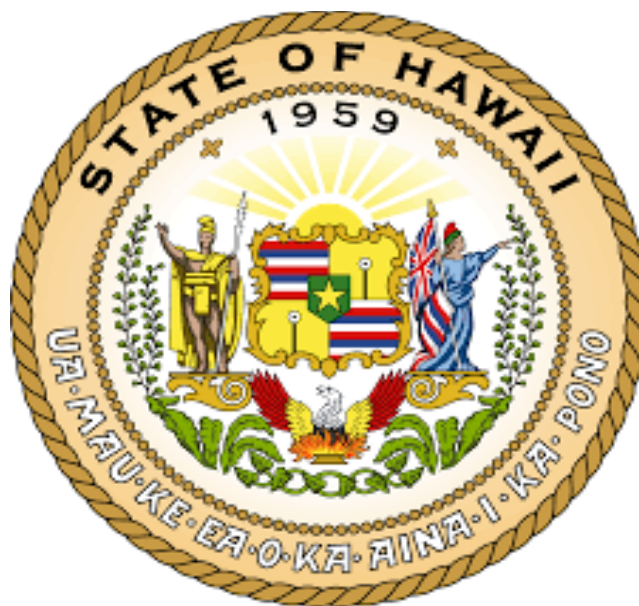


# *A GUIDE TO CHILD WELFARE SERVICES*



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

Revised October 2019

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## ***What are Child Welfare Services? What does the Child Welfare Services Branch do?***

The Child Welfare Services (CWS) Branch is committed to working collaboratively with families and communities to help keep children safe. Partnering with you and your family is CWS' priority.

Child Welfare Services are services provided by the Department of Human Services (DHS), Social Services Division (SSD), Child Welfare Services Branch to children and their families when the children are reported to have been abused and/or neglected or are reported to be at risk for abuse and/or neglect. These services include child protection, prevention, and diversion services to keep children out of foster care. Child Welfare Services also include family support, foster care, adoption, legal guardianship, independent living, adoption assistance and guardianship payments, and licensing of resource caregivers, group homes, and child placing organizations.

The mission of the Child Welfare Services Branch is to ensure the safety, permanency, and wellbeing of children in their own homes first or, when necessary, in out-of-home placements. When a child cannot be safely returned to the family within a reasonable time frame, CWS will proceed with establishing a permanent placement for the child through adoption, legal guardianship, or another 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 and Neglect?***

The law requires parents to provide their children with a safe family home, free from child abuse and 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; a parent/guardian/caregiver giving illegal drugs to a child; or trafficking children for sex and/or labor.

You can refer to the Hawaii Revised Statutes (HRS) §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, or *has been or may be* a victim of sex or labor trafficking, can immediately report to CWS or to the police department. Hawaii State law requires certain people (mandated reporters) to report suspected child abuse and/or neglect. Mandated reporters include doctors, nurses, other health 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, please refer to HRS §350.

### ***Can I find out who made the report?***

**No.** According to HRS §350-1.4 (b), CWS must make every reasonable good faith effort to maintain the confidentiality 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 caseworker is assigned to assess the report and to determine if child abuse or neglect has occurred or will occur soon. The caseworker will gather as much information as possible by talking to you, your child(ren), other family members, and, if necessary, others in the community, such as neighbors, school staff, and your child's pediatrician. A decision whether the report is confirmed or not must be made within sixty (60) days of the date that the report was accepted for assessment.

### ***Why is the CWS caseworker coming to talk to me?***

HRS 350-2 and HRS §587A-11 require CWS 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 caseworker needs to talk to you and your family. CWS shall share the concerns in the report with you. CWS wants to understand your perspective on what has happened. The CWS caseworker may also need to talk to other people in order to complete an assessment to ensure safety and well-being of your child in the home.

### ***What happens if I don't allow the CWS caseworker to enter my home or interview my child?***

CWS caseworkers are trained to talk to your family in a professional and respectful way. If you don't want to let the CWS caseworker into your family home, please tell the CWS caseworker right away. The CWS worker cannot enter your home without your consent or a court order. If you tell CWS

caseworkers that you don't want them to enter your home, they will leave your home immediately, and will seek other ways to complete the assessment to make sure your child is safe at home. The CWS caseworker may return to your home with a police officer, or a court order/search warrant to enter your home to check on the child.

If you choose not to talk to the CWS caseworker, and the caseworker still has concerns about your child's safety, the result may be that your child is removed from your care.

### *Can the CWS caseworker interview my child without my consent?*

**Yes.** HRS §587A-11 (3) allows the CWS caseworker to interview the child without the presence or prior approval of the child's family, and assume protective custody of the child for the purpose of conducting the interview.

