

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 11 CHILD WELFARE SERVICES PROGRAMS

CHAPTER 1610

CHILD WELFARE CASEWORK SERVICES

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§17-1610-1 Goals. The department shall provide services to the child who has been the subject of a report of abuse, neglect, or threatened harm, and to the child's family to ensure the child's:

- (1) Safety;
- (2) Permanency; and
- (3) Well-being. [Eff DEC 09 2010] (Auth: HRS §§346-14, 350-2) (Imp: HRS §350-2; 45 C.F.R. §1340.3-3)

§17-1610-2 Definitions. As used in this chapter: "Abandoned infant" means abandoned infant as defined in section 587A-4, HRS.

"Abuse and neglect" means harm or threatened harm as defined in section 587A-4, HRS, of a child under eighteen years of age by a parent, legal custodian, or person responsible for that child's welfare.

"Adoption service" means a social service provided by the department or a licensed child-placing organization for children whose parents have been found to be unwilling or unable to provide them with a safe and nurturing permanent home and who need and can benefit from permanent family ties established through

legal adoption.

"Adoptive home" means a home which has been studied and approved by the department or a licensed child-placing organization for the placement of a child for the purpose of adoption.

"Adoptive placement" means the placement of a child who is legally free for adoption into an approved adoptive home.

"Aggravated circumstances" means aggravated circumstances as defined in section 587A-4, HRS.

"Assessment" or "investigation" is the professional, systematic, gathering and evaluation of information about the family for the purpose of making decisions regarding confirmation of child abuse and/or neglect, protection of the child, and services to the family.

"Authorized agency" means the department or other public or private agency, person, organization, corporation, or benevolent society or association that is licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

"Bad faith" means that the statements or material contained in the child abuse and/or neglect report were found by the department to be designed to mislead or deceive and not the result of an honest mistake.

"Caregiver" means any adult, other than the legal custodian, authorized to provide care or oversee the care of children.

"Case plan" means for families and children subject to chapter 587A, HRS, the safe family home report and the service plan and agreement, or the safe family home report and the permanent plan, or the permanent plan. The case plan must meet the requirements in §17-1610-26.

"Casework services" means services provided or purchased by the department to ensure that steps necessary to protect a child are taken in a timely manner and that needed supportive and rehabilitative services are sought and arranged for the family.

"Child" means a person who is born alive and is less than eighteen years of age.

"Child-caring institution" or "group home" means any private, institution or group home licensed by the department for the purpose of receiving six or more minor children for care and maintenance, apart from the legal custodian, on a twenty-four hour basis for monetary payment. The term shall not apply to any

boarding school which is primarily engaged in educational work or to any treatment facility, forestry camp, training school, or facility operated primarily for the detention of delinquent children. The term shall also exclude public child care institutions that accommodate more than 25 children.

"Child-placing organization" means any person, agency, or organization, except family courts and the department, engaged in the assessment, placement, and supervision of children in foster care and which has been delegated the authority by the department to approve resource family homes and adoptive homes.

"Child protective services" means the specialized, time limited child welfare service provided to the children who are reported to have been harmed or threatened with harm, and to their families to ensure the children's safety, permanency, and well-being.

"Child welfare services" means services by the child welfare services branch necessary for the protection, care, and permanency of abused and neglected children. This includes intake, assessment, counseling, case management, permanency services, licensing, service payments, and support activities provided by department staff or through services purchased by the department.

"Close proximity to the family home" means a placement which can be accessed within one hour or less, either by private or public transportation, by the child's parent(s) or legal guardian(s).

"Concurrent planning" means an ongoing assessment, planning, and service process with concurrent service planning, treatment, and permanency goals depending upon the family situation to ensure the safety, permanency, and well-being of the child.

"Concurrent planning placement" means the placement of a child into a prospective permanent home, when the child's legal custodian's rights have not been relinquished or divested by order of the court.

"Confirmed" means that an investigation conducted by the department revealed reasonable cause to believe that harm or threatened harm occurred.

"Constructive removal" means a non-physical removal of custody from a legal parent or legal custodian with whom the child resided within six months of the constructive removal and the child continues to reside with the interim caregiver. A child is considered constructively removed on the date of the first judicial order removing custody, even

temporarily, from the appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties.

"Court" means one of the family courts established pursuant to the family court act.

"Criminal history record check" means an examination of an individual's criminal history record through fingerprint analysis and name inquiry into state and national criminal history record files including, but not limited to, the files of the Hawaii criminal justice data center provided that the information obtained shall be used exclusively for purposes under this chapter and shall be subject to applicable federal and state laws and regulations.

"Department" means the department of human services.

