

JAN 20 2023

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# 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-4, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By adding a new definition to be appropriately inserted  
4 and to read:

5           "Immediate harm" means an active, present danger to a  
6 child that is observable and documentable, and that, without  
7 instant intervention, there is probable cause to believe that  
8 continued contact with the child's family will result in serious  
9 harm to the child in the time it would take to obtain a court  
10 order."

11           2. By amending the definition of "imminent harm" to read:

12           "Imminent harm" means [that without intervention within  
13 the next ninety days, there is probable cause to believe that  
14 serious harm to the child will occur or reoccur.] observed  
15 circumstances or behaviors that can be documented demonstrating  
16 that there is a substantial risk that harm to the child will



1 occur or reoccur, but that immediate harm is not occurring to  
2 the child."

3 SECTION 2. Section 587A-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~§~~587A-8~~]~~ Protective custody by police officer  
6 without court order. (a) A police officer shall assume  
7 protective custody of a child without a court order and without  
8 the consent of the child's family [~~, if in the discretion of the~~  
9 ~~police officer, the officer determines that:~~] if there is no  
10 time to obtain a court order and the officer observes and can  
11 articulate on the initial police report that:

- 12 (1) The child is subject to [~~imminent~~] immediate harm
- 13 while in the custody of the child's family;
- 14 (2) The child has no parent, as defined in this chapter,
- 15 who is willing and able to provide a safe family home
- 16 for the child;
- 17 (3) The child has no caregiver, as defined in this
- 18 chapter, who is willing and able to provide a safe and
- 19 appropriate placement for the child; or



1           (4) The child's parent has subjected the child to harm or  
2           threatened harm and the parent is likely to flee with  
3           the child.

4           (b) The department shall assume temporary foster custody  
5 of the child when a police officer has completed the transfer of  
6 protective custody of the child to the department as follows:

7           (1) A police officer who assumes protective custody of a  
8           child shall complete transfer of protective custody to  
9           the department by presenting physical custody of the  
10          child to the department; or

11          (2) If the child is or will be admitted to a hospital or  
12          similar institution, the police officer shall  
13          immediately complete the transfer of protective  
14          custody to the department by notifying the department  
15          and receiving an acknowledgment from the hospital or  
16          similar institution that it has been informed that the  
17          child is under the temporary foster custody of the  
18          department.

19          (c) The officer shall provide an initial written report  
20 containing documented observations of the behaviors and  
21 circumstances that formed the basis for the child's immediate



1 removal to the department within twenty-four hours or the next  
2 business day of assuming protective custody of the child."

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

5 "(a) When the department receives protective custody of a  
6 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) Receive a copy of the initial police report within  
12 twenty-four hours or the next business day;

13 [~~2~~] (3) Make every reasonable effort to inform the  
14 child's parents of the actions taken<sup>[7]</sup> and provide a  
15 copy of the initial police report, unless doing so  
16 would put another person at risk of harm;

17 [~~3~~] (4) Unless the child is admitted to a hospital or  
18 similar institution, place the child in emergency  
19 foster care while the department conducts an  
20 appropriate investigation, with placement preference  
21 being given to an approved relative;



1        [~~(4)~~] (5) With authorized agencies, make reasonable efforts  
 2            to identify and notify all relatives within thirty  
 3            days of assuming temporary foster custody of the  
 4            child; and

5        [~~(5)~~] (6) Within three days, excluding Saturdays, Sundays,  
 6            and holidays:

7            (A) Relinquish temporary foster custody, return the  
 8            child to the child's parents, and proceed  
 9            pursuant to section 587A-11(4), (5), or (6);

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

14          (C) File a petition with the court~~[-]~~ that shall  
 15                include a copy of the initial police report."

16            SECTION 4. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18            SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:




# S.B. NO. 407

**Report Title:**

Child Protective Act; Department of Human Services; Dependent Children; Immediate Harm; Police Report; Temporary Custody

**Description:**

Establishes a definition for "immediate harm" and amends the definition of "imminent harm" for the purpose of the Child Protective Act. Requires a police officer who assumes protective custody of a child who is subject to immediate harm while in the custody of the child's family to provide a written report detailing the observations justifying the immediate removal to the Department of Human Services within twenty-four hours of assuming custody of the child.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

