

ACT 105

S.B. NO. 2790

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:

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

“§587A- Rights of children in foster care. (a) The department or an authorized agency shall ensure, whenever possible, that a child in foster care will:

- (1) Live in a home, free from physical, psychological, sexual, and other abuse;
- (2) Receive food, shelter, and clothing;
- (3) Receive medical care, dental services, corrective vision care, and mental health services;

- (4) Be enrolled in a health insurance plan and, within forty-five days of out-of-home placement, be provided with a health assessment and recommended treatment;
- (5) Have regular, supervised or unsupervised, in-person, telephone, or other forms of contact with the child's parents and siblings while the child is in foster care, unless the contact is either prohibited by court order or is deemed to be unsafe by the child's child welfare services worker, therapist, guardian ad litem, or court appointed special advocate. Withholding visitation shall not be used as punishment. If the department or authorized agency denies supervised or unsupervised visits with the child's parents or siblings:
 - (A) If all parties, including the child, agree to the denial of the visits, the department or authorized agency shall submit a written report to the court within five working days to document the reasons why the visits are being denied; or
 - (B) If any party, including the child, disagrees with the denial of the visits, the department or authorized agency shall file a motion for immediate review within five working days that shall include the specific reasons why visits are being denied;
- (6) Receive notice of court hearings, and if the child wishes to attend the hearings, the department or authorized agency shall ensure that the child is transported to the court hearings;
- (7) Have in-person contact with the child's assigned child welfare services worker;
- (8) Have the ability to exercise the child's own religious beliefs, including the refusal to attend any religious activities and services;
- (9) Have a personal bank account if requested and assistance in managing the child's personal income consistent with the child's age and development, unless safety or other concerns require otherwise;
- (10) Be able to participate in extracurricular, enrichment, cultural, and social activities; provided that if a child caring institution or resource caregiver authorizes the participation, the authorization shall be in accordance with the reasonable and prudent parent standard, as defined in title 42 United States Code section 675(10)(A);
- (11) Beginning at age twelve, be provided with age-appropriate life skills training and a transition plan for appropriately moving out of the foster care system, which shall include reunification or other permanency, and written information concerning independent living programs, foster youth organizations, and transitional planning services that are available to all children in foster care who are twelve years of age or older and their resource families;
- (12) If the child is fourteen years of age or older, have the right to be involved in developing a case plan and planning for the child's future;
- (13) If the child is fourteen years of age or older, receive the child's credit report, free of charge, annually during the child's time in foster care and receive assistance with interpreting the report and resolving inaccuracies, including, when feasible, assistance from the child's guardian ad litem; and
- (14) If the child is seventeen years of age, receive prior to aging out of care certain personal records, such as an official or certified copy of the child's United States birth certificate, a Social Security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records or information to access the child's medical records free of charge, immigration docu-

ments, and a driver's license or civil identification card issued by the State; provided that the department or authorized agency shall obtain the personal records for the child.

(b) In addition to the rights established in subsection (a), a child in foster care shall have the following rights:

- (1) To be treated fairly and equally and receive care and services that are culturally responsive and free from discrimination based on race, ethnicity, color, national origin, ancestry, immigration status, gender, gender identity, gender expression, sexual orientation, religion, physical and mental disability, pregnancy or parenting status, or the fact that the child is in foster care;
- (2) To meet with and speak to the presiding judge in the child's case;
- (3) To have regular in-person contact with the child's court appointed guardian ad litem, court appointed special advocate, and probation officer;
- (4) To ask for an attorney, if the child's opinions and requests differ from those being advocated by the guardian ad litem pursuant to section 587A-16(c)(6);
- (5) To attend school and to remain in the child's school of origin unless determined not to be in the child's best interest, and to be provided cost-effective transportation to be maintained in the child's school of origin; provided that if the child changes school during a school year, the child should be enrolled immediately in the new school; and
- (6) To receive educational records to the same extent as all other students.

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

(d) Nothing in this section shall establish a private cause of action for violation of any provision of this section."

SECTION 2. Section 587A, part I, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"PART I. SHORT TITLE, PURPOSE, CONSTRUCTION, ~~[GUIDING PRINCIPLES,]~~ RIGHTS, AND DEFINITIONS"

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Approved July 5, 2018.)

Note

1. Edited pursuant to HRS §23G-16.5.