### *What are my rights during the CWS assessment?*

**You have the right to:**

- 1) Know the child abuse and/or neglect concerns about you, at the time of your first contact with CWS.
- 2) Request an In-Home Safety Plan be developed to prevent child's removal.
- 3) Request an Ohana Conference (Family Meeting).
- 4) Know whether the report of child abuse and/or neglect is **Confirmed** or **Not Confirmed**.
- 5) Know what action, if any, CWS will take.
- 6) Hire an attorney, and have your attorney present during your interview with CWS.
- 7) Ask for an attorney, if your case is taken to court and you cannot afford one.
- 8) Request that an advocate participate in your CWS case.
- 9) Cancel or rescind your agreement to voluntary foster placement at any time.
- 10) Immediately provide CWS with names of relatives or friends for CWS to check as placement resources for your child.

### *What is an In-Home Safety Plan?*

During CWS' assessment of your ability to provide a safe home for your child, your CWS caseworker may identify safety concerns that can be managed with the assistance of an In-Home Safety Plan, so that your child can remain living with you in your home. This In-Home Safety Plan will be developed with you to prevent your child from being removed from your home. The contents of

the In-Home Safety Plan will be unique to your family and your living situation. Examples of activities in an In-Home Safety Plan include: the commitment of a safe neighbor to stay in your home and watch your children after school until you get home from work, your participation in intensive home-based services, potentially dangerous parent living elsewhere for a period of time, your monitoring your spouse's pain medication, putting child safety locks on cabinets, daily visits from a public health nurse, or the children's grandparent moving in for a few months to help watch and care for the children.

You may be asked to help develop and sign an In-Home Safety Plan. Your agreement and signature are voluntary.

### *What is an advocate?*

An advocate can be a relative, a good 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 Judge to allow your advocate to participate in the court's proceedings.

### *Will the police be involved?*

**Yes**, it is likely. Many times the local police do joint investigations with the CWS caseworker and sometimes they conduct their own investigations.

Concerns about child abuse and neglect can be reported to CWS or to the police department. CWS forwards all intake reports of child abuse/neglect to the police, and the police determines whether a crime may have been committed and if they will conduct a criminal investigation.

### *Will my child be removed from me?*

If a law enforcement officer determines that a child is unsafe in your family home, the law enforcement officer will remove the child from the unsafe home. Often CWS staff provides information to the police which aids in this decision. Immediately after removal, the police will release the child to the temporary custody of CWS for foster care placement.

Law enforcement officers have the legal authority to remove a child from his/her parents. Family Court Judges, through a court order, also have the legal authority to order a child be placed in foster care. **CWS caseworkers do not have the legal authority to remove your child from you without: 1)**

**police officers, 2) a court order, or 3) your signing a Voluntary Foster Custody Agreement.** Every effort will be made by CWS and/or law enforcement to notify parents when a child is removed.

***What happens after the police place my child in the temporary foster custody of CWS?***

CWS has three (3) 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 (3<sup>rd</sup>) 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 a legal status defined in HRS §587A-4 and means that the child is 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 case plan. See page 10 *What is a case plan?*

The CWS caseworker may ask you to sign a **Voluntary Foster Custody Agreement** to allow your child to stay in foster custody while the CWS caseworker helps you identify the services or programs that you need to make your home safe for your child's return.

If you sign a **Voluntary Foster Custody Agreement**, you have the right to verbally cancel or terminate the agreement at any time, and ask for your child to be returned to you immediately. The CWS caseworker can return your child to you immediately **only after** your home is assessed to be safe for your child.

If your home is assessed to be unsafe for your child, and you have cancelled your Voluntary Foster Custody Agreement, the CWS caseworker will immediately seek Family Court and law enforcement's intervention to have your child remain outside the family home with temporary custody to DHS.

The CWS caseworker will file a temporary foster custody petition with the Family Court immediately. Once a temporary foster custody petition is filed in Family Court, a hearing will be scheduled within two (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 children safely in their family home. When this is not possible, your child will be placed in foster care with a licensed resource caregiver (also known as a foster parent).



You will have scheduled visits with your child, either supervised or unsupervised, unless CWS and/or Family Court determine that visitation or contact is not in your child's best interest. You can provide names of individuals to CWS and Family Court who can help with transporting your child or supervising the visits.