"Expunge" means to destroy or delete all information relating to a specific report of child abuse and/or neglect.

"Family home" means the home of the child's legal custodian where there is the provision of care for the child's physical and psychological health and welfare.

"Family preservation services" means those services provided by the department which are intended to maintain a child in the family home and prevent out-of-home placement.

"Foster care" or "out-of-home care" means placement which is apart from the child's legal custodian which provides twenty-four hour parenting care, including, but not limited to, placement in a licensed relative's home, a resource family home, or a child-caring institution.

"Foster child" means any child under eighteen years of age in out-of-home care under the placement responsibility of the department; or, for State-funded foster care, upon attaining age eighteen years while residing in a resource family home with a goal towards independent living, is able and willing to complete high school education or equivalent within six months or within the following school year; or, for State-funded foster care, is living in a resource family home and receiving special educational services as defined by the department of education and remains in high school until the end of the school year in which the foster child attains age twenty.

"Frivolous" means that the statements or information contained in the child abuse and/or neglect report have been found by the department to have little

weight or importance after attempts to substantiate the information have been made, or are substantially inaccurate, incomplete or misleading relating to any or all material fact(s) of the allegations.

"Hanai relative" means an adult other than a blood relative who performs or has performed a substantial role in the upbringing or material support of a child, as attested to by the written or oral designation of the child or of another person, including other relatives of the child as deemed credible by the court or the department.

"Harm" means harm as defined in section 587A-4, HRS.

"Imminent harm" means imminent harm as defined in section 587A-4, HRS.

"Independent living services" means programs and activities that assist an eligible child to prepare for the transition from out-of-home care to independent living.

"Initial date of entry into out-of-home care" means the initial date on which the department assumed placement responsibility of a child:

- (1) By receipt of custody of the child from the police;
- (2) Pursuant to a voluntary agreement with the legal custodian;
- (3) By order of the court; or
- (4) By placing a child in foster care and thereby assuming temporary foster custody of a child subject to court ordered family supervision, pursuant to section 587A-4, HRS.

"Intake report" means the initial oral statement and, if required by section 350-1.1(c), HRS, the subsequent written account concerning the facts and circumstances which caused the reporter to believe that child abuse and/or neglect has occurred, or that there is a substantial risk that child abuse and/or neglect may occur in the reasonably foreseeable future.

"Least restrictive environment" means an available placement that is the most family-like setting that can best meet the needs of the child.

"Legal custodian" means the child's parent(s), permanent custodian(s), legal guardian(s), or other entities who have legal and physical custody of the child.

"Legal guardian" means any adult who has legal guardianship of a child as the result of a judicial

determination under chapter 560, HRS, made at the time the department had placement responsibility of the child.

"Legal guardianship" means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making. The term "legal guardian" means the caretaker in such a relationship.

"Medical neglect" means serious deterioration of a child due to the failure of the legal custodian(s) or caregiver(s) to provide or seek appropriate medical treatment or the legal custodian(s) or caregiver(s) repeatedly ignoring medical recommendations for treatment.

"Multidisciplinary team" means those persons who provide consultation through a formal arrangement with the department to assist social workers with multidisciplinary diagnosis, assessment, or treatment planning for families.

"Negligent treatment" means the failure of the legal custodian or caregiver(s) to provide adequate food, clothing, shelter, medical care, supervision, or guidance to a child.

"Not confirmed" means that an investigation conducted by the department revealed that there was insufficient evidence to confirm that harm or threatened harm had occurred.

"Ohana conference" means a family focused strength-based meeting facilitated by trained community facilitators designed to build and strengthen the network of protection of the extended family members and the community for the child.

"On-Call resource family home" means a licensed resource family home or child-caring institution where temporary care, apart from parents or legal custodians, is provided to abused and/or neglected, or other dependent children in need of care and protection on a twenty-four hour basis, until more suitable plans are made for the children.

"Periodic review" means a judicial review of the status of each child in out-of-home care under the placement responsibility of the department, which is held within six months of the initial date of entry into out-of-home care, and at least every six months

thereafter.

"Permanency hearing" means the hearing required by federal statute to determine the permanency plan for a child in out-of-home care under the placement responsibility of the department that may occur at a dispositional or review hearing pursuant to relevant sections of HRS chapter 587A that is held within twelve months of the initial date of entry into out-of-home care and at least every twelve months thereafter, until the child is placed into a permanent home. For children for whom the court determines that reasonable efforts to return the child home are not required because of aggravated circumstances or in the case of an abandoned infant, the initial permanency hearing is held within 30 days of the judicial determination.

"Permanent custodian" means any adult who has permanent custody of a child pursuant to a judicial determination under chapter 587A, HRS, made at the time the department had placement responsibility of the child.

