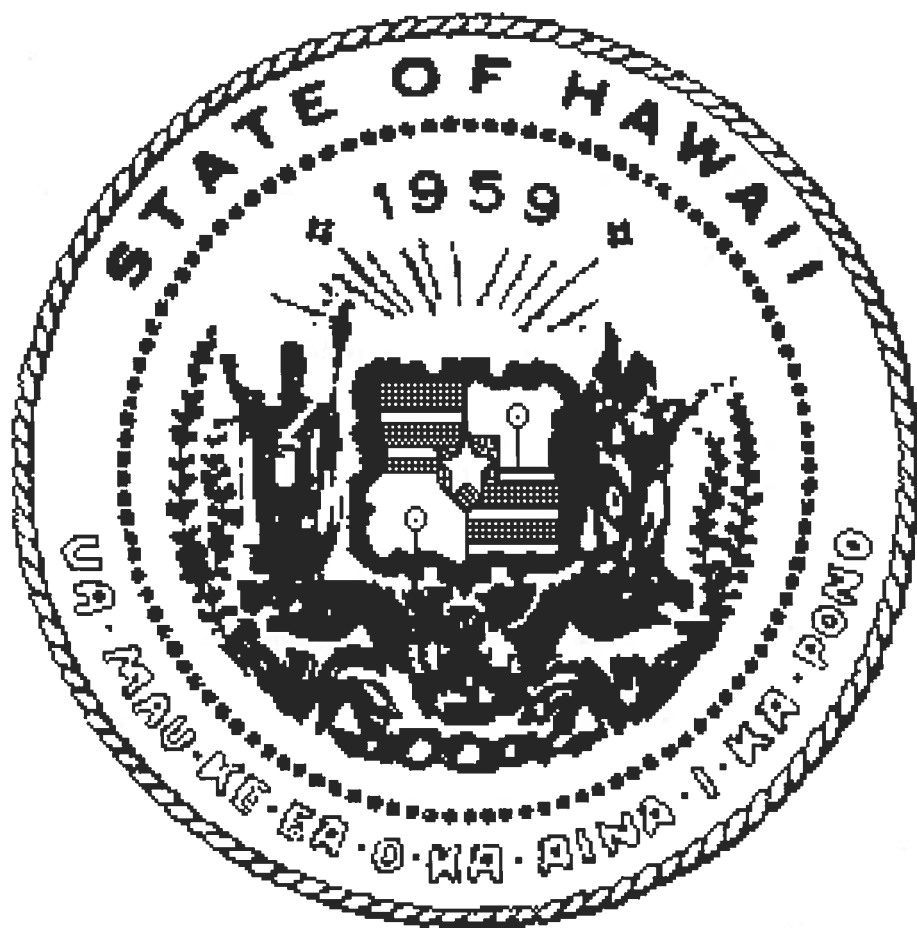


A GUIDE TO CHILD WELFARE SERVICES



State of Hawaii
Department of Human Services
Social Services Division
Child Welfare Services Branch

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What is Child Welfare Services and what does the Child Welfare Services Branch do?

Child welfare services are services provided by the Department of Human Services, Child Welfare Services (CWS) Branch, to children and their families when the children are reported to have been abused and/or neglected or to be at risk for abuse and/or neglect. These services include child protection, family support, foster care, adoption, independent living, and licensing of resource family homes, group homes, and child placing organizations.

The mission of the Child Welfare Services Branch is to ensure the safety and permanency of children in their own homes or, when necessary, in out-of-home placements. When a child cannot be safely returned to the family within a reasonable time frame, we proceed with a permanent placement for the child through adoption, legal guardianship, or other long-term substitute care. The Child Welfare Services Branch has offices on the islands of Oahu, Hawaii, Kauai, Maui, Molokai, and Lanai.

What is Child Abuse or Neglect?

The law requires parents to provide their children with a safe family home, free from child abuse and/or neglect. Child abuse and neglect is often referred to as harm, and risk for child abuse and neglect is often referred to as threatened harm. Child abuse or neglect includes physical abuse or neglect, medical neglect, psychological abuse or neglect, inadequate care and supervision, sex abuse, or giving illegal drugs to a child by a family member, legal guardian, or a person responsible for that child's care.

You can also refer to the Hawaii Revised Statutes (HRS) Chapter 587A, which defines child abuse and neglect in more detail.

How does CWS receive a report?