***Will CWS consider my relatives to be resource caregivers (also known as foster parents) for my child who is in CWS custody?***

**Yes.** Maintaining family connections is very important to CWS' work. While CWS keeps your child safe in foster care, the CWS caseworker is required to make every effort possible to place your child with safe relatives, kin, hanai, or family friends, who can meet the licensing requirements as special-licensed resource caregivers for your child. CWS understands that it may be less traumatic for children to be placed with relatives, kin, or family friends, especially those in the same, familiar community. CWS urgently needs your help to identify appropriate relatives, kin or family friends, who may meet federal and State resource caregiver licensing requirements. Please **immediately** provide names and contact information to your CWS caseworker.

Placement with a relative, kin, hanai, or family friend is not guaranteed. Depending on the circumstances, the CWS caseworker may determine that it is in the child's best interest to be placed in a non-relative resource home.

CWS needs your help to immediately identify appropriate relatives, kin, or family friends, as soon as possible, preferably within the first 30 days after the child enters foster care. Sometimes, parents are reluctant to tell relatives, kin or family friends, about their involvement with CWS. Please do not delay in providing names of relatives, kin, or family friends to your CWS caseworker or to your attorney or to the Family Court. CWS also encourages relatives, kin or family friends, to come forward themselves and call CWS as soon as possible if they may be interested in being a resource caregiver for your child.

CWS has a contract with a community provider to recruit, train, conduct home studies, and provide support services to resource caregivers. One project focuses on the recruitment and licensing of Native Hawaiian resource caregivers. CWS also has a contract with another community provider to conduct Ohana Conferences (family meetings) and find relatives who can be resource caregivers for your child.

If you have more questions about the licensing requirements, your child's CWS caseworker can help explain further. An Ohana Conference (family meeting) can also help you, your relatives, kin, or family friends understand licensing requirements and what is involved in being a resource caregiver. You are entitled to have an Ohana Conference and can make your request to your CWS caseworker, to your attorney, or to the Family Court.

## How can CWS help me?

CWS provides services and referrals to help you strengthen your family and make it a safe place for your children. Services may include:

- Family meeting or Ohana Conference
- Parenting education, support groups
- Individual, couples, or family counseling
- Substance abuse treatment
- Domestic violence support
- Mental health services
- In-home support and outreach
- Child care
- Emergency help with food, clothing, rental deposit
- Foster care
- Diversion services
- Referrals for other services not offered by the Department

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

## What is a case plan?

A case plan is sometimes referred to as the family service plan. When services are needed to help make your home safe for your child, CWS will develop a case plan (like a road map) with you to identify the most appropriate services for you. It's very important that you participate in the development of your case plan. The case plan will include:

- The goals to be accomplished, why, and by when;
- 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., resource caregivers) who are participating in the case plan;
- The consequences if the services are not completed and the goals are not accomplished.

A case plan is not the same as an In-Home Safety Plan, although a case plan may include parts of an In-Home Safety Plan. An In-Home Safety Plan is focused on immediate actions to prevent removal of your child, make your home safe while you and your child are living together. A case plan is

broader and focuses on services for the family to make longer term changes to ensure the children's safety.

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

You can request to speak or meet with your CWS caseworker, your caseworker's Supervisor, or your caseworker's Section Administrator. If the Family Court is not involved in your case, you can also request an Administrative Hearing. Let the CWS caseworker know that you need to request an administrative hearing to obtain the appropriate form for this request.

If the Family Court is involved in your case, you may share your disagreement with the court and/or your attorney during your court hearing.

### *How can I make sure that the CWS record includes my comments or corrections?*

You are encouraged 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, please submit your written documentation to the court also.

### *Can I have my name removed from the CWS database?*

**No.** Information for both **confirmed** and **not confirmed** cases is stored in the **DHS CWS Database** permanently. If your case was **confirmed**, your case information will *also* be entered into **Hawaii's Child Abuse and Neglect Central Registry**.

Information on cases with both **confirmed** and **not confirmed** allegations are stored in the **DHS CWS Database**, and are only available to CWS for the purpose of assisting CWS in conducting future risk and safety assessments, in accordance with the federal Child Abuse Prevention and Treatment Act (CAPTA) of 2010 [42 U.S.C. §106(b)(2)(B)(xii)] and HRS §350-2. Information in the **DHS CWS Database** will not be available to anyone in the general public and will not be used for purpose of employment or background checks.

HRS §350-2 (d) requires that the Department maintain a central registry of all confirmed reports of child abuse or neglect. **Confirmed** case information will be entered into **Hawaii's Child Abuse and Neglect Central Registry**. With your consent, the information may be used for an employment or background clearance, or as provided by federal and state laws. **Having a confirmed child abuse or**

neglect case may affect your ability to gain employment that involves children or vulnerable adults, or your ability to foster or adopt children.