"Permanent custody" means the legal status as defined in section 587A-4, HRS. The awarding of permanent custody divests from each legal custodian and vests in a permanent custodian each of the parental and custodial duties and rights of a legal custodian including, but not limited to, the following: to determine where and with whom the child shall live, to assure the child is provided in a timely manner with adequate food, shelter, clothing, psychological care, physical care, supervision, and other necessities, to monitor the provision of appropriate education, to provide all consents that are required for the child's physical or psychological welfare, to provide consent to adoption change of name or marriage.

"Permanent plan" means a specific written plan prepared pursuant to HRS section 587A-4.

"Perpetrator" or "maltreater" means the person the reporter of child abuse and/or neglect or the department has identified as the person who by acts or omissions has harmed or threatened a child or children with harm.

"Person responsible for a child's care or welfare" means the child's parent, guardian, legal and physical custodian, resource parent, an employee of a public or private residential home or facility, other person legally responsible under State law for the child's welfare in a residential setting, or any staff person providing out-of-home care or day care.

"Placement responsibility" means the authority of the department or other agency or individual to determine the placement and care of the child.

"Prospective adoptive parent(s)" means a person(s) who has been studied and approved by the department or a licensed child-placing organization and identified by the department or licensed child-placing organization as the most likely adoptive placement for the child.

"Psychological abuse and neglect" means child rearing practices or an absence of them by the family, or person responsible for a child's welfare, which has resulted in, or is likely to result in, a substantial impairment of a child's opportunity for normal and healthy psychological development.

"Purchase of service(s) provider" or "POS provider" means an agency or organization providing child welfare services on behalf of the department under the terms of a valid written contract with the department.

"Reasonable efforts" means appropriate and available services offered or provided to prevent the placement of a child into out-of-home care, to reunify a family, or to finalize the permanency plan for the child.

"Recipient" means a person who has received a service or payment from the department.

"Records" means all written, oral, or electronic information gathered and maintained by the department in its state central registry or in physical records, including but not limited to:

- (1) Reports of child abuse and/or neglect accepted by the department for further action;
- (2) Subsequent actions by the department, including but not limited to medical, psychological, psychiatric, or other agency reports as well as departmental contacts, assessments, or reports; and
- (3) Any record or information collected and maintained by the department that identifies or contains information regarding a person who is an:
 - (A) Applicant;
 - (B) Recipient of services from the department; or
 - (C) Resource caregiver, adoptive parent, legal guardian, or permanent custodian.

"Relative" means a person related by blood or

adoption, or a hanai relative, as defined in this chapter, who is willing and able to safely provide support to the child and family, as determined by the court or the department.

"Resource family home" means a home in which fewer than six minor children, or six or more minor siblings, are received for care and maintenance apart from their legal custodian on a twenty-four hour basis for fee or charge and which has met the state certification requirements.

"Resource family" or "resource caregiver" means a family or person who is:

- (1) Licensed by the department to provide temporary safe foster care services for children under the jurisdiction of the department in out-of-home care; and
- (2) Paid foster care maintenance payments by the department for such services.

"Risk assessment" means the collecting and interpreting of information about a child and family, that is utilized during the duration of a family's involvement with the department by the child welfare services social worker in a continual process of evaluating whether there is reasonable, foreseeable risk of harm to the child.

"Severe harm" means substantial physical injury, neglect, or injury to the psychological capacity of a child characterized by an observable and substantial impairment in the child's ability to function, including those acts or omissions included in chapters 350 and 587A, HRS, as determined by the department's risk assessment used to determine the level of harm or risk to a child.

"Sexual abuse" means any sexual act performed on a child or sexual exploitation of a child, by a family member who resides with the child or is otherwise responsible for the child's care or welfare. It includes, but is not limited to, rape, sodomy, genital fondling, incest, sexual molestation, and allowing, permitting, or encouraging a child to engage in prostitution or participate in obscene or pornographic photographing, filming, or depiction of those acts as defined by state law.

"Specified relative" means father, mother, brother, sister, half-brother, half-sister, uncle, aunt, uncle half-blood, aunt half-blood, great uncle, great aunt, great uncle half-blood, great aunt half-blood, grandfather, grandmother, great grandfather,

great grandmother, first cousin, first cousin once removed, nephew or niece, great-great grandmother, great-great grandfather, great-great-great grandmother, great-great-great grandfather, great-great aunt, great-great uncle, great-great aunt half-blood, great-great uncle half-blood; stepfather, stepmother, stepbrother, and stepsister; the adoptive parents of a legally adopted child as well as other natural or legally adopted children and relatives of the adoptive parents; and the legally married spouse of any of the persons specified in this subsection even after the marriage has ended in death or divorce.

