by court order;~~
- 10       ~~(4) Has in person contact with the child's assigned child~~
- 11           ~~protective services worker, guardian ad litem, and if~~
- 12           ~~applicable, the child's probation officer;~~
- 13       ~~(5) Meets with the presiding judge in the child's case;~~
- 14       ~~(6) Is enrolled in a comprehensive health insurance plan~~
- 15           ~~and, within forty five days of out of home placement,~~
- 16           ~~is provided with a comprehensive health assessment and~~
- 17           ~~treatment as recommended;~~
- 18       ~~(7) May freely exercise the child's own religious beliefs,~~
- 19           ~~including the refusal to attend any religious~~
- 20           ~~activities and services;~~
- 21       ~~(8) Has a personal bank account and assistance in managing~~
- 22           ~~the child's personal income consistent with the~~

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1 ~~child's age and development, unless safety or other~~  
2 ~~concerns require otherwise;~~

3 ~~(9) Has the right to attend school and, if the child is~~  
4 ~~moved during a school year, has the right to complete~~  
5 ~~the school year at the same school, if practicable;~~

6 ~~(10) Beginning at age twelve, is provided with age-~~  
7 ~~appropriate life skills training and a transition plan~~  
8 ~~for appropriately moving out of the foster care~~  
9 ~~system, as well as written information concerning~~  
10 ~~independent living programs, foster youth~~  
11 ~~organizations, transitional planning services, and~~  
12 ~~independent living case management programs that are~~  
13 ~~available to all children in foster care who are~~  
14 ~~twelve years of age or older and their resource~~  
15 ~~families; and~~

16 ~~(11) May participate in extracurricular, enrichment,~~  
17 ~~cultural, and social activities; provided that child~~  
18 ~~earing institution or resource caregiver authorizes~~  
19 ~~the participation in accordance with the reasonable~~  
20 ~~and prudent parent standard as defined in title 42~~  
21 ~~United States Code section 675(10)(A).~~



1 **Report Title:**

2 Rights of Children in Foster Care

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4 **Description:**

5 Amends the Child Protective Act, chapter 587A, Hawaii Revised  
6 Statutes, by deleting the existing section 587A-3, Guiding  
7 Principles for children in foster care, and replacing it with a  
8 new section 587A- , Rights of children in foster care.

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## JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE RIGHTS OF CHILDREN IN FOSTER CARE.

PURPOSE: To amend the Child Protective Act, chapter 587A, Hawaii Revised Statutes, to include the rights of children in foster care.

MEANS: Add a new section to chapter 587A and repeal section 587A-3, Hawaii Revised Statutes.

JUSTIFICATION: The rights of children in foster care are based upon and incorporates the existing guiding principles of children in foster care currently enacted in section 587A-3, Hawaii Revised Statutes. The replacement section aligns with Federal Public Law 113-183 which requires rights of children age 14 and older to include: education, health, visitation, court participation to be documented in the child's case plan and a signed acknowledgement of the provision of these rights. The proposed rights of children in foster care ultimately honors the needs, perspectives and well-being of the children and youth in foster care.

Impact on the public: Increased support and guidance for the care of children and youth in foster care will facilitate the young person's continued development, well-being, and permanency options. Positive outcomes, such as an increase in educational achievement and employment stability, will contribute to the social and economical of the youth as well as the well-being of the State. Studies show that with increased support and guidance children and youth in foster care have additional positive outcomes which include decreases in homelessness, dependency on public welfare benefits, and drug dependency and incarceration.

Impact on the department and other agencies:

The changes will provide clarification and greater consistency in providing program services by Department of Human Services' staff, contracted providers, resource caregivers, and related agencies.

GENERAL FUND: None

OTHER FUNDS: None

PPBS PROGRAM  
DESIGNATION: HMS 301 and HMS 303.

OTHER AFFECTED  
AGENCIES: Judiciary, Department of Education,  
Department of Health.

EFFECTIVE DATE: Upon approval.