



GOV. MSG. NO. 1235

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 29, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 29, 2016, the following bill was signed into law:

HB2350 HD2 SD1 CD1

RELATING TO FOSTER CHILDREN
ACT 133 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

ORIGINAL

on JUN 29 2016¹

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

ACT 133
H.B. NO.

2350
H.D. 2
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO FOSTER CHILDREN.

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

1 SECTION 1. The legislature finds that the Preventing Sex
2 Trafficking and Strengthening Families Act of 2014, Public Law
3 113-183, expands the opportunities for children in foster care
4 to participate in age or developmentally appropriate
5 extracurricular, enrichment, cultural, and social activities
6 equal to their classmates and peers in accordance with the
7 "reasonable and prudent parent standard".

8 The Preventing Sex Trafficking and Strengthening Families
9 Act, title 42 United States Code section 675(10)(A), defines the
10 "reasonable and prudent parent standard" as "the standard
11 characterized by careful and sensible parental decisions that
12 maintain the health, safety, and best interests of a child while
13 at the same time encouraging the emotional and developmental
14 growth of the child, that a caregiver shall use when determining
15 whether to allow a child in foster care under the responsibility
16 of the State to participate in extracurricular, enrichment, and
17 social activities".



1 The legislature further finds that qualified immunity from
2 civil liability for injury to a child resulting from
3 participation in extracurricular activities will encourage and
4 allow resource caregivers and child caring institutions to make
5 reasonable parenting decisions and will remove barriers to
6 recruitment and retention of high quality resource caregivers.
7 Qualified immunity from liability for resource caregivers and
8 child caring institutions that authorize a child's participation
9 in ordinary childhood activities in accordance with the
10 reasonable and prudent parent standard as defined under federal
11 law protects and enhances the capacity of resource caregivers
12 and child caring institutions and to encourage and support
13 children.

14 The Preventing Sex Trafficking and Strengthening Families
15 Act also requires that children in foster care who are fourteen
16 years of age and older be included in case planning and be
17 informed of their rights and the options available to them. The
18 federal Act lowered the age from sixteen to fourteen years old
19 in recognition that those children should be included in the
20 important planning processes that will strengthen their self-



1 sufficiency and better prepare them for successful transition
2 from foster care into adulthood.

3 Compared to their peers, young people who have experienced
4 foster care are more likely to become homeless and unemployed
5 when they age out of foster care, are less likely to complete
6 high school or postsecondary education, and are more likely to
7 have physical, developmental, and mental health challenges.
8 Unlike their peers, most lose their support system when they
9 reach age eighteen and are discharged from state custody.

10 The purpose of this Act is to bring the State into
11 compliance with the Preventing Sex Trafficking and Strengthening
12 Families Act of 2014; expand the opportunities for children in
13 foster care to participate equally with their classmates and
14 peers by providing qualified immunity from liability for
15 resource caregivers and child caring institutions for their
16 decisions regarding the child's participation in age or
17 developmentally appropriate extracurricular, enrichment,
18 cultural, and social activities; and require courts, in
19 proceedings for children aged fourteen years or older, to make
20 findings and include in the permanent plan the services needed



1 to assist the child to transition from foster care to
2 independent living.

3 SECTION 2. Section 346-16, Hawaii Revised Statutes, is
4 amended by amending the definition of "foster boarding home" to
5 read as follows:

6 "~~["Foster boarding]~~ "Resource family home" means any
7 boarding home in which:

8 (1) One or more, but fewer than six, minor children are
9 received; ~~[and]~~ or

10 (2) Six or more minor siblings are placed together in the
11 best interests of the children,

12 for care and maintenance apart from their parents or guardians
13 on a twenty-four hour basis for fee or charge."

14 SECTION 3. Section 346-17, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§346-17 Child placing organizations, child caring
17 institutions, and ~~[foster boarding]~~ resource family homes;
18 authority over, investigation of, and standards for. (a) No
19 child placing organization shall engage in the investigation,
20 placement, and supervision of minor children in foster care



1 unless it meets the standards of conditions, management, and
2 competence set by the department of human services.

3 (b) No child caring institution shall receive minor
4 children for care and maintenance unless it meets the standards
5 of conditions, management, and competence to care for and
6 ~~[train]~~ educate children set by the department.

7 (c) No ~~[foster boarding]~~ resource family home shall
8 receive for care and maintenance any child unless:

9 (1) It meets with the standards of conditions, management,
10 and competence set by the department; and

11 (2) The ~~[foster boarding]~~ resource family home applicant
12 successfully completes ~~[foster parent]~~ resource
13 caregiver training; provided that ~~[after July 1,~~
14 ~~1999,~~] new special licensed or relative ~~[foster]~~
15 resource family home ~~[care providers]~~ caregivers
16 licensed for a specific child or children shall
17 successfully complete ~~[foster parent]~~ resource
18 caregiver training within the first year following
19 placement of the first child into the new special
20 licensed or relative ~~[foster]~~ resource family home.



