
A BILL FOR AN ACT

RELATING TO AGGRAVATED CIRCUMSTANCES IN CHILD PROTECTIVE
PROCEEDINGS.

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

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

4 "§587A- Aggravated circumstances. (a) At the return
5 hearing, the court shall determine whether aggravated
6 circumstances are present.

7 (1) If aggravated circumstances are present, the court
8 shall:

9 (A) Conduct a permanency hearing within thirty days,
10 and the department shall not be required to
11 provide the child's parents with an interim
12 service plan or interim visitation; and

13 (B) Order the department to file, within sixty days
14 after the court's finding that aggravated
15 circumstances are present, a motion to terminate
16 parental rights unless the department has



1 documented in the safe family home factors or
2 other written report submitted to the court a
3 compelling reason why it is not in the best
4 interest of the child to file a motion; or

5 (2) If aggravated circumstances are not present or there
6 is a compelling reason why it is not in the best
7 interest of the child to file a motion to terminate
8 parental rights, the court shall order that the
9 department make reasonable efforts to reunify the
10 child with the child's parents and order an
11 appropriate service plan.

12 (b) Whether or not the court finds that aggravated
13 circumstances are present during the return hearing, at any
14 other time during the case prior to the termination of parental
15 rights, the court may, on its own motion or upon the motion of
16 any party, order an evidentiary hearing to determine whether
17 aggravated circumstances are present. If the court finds that
18 aggravated circumstances are present under this subsection, then
19 all applicable portions of subsection (a) (1) and (2) shall
20 apply.



1 (c) The court may consolidate an aggravated circumstances
2 hearing with a termination of parental rights hearing pursuant
3 to section 587A-33 at any time.

4 (d) Any party shall inform the court within a reasonable
5 time upon receipt of evidence of aggravated circumstances."

6 SECTION 2. Section 587A-4, Hawaii Revised Statutes, is
7 amended by amending the definition of "aggravated circumstances"
8 to read as follows:

9 "'Aggravated circumstances" means that:

- 10 (1) The parent has murdered, or has solicited, aided,
11 abetted, attempted, or conspired to commit the murder
12 or voluntary manslaughter of, another child of the
13 parent;
- 14 (2) The parent has committed a felony assault that results
15 in serious bodily injury to the child or another child
16 of the parent;
- 17 (3) The parent's rights regarding a sibling of the child
18 have been judicially terminated or divested;
- 19 (4) The family court, or another court of competent
20 jurisdiction, has found that the parent has tortured
21 the child[+], as described in the offense of torture



1 under section 707-718; provided that a conviction for
2 that offense shall not be required for a court to make
3 a finding under this paragraph;

4 (5) The child is an abandoned infant;

5 (6) The parent has committed sexual abuse against another
6 child of the parent; or

7 (7) The parent is required to register with a sex offender
8 registry under [~~section 113(a) of the Adam Walsh Child~~
9 ~~Protection and Safety Act of 2006,~~] title [42] 34
10 United States Code section [~~16913(a)-.~~] 20913."

11 SECTION 3. Section 587A-28, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) If the court finds that the child's physical or
14 psychological health or welfare has been harmed or is subject to
15 threatened harm by the acts or omissions of the child's family,
16 the court:

17 (1) Shall enter a finding that the court has jurisdiction
18 pursuant to section 587A-5;

19 (2) Shall enter a finding regarding whether, before the
20 child was placed in foster care, the department made



1 reasonable efforts to prevent or eliminate the need to
2 remove the child from the child's family home;

3 (3) Shall enter orders:

4 (A) That the child be placed in foster custody if the
5 court finds that the child's remaining in the
6 family home is contrary to the welfare of the
7 child and the child's parents are not willing and
8 able to provide a safe family home for the child,
9 even with the assistance of a service plan; or

10 (B) That the child be placed in family supervision if
11 the court finds that the child's parents are
12 willing and able to provide the child with a safe
13 family home with the assistance of a service
14 plan;

15 ~~[(4) Shall determine whether aggravated circumstances are~~
16 ~~present.~~

17 ~~(A) If aggravated circumstances are present, the~~
18 ~~court shall:~~

19 ~~(i) Conduct a permanency hearing within thirty~~
20 ~~days, and the department shall not be~~
21 ~~required to provide the child's parents with~~



1 ~~an interim service plan or interim~~
 2 ~~visitation; and~~
 3 ~~(ii) Order the department to file, within sixty~~
 4 ~~days after the court's finding that~~
 5 ~~aggravated circumstances are present, a~~
 6 ~~motion to terminate parental rights unless~~
 7 ~~the department has documented in the safe~~
 8 ~~family home factors or other written report~~
 9 ~~submitted to the court a compelling reason~~
 10 ~~why it is not in the best interest of the~~
 11 ~~child to file a motion.~~

12 ~~(B) If aggravated circumstances are not present or~~
 13 ~~there is a compelling reason why it is not in the~~
 14 ~~best interest of the child to file a motion to~~
 15 ~~terminate parental rights, the court shall order~~
 16 ~~that the department make reasonable efforts to~~
 17 ~~reunify the child with the child's parents and~~
 18 ~~order an appropriate service plan;~~

19 ~~(5)]~~ (4) Shall order reasonable supervised or unsupervised
 20 visits for the child and the child's family, including
 21 with the child's siblings, unless such visits are



1 determined to be unsafe or detrimental to, and not in
2 the best interests of, the child;

3 ~~[(6)]~~ (5) Shall order each of the child's birth parents to
4 complete the medical information forms and release the
5 medical information required under section 578-14.5,
6 to the department. If the child's birth parents
7 refuse to complete the forms or to release the
8 information, the court may order the release of the
9 information over the parents' objections;

10 ~~[(7)]~~ (6) Shall determine whether each party understands
11 that unless the family is willing and able to provide
12 the child with a safe family home, even with the
13 assistance of a service plan, within the reasonable
14 period of time specified in the service plan, their
15 respective parental and custodial duties and rights
16 shall be subject to termination;

17 ~~[(8)]~~ (7) Shall determine the child's date of entry into
18 foster care as defined in this chapter;

19 ~~[(9)]~~ (8) Shall set a periodic review hearing to be
20 conducted no later than six months after the date of
21 entry into foster care and a permanency hearing to be



1 held no later than twelve months after the date of
2 entry into foster care;

3 ~~[(10)]~~ (9) Shall set a status conference, as the court deems
4 appropriate, to be conducted no later than ninety days
5 after the return hearing; and

6 ~~[(11)]~~ (10) May order that:

7 (A) Any party participate in, complete, be liable
8 for, and make every good faith effort to arrange
9 payment for such services or treatment as are
10 authorized by law and that are determined to be
11 in the child's best interests;

12 (B) The child be examined by a physician, surgeon,
13 psychiatrist, or psychologist; and

14 (C) The child receive treatment, including
15 hospitalization or placement in other suitable
16 facilities, as is determined to be in the child's
17 best interests."

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

20 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Judiciary Package; Family Courts; Child Protective Proceedings;
Aggravated Circumstances Hearings

Description:

Incorporates the definition of torture under the Penal Code for purposes of defining aggravated circumstances involving child torture under the Child Protective Act. Authorizes the Family Court to make a finding of aggravated circumstances at any stage of a Child Protective Act proceeding prior to the termination of parental rights, rather than limiting these findings to the return hearing. Effective 7/1/3000. (HD1)

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