Any person who has reason to believe that a child has been or may be abused and/or neglected can immediately report to CWS or to the police department. The law requires certain people to report child abuse and/or neglect. These include doctors, nurses, other health-related professionals; employees or officers of schools; employees in social, medical, hospital, or mental health services, including financial assistance; employees or officers of any law enforcement agency; and individual providers or employees or officers of any child care facility.

Those who are required to report and who knowingly fail to report, or who knowingly fail to provide additional information, or who prevent another person from reporting such an incident, shall be guilty of a petty misdemeanor. A person who has been convicted of a petty misdemeanor may be fined or sentenced to imprisonment for a definite term as determined by the court. For more information on mandated reporters, refer to HRS Chapter 350.

Can I find out who made the report?

No. According to HRS Chapter 350-1.4 (b), we must make every reasonable good faith effort to maintain the confidentiality of the name of the individual who makes a child abuse report. The name of the individual can only be released if the individual agrees or by court order.

What happens during the assessment?

A CWS social worker is assigned to assess the report and to determine if it is true. The social worker will gather as much information as possible by talking to you, the child, other family members and if necessary, others in the community such as neighbors, the school, and pediatrician. A decision whether the report is confirmed, not confirmed, or unsubstantiated must be made within sixty days of the date the report was accepted for assessment.

What right does the CWS social worker have to come to my home?

CWS is required by law (HRS Chapter 350, HRS Chapter 587A) to immediately take appropriate action on all reports of child abuse and neglect. In order to do this as fairly and as thoroughly as possible, the CWS social worker needs to talk to you and your family. The CWS social worker may also need to talk to other people in order to complete the assessment.

Can the CWS social worker interview my child without my consent?

Yes. HRS Chapter 587A-11 (2) allows the CWS social worker to interview the child without the presence or prior approval of the child's family.

What are my rights during the CWS assessment?

- To know the allegations of child abuse and/or neglect
- To know whether the report of child abuse and/or neglect is confirmed, unconfirmed or unsubstantiated
- To know what action, if any, CWS will take
- To hire an attorney
- To have an advocate

What is an advocate?

An advocate can be a relative, a friend or someone from your church or community, whose support you want during your involvement with CWS. The advocate can be an attorney or a non-attorney.

You have the right to ask CWS to have your advocate participate in your CWS case. If your case goes to Family Court, you have the right to ask the Family Court to have your advocate participate in the court's proceedings.

Will the police get involved?

The police may investigate with the CWS social worker or conduct their own investigation. Child abuse and neglect reports can be made to CWS or to the police department. CWS forwards all reports to the police and the police determine whether they will conduct a criminal investigation.

Will my child get taken away from me?

If a law enforcement officer determines that a child is unsafe in his/her home, the law enforcement officer will remove the child and release the child to the temporary custody of CWS and for foster care placement.

Law enforcement officers are the only ones who have the legal authority to remove a child from his/her parents. CWS does not have this authority.

What happens after my child is released to the temporary foster custody of CWS?

CWS has three working days to assess the safety of your home. If CWS determines that your home is safe, your child will be returned to your home by the third working day.

What happens if CWS determines that my home is not safe and that my child must remain in foster custody?

Foster custody is the legal status defined by HRS Chapter 587A-4 and means that the child placed outside of the family home with the agreement of the legal custodian or after the court has determined that the child's family is not presently willing and able to provide the child with a safe home, even with the assistance of a service plan. See also page 7 "What is a case plan?"

CWS may ask you to sign a Voluntary Foster Custody Agreement to allow your child to stay in foster custody while CWS works with you to identify the services that are needed to make your home safe for your child's return. If you sign the Voluntary Foster Custody Agreement, you have the right to verbally cancel or terminate the agreement and ask for your child to be returned. CWS must either return your child to you or seek law enforcement's intervention to have your child remain in CWS custody.

Or, CWS may file a temporary foster custody petition with the Family Court. Once a petition is filed in Family Court, a hearing will be scheduled within 2 working days from the date the temporary foster custody petition is filed.

Does foster custody mean my child is in foster care placement?

Yes. The primary goal of CWS is to maintain the child safely in the family home. When this is not possible, your child will be placed in foster care and CWS will make every effort to place your child with your relatives or family friends who are able to meet foster home licensing requirements as foster parents for the child. You will have visits with your child, unless CWS and/or Family Court determine that visitation is not in your child's best interest. You can provide names of individuals who can help with transporting the children or supervising the visits.