"State central registry" means the information regarding reports of child abuse and/or neglect and subsequent actions by the department maintained in the department's information system.

"Termination of parental rights hearing" means a hearing held pursuant to HRS section 587A-33.

"Threatened harm" means threatened harm as defined in section 587A-4, HRS.

"Unsubstantiated" means that the statement or information contained in the child abuse and/or neglect report was found by the department to be frivolous or made in bad faith.

"Voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement;

"Voluntary foster custody agreement" means a written agreement, binding on the parties to the agreement, between the department, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement. If parents or guardians request that the child be returned to their home or to the home of a relative, the voluntary custody agreement shall be deemed to be revoked unless the department opposes such request and obtains a judicial determination that the return of the child to such home would be contrary to the child's best interests.

[Eff DEC 09 2010] (Auth: HRS §§346-14, 350-1, 350-2) (Imp: HRS §§346-14, 346-16, 350-1, 350-2, 587A-4; 45 C.F.R. §§1340.1, 1340.2, 1355.20)

§§17-1610-3 to 17-1610-5 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§17-1610-6 Eligibility requirements. (a) A child shall be eligible for child welfare services without regard to income pursuant to chapters 350, 350E, and 587A, HRS, to the extent that funds and resources are available.

(b) Eligibility shall be based on information gathered from the reporter and other collateral contacts that:

- (1) The child is born alive and under eighteen years of age; and
- (2) There is harm or threatened harm by the acts or omissions of a parent, guardian, legal and physical custodian, or other person responsible for the child's care. [Eff

DEC 09 2010] (Auth: HRS §§346-14, 350-2)
(Imp: HRS §§350-2, 350E-1, 587A-4; 45 C.F.R. §1340.3-3)

§17-1610-7 Geographic area of service. (a) Child welfare services provided by departmental staff shall be available throughout the state subject to the availability of resources.

(b) Where child welfare services are provided through purchase of service, they shall be offered within the scope and funding of the current contracts. [Eff DEC 09 2010] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§346-14, 350-1, 350-2, 587A-4, 587A-5; 45 C.F.R. §§1340.1, 1340.2)

§17-1610-8 Interstate compact on the placement of children. Services shall be available in accordance with chapter 350E, HRS, to eligible children placed out-of-state or in Hawaii, if the placement has been approved by the receiving state's office of the interstate compact on the placement of children and a request for such services is made. [Eff DEC 09 2010] (Auth: HRS §§346-14, 350-2,) (Imp: HRS §§346-14, 350-2, 350E-1; 45 C.F.R. §1340.14)

§17-1610-9 Authorization. (a) Child welfare casework services shall be authorized on the basis that the department received a report that a child has been harmed or threatened with harm pursuant to chapters 350 and 587A, HRS.

(b) The child welfare services branch may authorize assessment, treatment, foster care, and any other service provided by department staff or through purchase of service that is available to the department.

(c) Services shall be provided in accordance with departmental procedures and depending on the availability of resources, provided that:

- (1) The child and family meet the eligibility requirements for the service;
- (2) The child and family are willing and able to accept and participate in the services that are offered and/or available;
- (3) The child, if appropriate, and family shall consent to the disclosure of information to the department, as well as re-disclosure by the department to entities determined by the department to have a reason and need to know the information to ensure the safety of the child and/or the provision of services and treatment to the child and family;
- (4) The service is available from department staff or through services purchased by the department;
- (5) The family has no resources that would provide or cover the cost of the service; and
- (6) Services provided through a purchase of service contract shall be offered within the scope and funding of the current contract.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14)
(Imp: HRS §§346-14, 587A-41; 45 C.F.R. §1340.14)

§17-1610-10 Confidentiality. The provisions of chapter 17-1601 shall apply to this chapter. [Eff **DEC 09 2010**] (Auth: HRS §§346-10, 346-14) (Imp: HRS §§346-10, 346-14; 45 C.F.R. §1340.14)

§17-1610-11 Notice. (a) The legal custodian

shall be informed in writing of the disposition of the investigation, the specific rules supporting the action, and the right to appeal the department's disposition.

(b) The legal custodian and recipients of child welfare services who are provided treatment or services by the department shall be informed verbally and in writing, of any changes to treatment or services, the reasons for the action, the specific rules supporting the action, and the right to appeal the department's decision through established hearing procedures.

(c) The identified perpetrator or maltreater shall be informed in writing of the disposition of the investigation, the specific rules supporting the action, and the right to appeal the department's disposition through established hearing procedures.

(d) The department shall give written notice to the recipient of a service prior to initiating action to terminate, suspend, or reduce child welfare services.

