

JAN 20 2017

A BILL FOR AN ACT

RELATING TO CHILD PROTECTION.

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

1 SECTION 1. Section 587A-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§587A-11 Investigation; department powers[-]; rights of
4 parents and guardians. (a) Upon receiving a report that a
5 child is subject to imminent harm, has been harmed, or is
6 subject to threatened harm, and when an assessment is required
7 by this chapter, the department shall cause such investigation
8 to be made as it deems to be appropriate. In conducting the
9 investigation, the department may:

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



(2) Conduct a criminal history record check of an alleged perpetrator and all adults living in the family home, with or without consent, to ensure the safety of the child;

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

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

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

(6) Immediately enter into a service plan:

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

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



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

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

18 (8) File a petition or ensure that a petition is filed by
19 another appropriate authorized agency in court under
20 this chapter.



1 (b) If the department conducts an investigation or enlists
2 the cooperation and assistance of appropriate state and federal
3 law enforcement authorities to conduct an investigation pursuant
4 to subsection (a), at the time of any initial face-to-face
5 contact with the child's parent or guardian during the
6 investigation, the department or appropriate law enforcement
7 authority shall provide the parent or guardian with written
8 notice that:

9 (1) The parent or guardian is not required to permit the
10 department or law enforcement authority to enter the
11 residence of the parent or guardian;

12 (2) The parent or guardian is not required to speak with
13 the department or law enforcement authority at that
14 time;

15 (3) The parent or guardian is entitled to seek
16 representation of an attorney and have an attorney
17 present when the parent or guardian is questioned by
18 the department or law enforcement authority;

19 (4) Any statement made by the parent, guardian, or other
20 family member may be used against the parent or



1 guardian in a hearing initiated pursuant to this
2 chapter;

3 (5) The representative of the department or law
4 enforcement authority is not an attorney and cannot
5 provide legal advice to the parent or guardian;

6 (6) The parent or guardian is not required to sign any
7 document presented by the department or law
8 enforcement authority, including but not limited to a
9 release of claims or a service agreement, and is
10 entitled to have an attorney review any document
11 before the parent or guardian agrees to sign; and

12 (7) A failure of the parent or guardian to communicate
13 with the department or law enforcement authority may
14 have serious consequences, which may include the
15 filing of a petition under this chapter and the
16 assumption of temporary foster custody of the child by
17 the department; therefore it is in the parent's or
18 guardian's best interest to speak with the department
19 or law enforcement authority or immediately seek the
20 advice of a qualified attorney.



1 (c) The department or appropriate law enforcement
2 authority shall make reasonable efforts to ensure that the
3 notice provided to a parent or guardian under this section is
4 written in a manner that will be understood by the parent or
5 guardian, including but not limited to ensuring that the notice
6 is written in a language understood by the parent or guardian.

7 (d) The department or appropriate law enforcement
8 authority shall request the parent or guardian to sign and date
9 the notice required by subsection (b) as evidence of having
10 received the notice. If the parent or guardian refuses to sign
11 and date the notice upon request, the department or law
12 enforcement authority shall specifically indicate on the notice
13 the department's or law enforcement authority's request to sign
14 and the parent or guardian's refusal to do so. The department
15 or law enforcement authority shall sign the notice as witness to
16 the parent's or guardian's refusal to sign and provide the
17 parent or guardian with a copy of the signed notice at the time
18 of the initial face-to-face contact with the parent or
19 guardian."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 745

Report Title:

Child Abuse or Neglect; Parents and Guardians; Reports; Notice; Rights; Department of Human Services

Description:

Specifies certain rights of a parent or guardian after the department of human services receives a report concerning child abuse or neglect. Requires written notice to be provided to a parent or guardian at the time of any initial face-to-face contact with a child's parent or guardian regarding reported child abuse or neglect.

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