1 (d) The department shall adopt rules pursuant to chapter
2 91 relating to:

3 (1) Standards for the organization and administration of
4 child placing organizations; and

5 (2) Standards ~~[of]~~ for the conditions, management,
6 operations, and competence of child caring
7 institutions and resource family homes for the care
8 [and training], education, and protection of minor
9 children ~~[in child caring institutions and foster~~
10 ~~boarding homes; and~~

11 ~~(3) standards of conditions and competence of operation of~~
12 ~~foster boarding homes as may be necessary to protect~~
13 ~~the welfare of children].~~

14 (e) All rules of the department shall have the force and
15 effect of law, and any violation thereof or of this section
16 shall be punishable by a fine of not more than \$200.

17 (f) As a condition for a certificate of approval, any
18 organization, institution, or ~~[foster boarding]~~ resource family
19 home, including all adults residing in the ~~[foster boarding]~~
20 resource family home, shall:



- 1 (1) Meet all standards and requirements established by the
- 2 department;
- 3 (2) Be subject to criminal history record checks in
- 4 accordance with section 846-2.7, and child abuse and
- 5 neglect registry checks, in accordance with
- 6 departmental procedures; and
- 7 (3) Provide consent to the department or its designee to
- 8 obtain criminal history record and child abuse and
- 9 neglect registry information.

10 New employees of the organization, institution, or home shall be
11 fingerprinted within five working days of employment.

12 (g) Upon approval of the organization, institution, or
13 [~~foster boarding~~] resource family home, the department or its
14 authorized agents shall issue a certificate of approval that
15 shall continue in force for one year or for two years if the
16 organization, institution, or [~~foster boarding~~] resource family
17 home meets the criteria established by the department, unless
18 sooner revoked for cause. The certificate shall be renewed by
19 the department or its authorized agents, after annual or
20 biennial investigation, if the investigation discloses that the
21 organization, institution, or [~~foster boarding~~] resource family

1 home continues to meet the standards set by the department. The
2 certificate of approval shall be a permit to operate the child
3 placing organization, child caring institution, or [~~foster~~
4 ~~boarding~~] resource family home, and no person or organization
5 shall operate or maintain the organization, institution, or
6 [~~foster boarding~~] resource family home without the certificate.

7 (h) Any child placing organization, child caring
8 institution, or [~~foster boarding~~] resource family home shall be
9 subject to review or investigation at any time and in a manner,
10 place, and form as may be prescribed by the department or its
11 authorized agents.

12 (i) As used in this section, [~~foster parent~~] "resource
13 caregiver training" means training or instruction in special
14 skills and knowledge to care for foster children.

15 (j) The department or its designee shall request:

16 (1) A criminal history record check through the Hawaii
17 criminal justice data center on all operators,
18 employees, and new employees of child care
19 institutions, child placing organizations, and [~~foster~~
20 ~~boarding~~] resource family homes, including all adults
21 residing in the [~~foster boarding~~] resource family



1 homes, subject to [~~licensure~~] checks pursuant to
2 section 846-2.7; and

3 (2) A child abuse and neglect registry check on all
4 operators, employees, and new employees of child care
5 institutions, child placing organizations, and adults
6 residing in a [~~foster boarding~~] resource family home
7 subject to licensure in accordance with departmental
8 procedures.

9 (k) The department may deny a certificate of approval if
10 an operator, employee, or new employee of a child care
11 institution or child placing organization's facility, or any
12 adult residing in a [~~foster boarding~~] resource family home, was
13 convicted of a crime other than a minor traffic violation
14 involving a fine of \$50 or less and if the department finds that
15 the criminal history record or child abuse registry history of
16 an operator, employee, new employee, or adult residing in a
17 [~~foster boarding~~] resource family home poses a risk to the
18 health, safety, or well-being of the children in care.

19 (1) The department or its designee shall make a name
20 inquiry into the criminal history records for the first two
21 years of certification of a [~~foster boarding~~] resource family.



1 home and annually or biennially thereafter and into the child
2 abuse and neglect registry in accordance with departmental
3 procedures depending on the certification status of the home.

4 (m) Any resource caregiver or child caring institution
5 issued a certificate of approval pursuant to this section shall
6 be immune from liability in a civil action to recover damages
7 for injury, death, or loss to a person or property that results
8 by authorizing a child in the caregiver's or institution's
9 foster care to participate in an extracurricular, enrichment,
10 cultural, or social activity; provided that the authorization is
11 in accordance with the reasonable and prudent parent standard as
12 defined in title 42 United States Code section 675(10)(A)."