(e) If the legal custodian or alleged maltreater cannot be contacted, this fact shall be noted in the department's records. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §5106a(b) (2) (A) (xv) (II))

§17-1610-12 Hearings. (a) The legal custodian and the recipient of child welfare services have a right to a hearing pursuant to chapter 17-1602 if dissatisfied with any adverse action taken by the department.

(b) Perpetrators or maltreaters have a right to a hearing pursuant to chapter 17-1602 and departmental procedures if dissatisfied with the disposition of the department's assessment or action taken by the department as a result of a report of abuse or neglect.

(c) Subsections (a) and (b) shall not apply and the department shall refer the legal custodian, recipient, or perpetrator to the family court for any matter falling under the provisions of chapter 587A, HRS, that has been heard in family court where a finding and/or ruling has been made or is pending before the family court judge. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 42 U.S.C. §5106a(b) (2) (A) (xv) (II))

§17-1610-13 Interpreter services. Whenever necessary to ensure the family's understanding of any aspect of the department's involvement with the child and the child's family, the department shall secure the services of an interpreter. [Eff DEC 09 2010]
(Auth: HRS §346-14) (Imp: HRS §346-14)

§17-1610-14 Independent audit. The department shall arrange for a periodic and independently conducted audit, no less frequently than once every three years, of the Title IV-B and IV-E programs. [Eff DEC 09 2010] (Auth: HRS §346-14) (Imp: 42 U.S.C. §671)

§§17-1610-15 to 17-1610-16 (Reserved)

SUBCHAPTER 2

REPORTS AND RECORDS

§17-1610-17 Acceptance of reports. (a) The department shall receive each report made pursuant to chapter 350, HRS, and shall immediately assess the validity of the report, the safety of the child, and the agency response to the report pursuant to chapter 587A, HRS, and departmental procedures.

(b) If the department determines the report involves high or severe harm per the department's assessment, the report shall be accepted for further assessment. If the department determines the report involves severe threatened harm per the department's assessment, the report may be accepted for further assessment.

(c) If the report involves a low or moderate level of harm or threatened harm per the department's assessment, the family may be diverted to community resources for short term counseling, outreach and/or support services.

(d) At the reporter's request, the department shall make every good faith effort to maintain the confidentiality of the reporter's identity pursuant to chapter 350.1-4(b).

(e) The department shall provide to the police all reports of child abuse or neglect received by child welfare services. [Eff DEC 09 2010] (Auth: HRS

§§346-14, 350-2) (Imp: HRS §§350-1.1, 350-1.4; 45 C.F.R. §1340.14)

§17-1610-18 Registration of reports. Reports that are accepted by the department for investigation or assessment shall be registered into the department's information system, which is the state central registry, in accordance with departmental procedures. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§346-10, 350-2; 45 C.F.R. §1340.14)

§17-1610-19 Maintenance of records. (a) Records of reports of child abuse and/or neglect and subsequent action taken by the department shall be maintained by the department in accordance with section 350-2(d), HRS, to assist in risk and safety assessments of a child who has been reported to be harmed or at risk of harm, provided that:

- (1) The record of a child abuse and/or neglect report shall be expunged within ninety working days following the date:
 - (A) The report is unsubstantiated by the department; or
 - (B) The petition arising from the child abuse or neglect report has been dismissed by order of the family court.
- (2) The record of a child abuse and/or neglect report that was investigated and found to be not confirmed shall be maintained by the department for use in future risk and safety assessments and for no other purpose;
- (3) The record of a child abuse and/or neglect report that was investigated and found to be confirmed where the department finds after a review of the circumstances and facts of the case that there is evidence of substantial rehabilitation or an erroneous confirmation may be expunged; and
- (4) The record of a child abuse or neglect report that was investigated and found to be confirmed shall be maintained by the department for future risk and safety assessments.
- (5) The department shall comply with requests from other states to check its central registry for the purpose of conducting

background checks in foster or adoptive placement cases.

(b) Other records maintained by the department shall be confidential and maintained and disclosed in accordance with chapter 17-1601 and departmental procedures. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§346-10, 350-2; 42 U.S.C. §5106a; 45 C.F.R. §1340.14)

§§17-1610-20 to 17-1610-22 (Reserved)

SUBCHAPTER 3

ASSESSMENT AND INTERVENTION SERVICES

§17-1610-23 Child welfare assessment. (a) The department shall assess each report accepted by the department in accordance with departmental procedures. The assessment, which will continue throughout the duration of the case, will determine whether or not the child has been harmed or is threatened with harm and the action that will be taken by the department.