Will CWS allow my relatives to be resource caregivers (formerly referred to as foster parents) for my child who is in CWS custody?

CWS is committed to keeping your child safe from abuse and neglect and maintaining family connections. CWS will make every reasonable effort to place your child with appropriate relatives, kin, or family friends, who are able to provide your child with a safe, protective and loving home environment while CWS works together with you to resolve safety issues that led to your child's removal from your home.

CWS is committed to aggressively finding family and relatives, **both maternal and paternal**, who can help care for your child. CWS believes that it is less traumatic for your child to be placed with relatives, kin or family friends. However, CWS needs your help to identify appropriate relatives, kin or family friends, who can meet Federal and State resource home (formerly referred to as foster home)

licensing requirements. If you have more questions about the requirements, your child's CWS worker can help explain the requirements further. An Ohana Conference can also help you and your relatives, kin or family friends, understand licensing requirements. You are entitled to have an Ohana Conference and can make your request to your CWS worker or to your attorney or the Family Court.

CWS has a contract with Partners In Development Foundation (PIDF) to implement the Hui Hoomalu project to recruit, train, conduct home studies, and provide support services to resource caregivers. Also, PIDF's Kokua Ohana project focuses on the recruitment and licensing of Native Hawaiian resource caregivers.

Because children need stable and consistent care while they are in foster care, CWS wants to place children with appropriate relatives, kin or family friends, right away. Once your child is settled in a non-relative resource home, it becomes difficult for CWS to remove your child and place him/her with relatives, kin or family friends afterwards. There have been situations where children were adopted outside of their families because appropriate family members were not identified at the start of the children's entering foster care.

This is why CWS needs your help by identifying appropriate relatives, kin or family friends, as soon as possible, preferably within the first 30 days after the child enters foster care. Parents are often reluctant to tell relatives, kin or family friends, about their involvement with CWS. Do not delay in providing names of relatives, kin or family friends, to your CWS worker or to your attorney or to the Family Court. Also, CWS encourages relatives, kin or family friends, to come forward themselves and call CWS as soon as possible if they are interested in being a resource caregiver for your child.

How can CWS help me?

CWS provides services and referrals to help strengthen families. Services may include:

- Family conference or Ohana Conference
- Parenting education, support groups
- Individual, marital, or family counseling
- Substance abuse treatment
- In-home support and outreach, child care
- Emergency help with food, clothing, rental deposit
- Foster care

Your CWS social worker can provide you with a list of available resources. Some services are not always available in every area; however, CWS makes reasonable efforts to secure the services that you and your family need.

What is a case plan?

When services are needed, CWS will develop a case plan (like a road map) with you to identify services to help your family provide a safe family home for your child. The case plan is made with your input and includes:

- The goals to be accomplished and why
- The services you and your family need
- How and by whom services are to be given
- The responsibilities for you, CWS, and others (e.g., foster parents) who are participating in the case plan
- When the goals are to be completed
- The consequences if the services are not completed and the goals are not accomplished

What can I do if I disagree with the findings of the CWS assessment?

If your case is not involved with Family Court, you can request to speak with the social worker's supervisor or administrator, and you can also request an Administrative Hearing.

If your case is involved with Family Court, you can share your concerns with the court.

How can I make sure that the CWS record includes my comments or corrections that I think should be made?

We encourage you to submit your comments or corrections in writing. Your written documentation will be included in the CWS record.

If your case is involved with Family Court, we encourage you to submit your written documentation to the court also.

Can I have my name removed from the CWS database?

Yes, in some circumstances. HRS Chapter 350-2 (d) permits the Department to maintain a database of reported child abuse or neglect cases and your case will be maintained by the Department to assist in future risk and safety assessments. HRS Chapter 350-2 (d) also requires the Department to remove or expunge your name from the Department's database if the child abuse report is unsubstantiated (the report was found to be made frivolously or in bad faith) or the Department's petition arising from the child abuse report was dismissed by the Family Court.

If CWS confirms child abuse or neglect, the information is entered into the Department's database to help with future risk and safety assessments. The information may be used in the future with your informed consent, as provided by Federal and State laws and DHS Rules, for a background check for employment, or if you apply to be a resource caregiver or a childcare provider.

If CWS does not confirm child abuse or neglect, the information is entered into the Department's database to help with future risk and safety assessments. The information will not be

used in the future as part of a background check for employment, or if you apply to be a resource caregiver or a childcare provider.