### *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. **CWS staff are not attorneys and cannot provide legal advice.**

If your case goes to Family Court, you are encouraged to fill out the Family Court's application for a lawyer. Based on your application, the Family Court will decide if you are eligible for a free court-appointed attorney, who will represent you in your CWS-related Family Court hearings. If you are determined to be ineligible for a court-appointed attorney or if you do not want a court-appointed attorney, you may hire your own lawyer.

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?*

Sometimes, CWS needs the help of a Family Court Judge to oversee the case and to protect parents' and children's rights, especially when parents are unwilling to work with CWS which impacts the safety of the child, or in cases where the abuse or neglect of the child is severe.

In these situations, the CWS caseworker files a petition to the Family Court. Then, there is a court hearing scheduled before a judge to determine whether there is enough evidence for CWS to intervene on your child's behalf. You will be served with a summons to appear in court, and a notice of the date and time of the court hearing. You will be provided with forms to complete to apply for a court-appointed attorney. The court will decide whether or not you are eligible for a court-appointed attorney free of charge.

### *What about my child's rights?*

Every child has the right to be free from harm and be provided with a safe, stable, and a nurturing home environment, where all the child's needs are met.

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

## 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, IT IS STRONGLY RECOMMENDED 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?

**No.** The termination of your parental rights is a legal decision made by the Family Court. It is a determination 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, 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 available for adoption or legal guardianship by another caretaker.

### *Can my parental rights be reinstated?*

**Yes**, if your parental rights to your child were terminated, your child has been under the permanent custody of DHS for at least 12 months, your child is at least 14 years old, and your child has not been adopted or placed in legal guardianship, according to HRS §587A-34, DHS, your attorney, 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 or not to give you another chance to care for your child.

### *Can I visit my child after losing my parental rights?*

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

If your child has not been adopted, according to HRS §587A-33(d), you and/or other family members may be allowed to visit your child, if the child's permanent custodian (usually CWS) agrees. The Family Court can override the decision of the permanent custodian and determine that your visit with the child is (or is not) in your child's best interest. You may contact the Department to request contact with your child.

### *Will my use of social media affect my case?*

**Yes**, it could. What you share or post on social media sites like Facebook, Instagram, YouTube, Qzone, Weibo, and Twitter may be more accessible than you realize. If there is evidence of poor parenting choices on your social media accounts, this information may have an impact on your case.

### *What do I do if I have concerns about my CWS caseworker's behavior?*

If you have concerns about the behavior of your assigned CWS caseworker or you feel he/she is treating you unfairly, CWSB suggests the following steps, in this order:

1. Communicate with your CWS caseworker directly about your concerns. You can do this via letter, via email, via phone call, or with a live face-to-face meeting. If you are not able to resolve the issue directly with the caseworker, then
2. Communicate with your CWS caseworker's Supervisor about your concerns. You can do this via letter, via email, via phone call, or with a live face-to-face meeting. If you are not able to resolve the issue with the Supervisor, then
3. Communicate with your CWS caseworker's Section Administrator about your concerns. Email communication is recommended. If you are not able to resolve the issue with the Section Administrator, then
4. Communicate with the CWS Branch Administrator or the CWS Assistant Branch Administrator about your concerns. Email communication is recommended. If you are not able to resolve the issue with a Branch Administrator, then
5. Communicate with the Social Services Division (SSD) Administrator or the Assistant Division Administrator about your concerns. Email communication is recommended. If you are not able to resolve the issue with a Division Administrator, then
6. Call the Department of Human Services (DHS) Complaint Line at (808) 586-4994. This Complaint Line is run out to the DHS Director's Office. If you are not able to resolve the issue with the DHS Director's Office, then
7. Contact the State of Hawaii Office of the Ombudsman  
Via email: [complaints@ombudsman.hawaii.gov](mailto:complaints@ombudsman.hawaii.gov)  
Via phone:
  - Oahu: 587-0770
  - Hawaii: 974-4000 (extension 7-0770)
  - Maui: 984-2400 (extension 7-0770)
  - Kauai: 274-3141 (extension 7-0770)
  - Molokai/Lanai: 1-800-468-4644 (extension 7-0770)Facsimile: (808) 587-0773  
TTY: (808) 587-0774  
Via letter: Office of the Ombudsman  
465 South King Street, 4th Floor  
Honolulu, Hawaii 96813

If you need contact information for any office or staff person, feel free to call your CWS caseworker's unit.

### *How can I get more information?*

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

If you have an active CWS case, you are also encouraged to reach out to your CWS caseworker with your questions and/or concerns.