(b) The department shall determine and initiate any needed services necessary to complete the assessment, including but not limited to multidisciplinary team consultation, psychological, psychiatric, psychosexual or other needed evaluations pursuant to departmental procedures.

(c) When additional facts are needed to thoroughly evaluate the family's and the child's current situation, the department shall contact other persons or agencies that may possess knowledge of the family, without consent, pursuant to chapter 350, HRS.

(d) A written medical assessment of the child's physical condition shall be obtained when sexual abuse is suspected or there is a report of severe abuse, neglect, or medical neglect pursuant to departmental procedures. If the child remains in the custody of the legal custodian, a medical diagnosis shall be obtained with the consent of the legal custodian or pursuant to an order of the court.

(e) The department may obtain a criminal history record check on an alleged perpetrator or maltreater of imminent harm, harm, or threatened harm to a child in accordance with section 587A-11(1) and departmental procedures. [Eff **DEC 09 2010**] (Auth: HRS §§346-14,

350-2) (Imp: HRS §§350-2, 587A-11; 45 C.F.R. §§1340, 1340.14)

§17-1610-24 Disposition of assessment. (a) For those reports accepted for assessment pursuant to chapter 350, HRS, a disposition shall be made in accordance with departmental procedures and documented in the department's information system within sixty working days of the acceptance of the report as to whether the child has been harmed.

(b) The legal custodian and the alleged maltreater shall be provided written notice of the disposition of the assessment in accordance with section 17-1610-11. If the legal custodian or alleged maltreater cannot be contacted, this fact shall be noted in the department's records. [Eff

DEC 09 2010] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587A-11; 45 C.F.R. §1340.14)

§17-1610-25 Intervention services. (a) Based on an assessment of the family, the department shall determine and initiate assessment and treatment services, including but not limited to ohana conferencing, concurrent planning, multidisciplinary team consultation, and psychological, psychiatric, psychosexual or other needed evaluations pursuant to departmental procedures. The department shall provide appropriate and available services to eligible children and their families subject to the availability of funding and resources.

(b) Services may be provided by departmental staff as well as through purchase of service providers in accordance with section 17-1610-9.

(c) The department shall maintain regular contacts with the family and the child to:

- (1) Ensure the safety, well-being, and permanency of the child;
- (2) Monitor and coordinate the family's use of treatment and services that have been made available; and
- (3) Evaluate the family's progress toward making the recommended changes.

(d) The department shall obtain periodic written or verbal reports from those persons or agencies providing counseling, treatment, or services to the child and family. The reports shall describe the

issues being addressed, the child and family's response to services, recommendations for further treatment needs, and an assessment of the family's ability to provide a safe and nurturing home for the child.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587A-27; 45 C.F.R. §1340.14)

§17-1610-26 Case plan. (a) For all children and families assessed as needing ongoing child welfare casework services and under the jurisdiction of the department either voluntarily or by court order, the department shall develop with the family a case plan. The case plan shall be written and approved no later than sixty days subsequent to the date of the receipt of the report of abuse or neglect or for any out-of-home placement, no later than sixty days from the date the child was removed from the home, whichever is earlier.

(b) The case plan shall be a written document, which is a discrete part of the case record, prepared in accordance with departmental procedures that, at a minimum, contains the following:

- (1) A written current assessment of the safety and/or risk of the child based on criteria pursuant to section 587A-7, HRS, and a service or permanent plan prepared by the department that at a minimum contains goals, objectives, services, the responsibilities of parties to the case plan, timeframes, consequences, and a likely date for successful completion of the plan.
- (2) In addition to the requirements of paragraph (1), for each child in out-of-home care the case plan shall include at a minimum:
 - (A) A statement indicating whether prevention of the out-of-home placement was possible;
 - (B) A description of the services offered and provided to the child and family and the reasonable efforts made by the department to prevent removal of the child from the home and reunify the child with the family;
 - (C) The type of out-of-home placement in which a child is placed or is to be placed;
 - (D) The services provided to the child and

resource caregivers in order to address the needs of the child while in out-of-home care;

- (E) Efforts to ensure that the child's placement is the least restrictive, most family like setting in close proximity to the family home and an explanation of how the placement is consistent with the best interests and special needs of the child provided that:
 - (i) If the child has been placed a substantial distance from the home of the parents, or in a different state, sets forth the reasons why such a placement is in the best interests of the child;
- (F) The safety and appropriateness of the placement;
- (G) The plan for ensuring the child receives safe and proper care and a description of how the needs of the child while in out-of-home care will be addressed;
- (H) The services that shall be provided to the parents and child to improve conditions in the home, facilitate the return of the child to the home, or to establish a permanent placement;
- (I) The health and education records of the child, including:
 - (i) The names and addresses of the child's health and educational providers;
 - (ii) The child's grade level performance;
 - (iii) The child's school record;
 - (iv) Assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and
 - (v) Assurance that the department has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