Do I need a lawyer?

- You have the right to consult with a lawyer on your own at any time during CWS' involvement with your family.
- If your case goes to Family Court, you are encouraged to fill out the Family Court's application for a lawyer. The Family Court will decide whether you are eligible for a court-appointed attorney. Otherwise, you may hire your own attorney.
- If you have an advocate, you have the right to ask CWS that your advocate participate in your CWS case. If your case goes to Family Court, you have the right to ask the Family Court for permission to have your advocate participate in the court proceeding.

What is a Family Court hearing?

CWS submits a petition to the Family Court when CWS determines that the family cannot or will not do what is necessary to ensure the safety of a child. There is a hearing before a judge to determine whether there is sufficient reason for the State to intervene on your child's behalf. The CWS social worker will inform you when a petition is filed with Family Court and will provide you with the forms to complete to apply to Family Court for a court-appointed attorney.

What about my child's rights?

If a Family Court proceeding is required, the child will be appointed a guardian ad litem (GAL) or Court Appointed Special Advocate (CASA) who will protect your child's interests during the legal proceedings.

What if I do not agree with the Family Court's order?

WHAT FOLLOWS IS A SIMPLIFIED VERSION OF THE APPEAL PROCESS. IT IS NOT INTENDED AS LEGAL ADVICE. IN THE EVENT YOU DECIDE TO APPEAL A COURT'S DECISION, WE STRONGLY

RECOMMEND THAT YOU CONSULT WITH AN ATTORNEY TO ASSIST YOU WITH THE PROCESS.

- If you disagree with the Family Court's order and you want to appeal, you **MUST** file a "Motion for Reconsideration" within 20 calendar days from the date of the court's order. **Calendar days include weekends and holidays.**
- If the Family Court denies the "Motion for Reconsideration" and you want to appeal further, you **MUST** file a "Notice of Appeal" with the Family Court within 30 calendar days from the date of the court's order.
- Either the Intermediate Court of Appeals or the Supreme Court will review your case and will decide whether the Family Court's order was correct.
- If the Intermediate Court of Appeals decides your case and you disagree with the decision, you must file a "writ" (similar to a motion) within 30 calendar days with the Supreme Court to ask the Supreme Court to review the Intermediate Court of Appeal's decision.
- If the Supreme Court decides your case and you disagree with the decision, a "Motion for Reconsideration" must be filed within 10 calendar days with the Supreme Court.

Can I get my child back after losing my parental rights?

The termination of your parental rights is a legal decision made by the Family Court that you could not provide a safe family home for your child while your child was in foster care, even with the assistance of a case plan, within a reasonable period of time, not to exceed two years from the date when your child was first placed in foster custody.

Once your parental rights are terminated, the Family Court places your child under the Department's permanent custody and your child will be placed in an alternate permanent placement such as adoption or placed in the permanent custody of another caretaker.

Can my parental rights be reinstated?

If your parental rights were terminated, and your child has been under the permanent custody of DHS for at least 12 months, and your child has not been adopted or placed in the permanent custody of another caretaker, according to HRS Chapter 587A-34, DHS, or the child's guardian ad litem can file a Motion to Reinstate your parental rights to your child. You have to show DHS and the Family Court that you have made extraordinary changes in your life and you are now

ready to assume care of your child. The court will review the Motion and decide whether to give you another chance to care for your child.

Can I visit my child after losing my parental rights?

The Department strongly supports maintaining permanent connections with birth parents. However, if your child has been adopted or placed in the permanent custody of another caregiver, the child's caregiver has the right to decide whether to allow you to visit with your child.

If your child has not been adopted or placed in the permanent custody of another caregiver, according to HRS Chapter 587A-33 (5)(d), you may be allowed to visit your child only if DHS, the child's guardian ad litem, and the Family Court determine that your visit with the child is in your child's best interest. You may contact the Department to request contact with your child.

How can I get more information?

You can review Hawaii Administrative Rule (HAR) 17-1610, which pertains to CWS, via the Internet at <http://humanservices.hawaii.gov> or in a CWS office or in the Office of the Lieutenant Governor. If you would like a copy of HAR, a fee will be charged to cover the photocopying cost. You can review HRS Chapters 350 and 587A of the Hawaii Revised Statutes, the laws that pertain to child abuse and neglect, via the Internet at or in the reference section of your state library.