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

15 "(a) The department or an authorized agency, as resource
16 family or permanent custodian, shall abide by the following
17 guiding principles and ensure that a child in foster care:

18 (1) Lives in a safe and healthy home, free from physical,
19 psychological, sexual, and other abuse;

20 (2) Has adequate:

21 (A) Food that is nutritious and healthy;



- 1 (B) Clothing;
- 2 (C) Medical care, dental and orthodontic services,
- 3 and corrective vision care; and
- 4 (D) Mental health services;
- 5 (3) Has supervised or unsupervised in-person, telephone,
- 6 or other forms of contact with the child's parents and
- 7 siblings while the child is in foster care, unless
- 8 prohibited by court order;
- 9 (4) Has in-person contact with the child's assigned child
- 10 protective services worker, guardian ad litem, and if
- 11 applicable, the child's probation officer;
- 12 (5) Meets with the presiding judge in the child's case;
- 13 (6) Is enrolled in a comprehensive health insurance plan
- 14 and, within forty-five days of out-of-home placement,
- 15 is provided with a comprehensive health assessment and
- 16 treatment as recommended;
- 17 (7) May freely exercise the child's own religious beliefs,
- 18 including the refusal to attend any religious
- 19 activities and services;
- 20 (8) Has a personal bank account and assistance in managing
- 21 the child's personal income consistent with the



1 child's age and development, unless safety or other
2 concerns require otherwise;

3 (9) Has the right to attend school [~~and participate in~~
4 ~~appropriate extracurricular activities~~] and, if the
5 child is moved during a school year, has the right to
6 complete the school year at the same school, if
7 practicable; [and]

8 (10) Beginning at age twelve, is provided with age-
9 appropriate life skills training and a transition plan
10 for appropriately moving out of the foster care
11 system, as well as written information concerning
12 independent living programs, foster youth
13 organizations, transitional planning services, and
14 independent living case management programs that are
15 available to all children in foster care who are
16 twelve years of age or older and their resource
17 families[-]; and

18 (11) May participate in extracurricular, enrichment,
19 cultural, and social activities; provided that the
20 child caring institution or resource caregiver
21 authorizes the participation in accordance with the



1 reasonable and prudent parent standard as defined in
2 title 42 United States Code section 675(10) (Ap)."

3 SECTION 5. Section 587A-31, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) At each permanency hearing, the court shall make
6 written findings pertaining to:

7 (1) The extent to which each party has complied with the
8 service plan and progressed in making the home safe;

9 (2) Whether the current placement of the child continues
10 to be appropriate and in the best interests of the
11 child or if another in-state or out-of-state placement
12 should be considered;

13 (3) The court's projected timetable for reunification or,
14 if the current placement is not expected to be
15 permanent, placement in an adoptive home, with a legal
16 guardian, or under the permanent custody of the
17 department or an authorized agency;

18 (4) Whether the department has made reasonable efforts, in
19 accordance with the safety and well-being of the
20 child, to:



- 1 (A) Place siblings who have been removed from the
2 family home with the same resource family,
3 adoptive placement, or legal guardians; and
- 4 (B) Provide for frequent visitation or other ongoing
5 interactions with siblings who are not living in
6 the same household;
- 7 (5) The appropriate permanency goal for the child,
8 including whether a change in goal is necessary;
- 9 (6) Whether the department has made reasonable efforts to
10 finalize the permanency goal in effect for the child
11 and a summary of those efforts;
- 12 (7) The date by which the permanency goal for the child is
13 to be achieved;
- 14 (8) In the case of a child who has attained [~~sixteen~~]
15 fourteen years of age, the services needed to assist
16 the child with the transition from foster care to
17 independent living; and
- 18 (9) Consultations with the child in an age-appropriate
19 manner about the proposed plan for permanency or
20 transition from foster care to independent living."



1 SECTION 6. Section 587A-32, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The permanent plan shall:

4 (1) State whether the permanency goal for the child will
5 be achieved through adoption, legal guardianship, or
6 permanent custody;

7 (2) Establish a reasonable period of time by which the
8 adoption or legal guardianship shall be finalized;

9 (3) Document:

10 (A) A compelling reason why legal guardianship or
11 permanent custody is in the child's best
12 interests if adoption is not the goal; or

13 (B) A compelling reason why permanent custody is in
14 the child's best interests if adoption or legal
15 guardianship is not the goal;

16 (4) Establish other related goals, including those
17 pertaining to the stability of the child's placement;
18 education; health; therapy; counseling; relationship
19 with the child's birth family, including visits, if
20 any; cultural connections; and preparation for
21 independent living;



1 (5) If a child has reached the age of [~~sixteen,~~] fourteen,
2 describe the services needed to assist the child with
3 the transition from foster care to independent living;
4 and

5 (6) Describe the methods for achieving the goals and
6 objectives set forth in paragraphs (4) and (5)."

7 SECTION 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act, upon its approval, shall take effect
10 on July 1, 2016.

APPROVED this 29 day of JUN , 2016



GOVERNOR OF THE STATE OF HAWAII