- (vi) If remaining in such school is not in the best interests of the child, assurances by the department and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school;
- (vii) A record of the child's immunizations;
- (viii) The child's known medical problems;
- (ix) The child's medications; and
- (x) Any other relevant health and education information concerning the child determined to be appropriate by the department;
- (J) Where appropriate, for a child twelve years or over, a plan to help the child prepare for the transition from foster care to independent living;
- (K) The appropriateness of the services that have been offered to the child;
- (L) For a child whose permanency plan is adoption or placement into another permanent home, the steps the department is taking to find a permanent home and finalize the placement of the child into a permanent home, including but not limited to documentation that includes child-specific recruitment efforts such as the use of state, regional and national adoption exchanges, including electronic exchange systems to facilitate orderly and timely in-state and out-of-state placements; and
- (M) If the child has been placed in out-of-home care in a state outside the state in which the child's legal custodian is located, provisions to ensure that an agency caseworker, of either state, visits the child no less frequently than monthly and submits a report on the visit to the department, to be provided to appropriate parties.

(c) The case plan shall be reviewed and updated at least every six months or earlier unless there is a family court order specifying an earlier date.

(d) The department shall provide a copy of the

case plan to each of the parties in the case plan and to the court, for cases under the jurisdiction of the family court, in accordance with departmental procedures.

(e) The department shall provide a copy of the safe family home report and service plan and agreement to the child's resource caregivers.

(f) The department shall offer and provide available services according to the case plan and shall monitor and assess the family's compliance with the plan and progress in making the home safe.

(g) Where the department has filed a motion for or has been awarded permanent custody of a child pursuant to chapter 587A, HRS, the department shall have a case plan for the child, in accordance with departmental procedures, that:

- (1) Includes goals, objectives, services, timeframes, consequences, and a likely date for successful completion of the plan;
- (2) Is reviewed at least once every six months with the child, if developmentally able, with the family, if appropriate, and with the caregiver to assess the progress being made under the plan and, if appropriate, to modify the plan; and
- (3) Where appropriate and in accordance with departmental procedures, includes an independent living transition plan (ILTP) which identifies goals, services, and activities that may assist the child to prepare for transition to independent living.

(h) For a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardian assistance payments, the case plan shall include a description of:

- (1) The steps that the department has taken to determine that it is not appropriate for the child to be returned home or adopted;
- (2) The reasons for any separation of siblings during placement;
- (3) The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;
- (4) The ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;
- (5) The efforts the department has made to

discuss adoption by the child's relative resource caregiver as a more permanent alternative to legal guardianship and, in the case of a relative resource caregiver who has chosen not to pursue adoption, documentation of the reasons; and

- (6) The efforts made by the department to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

- (i) During the 90-day period immediately prior to the date on which the child will attain 18 years of age, whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477 of the Social Security Act (42 U.S.C. § 677), the department shall provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as the child may elect. [Eff **DEC 09 2019**] (Auth: HRS §346-14) (Imp: HRS §§346-14, 587A-27, 587A-32; 42 U.S.C. §§671(a)(28), 673(d), 674(a)(5), 675; 45 C.F.R. §§1340.14, 1356.21)

§17-1610-27 Voluntary in-home intervention. (a) The department may provide short-term services to a child and family in accordance with departmental procedures, provided that there is a determination by the department that:

- (1) The child may be safely maintained in the home with the provision of services;
- (2) The family is willing and able to participate in voluntary in-home services; and
- (3) There is a case plan that specifies the responsibilities of the family and the department that provides a maximum one-year timeframe for the successful completion of services, and clear consequences if the timeframe is not met.

(b) If the family is unwilling or unable to address the safety issues in the home within a one-year timeframe, the department shall file a petition for family supervision of the child pursuant to section 587A-11(7), HRS. However, the department may petition

the court for family supervision of the child at any time during the one-year period if deemed necessary to ensure the safety of the child.

(c) If at any time during the provision of services the social worker assesses that the child is not safe in the home, even with the assistance of a service plan, the department shall take appropriate action to remove the child from the home with the assistance of the police, via voluntary consent of the legal custodian, or by order of the court. [Eff

DEC 09 2010] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587A-11; 45 C.F.R. §1340.14)

§17-1610-28 Voluntary out-of-home intervention.

