
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HUMAN SERVICES.

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

1 SECTION 1. The legislature finds that in 2011 Connecticut
2 passed a bill introduced by a family defense lawyer that
3 requires a notification of rights to be issued to families prior
4 to a child abuse investigative interview. While most citizens
5 know about "Miranda rights" through police shows on television,
6 investigations on child abuse are not recognized by parents as
7 having the same requirement. The result is the unknowing waiver
8 of those constitutional rights by parents and infringement of
9 rights by the investigator. Arizona and Texas now have
10 requirements that parents be notified of their rights. Further,
11 after a lawsuit was filed over parents' constitutional rights,
12 New York initiated a pilot program in Brooklyn and the Bronx to
13 issue written notification of rights to parents who were the
14 subject of an allegation of child abuse or neglect. Legislators
15 in Colorado and Idaho have tried to pass similar laws. In 2023
16 the Parental Rights Foundation published a model bill for all
17 states to require notification of rights in child abuse cases.



1 Accordingly, the purpose of this Act is to require that parents
2 be given a written copy of their rights when the department of
3 human services is conducting a child harm investigation.

4 SECTION 2. Section 587A-9, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) When the department receives protective custody of a
7 child from the police, the department shall:

8 (1) Assume temporary foster custody of the child if, in
9 the discretion of the department, the department
10 determines that the child is subject to imminent harm
11 while in the custody of the child's family;

12 (2) Make every reasonable effort to inform the child's
13 parents of the actions taken, unless doing so would
14 put another person at risk of harm;

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



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

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

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

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

(C) File a petition with the court."

SECTION 3. Section 587A-11, Hawaii Revised Statutes, is amended to read as follows:

"§587A-11 Investigation; department powers. (a) Upon receiving a report that a child is subject to imminent harm, has been harmed, or is subject to threatened harm, and when an assessment is required by this chapter, the department shall



1 cause such investigation to be made as it deems to be
2 appropriate.

3 (b) In conducting the investigation, the department shall:

4 (1) At the time of the initial face-to-face contact,
5 provide the parent with written notice of the parent's
6 rights. Those rights shall be provided to the parent
7 in a document that shall be developed by the
8 department and include the following:

9 (A) The parent is not required to permit the
10 department or a police officer to enter the
11 residence of the parent;

12 (B) The parent must be given the allegations prior to
13 an interview;

14 (C) The parent is not required to speak with the
15 department at that time;

16 (D) The parent has the right to record the interview;

17 (E) The parent is entitled to seek representation of
18 an attorney and have an attorney present when the
19 parent is questioned by the department;



1 (F) Any statement made by the parent or any family
2 member may be used against the parent in a
3 hearing initiated pursuant to this chapter;

4 (G) Neither the department nor the police officer is
5 an attorney, and neither may provide legal advice
6 to the parent;

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

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



- 1 (2) Make reasonable efforts to ensure that the notice
2 provided to a parent under this subsection is written
3 in a manner that will be understood by the parent,
4 including but not limited to ensuring that the notice
5 is written in a language understood by the parent;
- 6 (3) Request the parent to sign and date the notice as
7 evidence of having received the notice. If the parent
8 refuses to sign and date the notice upon request, the
9 department shall specifically indicate on the notice
10 the request to sign and the parent's refusal to do so.
11 The department shall sign the notice as witness to the
12 parent's refusal to sign and provide the parent with a
13 copy of the signed notice at the time of the initial
14 face-to-face contact with the parent; and
- 15 (4) Except when an initial contact with a parent results
16 in the immediate or same-day placement of a child into
17 emergency foster care, the notice provided under this
18 subsection shall be implemented, retained in the
19 child's case file, and attached to a court petition in
20 the event of a subsequent removal to foster custody.
- 21 (c) In conducting the investigation, the department 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 with or without consent, to ensure the safety of the
11 child;
- 12 (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; provided that when a child
16 is interviewed at school, the interview shall be
17 recorded and retained in the case file;
- 18 (4) Resolve the matter in an informal fashion that it
19 deems appropriate under the circumstances;
- 20 (5) Close the matter if the department finds, after an
21 assessment, that the child is residing with a



1 caregiver who is willing and able to meet the child's
2 needs and provide a safe and appropriate placement for
3 the child;

4 (6) Immediately enter into a service plan:

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

6 or

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

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



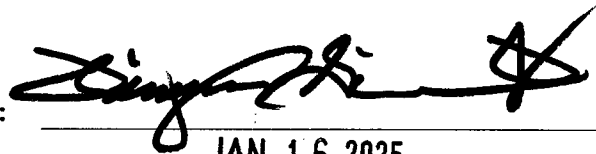
(7) Assume temporary foster custody of the child and file a petition with the court within three days, excluding Saturdays, Sundays, and holidays, after the date on which the department assumes temporary foster custody of the child, with placement preference being given to an approved relative; or

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

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

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

INTRODUCED BY:


JAN 16 2025



H.B. NO. 312

Report Title:

Department of Human Services; Children; Imminent Harm;
Investigation; Written Notice

Description:

Requires the department of human services to provide written notice to a parent of the parent's rights when conducting an investigation regarding a child who is or may be subject to imminent harm.

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