(a) Voluntary out-of-home intervention services may be offered to the child or family when there is an assessment that the harm or risk to the child requires temporary out-of-home placement of the child, provided that:

- (1) There is a determination by the social worker that placement of the child is expected to be for no more than ninety days from the initial date of entry into out-of-home care;
- (2) The legal custodian of the child and the department have signed a valid voluntary foster custody agreement, binding on all parties to the agreement which specifies, at a minimum, the legal status of the child, and the rights and obligations of the legal custodian, the child, and the department while the child is in out-of-home placement; and
- (3) There is a case plan that specifies the responsibilities of the family and the department that provides a ninety-day timeframe and clear consequences if the timeframe is not met.

(b) If parents or guardians request that the child be returned to their home or to the home of a relative, the voluntary custody agreement shall be deemed to be revoked unless the department opposes such request and obtains a judicial determination that the return of the child to such home would be contrary to the child's best interests.

(c) If a child in voluntary out-of-home care cannot be returned to the family home within ninety

days, a petition for foster custody of the child shall be submitted to the family court prior to the ninetieth day from the initial date of entry into out-of-home care.

(d) The only exception to the ninety-day timeframe to file a petition, prior to the ninetieth day of voluntary out-of-home care, is the case where all of the following conditions have been met:

- (1) An ohana conference, authorized by the department, has been held;
- (2) There is a valid voluntary foster custody agreement that covers the second ninety day period for a child in voluntary out-of-home care; and
- (3) There is a case plan, which would result in the return of the child to the family home within one hundred and eighty (180) days of the initial date of entry into out-of-home placement, which has been approved by the department and the family.

For ohana conference cases only, if a determination is made that the child cannot be returned to the family home within one hundred and eighty (180) days of the initial date of entry into out-of-home care, a petition for foster custody of the child shall be submitted, heard, and findings issued by the family court prior to the one hundred and eightieth day from the initial date of entry into out-of-home care.

(e) The department shall request that the court make a judicial determination, to be included in the written court order at the first hearing subsequent to the removal of the child from the home, that based on the record and/or the evidence presented, continuation in the family home would be contrary to the immediate welfare of the child. [Eff DEC 09 2010] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587A-11; 45 C.F.R. §1340.14)

§17-1610-29 Family court intervention. (a) The department shall seek family court intervention when the department's assessment of the family indicates the harm or threat of harm to the child warrants family court jurisdiction to ensure the safety of the child and the delivery of services and treatment to the family.

(b) Depending on the circumstances of the family, the department may petition the family court for:

- (1) Family supervision over the child and family;
- (2) Foster custody of the child and court jurisdiction over the family. The department shall request that the court make the following judicial determinations based on the record and/or evidence presented:
 - (A) Continuation in the family home would be contrary to the immediate welfare of the child. This determination must be made in the first court hearing that sanctions (even temporarily) the removal of a child from home. If the determination concerning contrary to the welfare is not made as specified herein, the child is not eligible under the Title IV-E foster care maintenance payments program for the duration of that stay in foster care;
 - (B) Reasonable efforts were made prior to placement to prevent removal of the child from his or her home or reasonable efforts were not required to prevent removal. This determination must be made within sixty days of the child's involuntary removal; if the determination concerning reasonable efforts to prevent the removal is not made as specified above, the child is not eligible under the Title IV-E foster care maintenance payments program for the duration of that stay in foster care.
 - (C) Reasonable efforts were made to finalize the permanency plan that is in effect. This determination must be made within twelve months of the initial date of entry into out-of-home care and at least once every twelve months thereafter while the child is in foster care; if such a judicial determination regarding reasonable efforts to finalize a permanency plan is not made, the child becomes ineligible under Title IV-E from the end of the 12th month following the date the child is considered to have entered foster care or the end of the 12th month following the month in which the most recent judicial determination

- of reasonable efforts to finalize a permanency plan was made, and remains ineligible until such a judicial determination is made, and
- (D) Other appropriate findings and orders, depending on the circumstances of the case.
- (3) Permanent custody of the child, if:
 - (A) The court determines the child has been subjected to aggravated circumstances;
 - (B) The court determines the child is an abandoned infant;
 - (C) The child's legal custodian has been determined by the department to be unwilling or unable to provide the child with a safe, nurturing home at any time during the duration of the case; or
 - (D) The child has been placed out of the family home for a total of twelve consecutive months from the initial date of entry into out-of-home care
 - (4) Permanent custody of the child or, if such a petition has been filed by another party, seek to be joined as a party to the petition, in order to terminate the parental rights of a parent(s):
 - (A) Whose child has been in foster care under the responsibility of the State for 15 of the most recent 22 months. The petition must be filed by the end of the child's fifteenth month in foster care. In calculating when to file a petition for termination of parental rights, the department:
 - (i) Shall calculate the 15 out of the most recent 22 month period from the initial date of entry into foster care
 - (ii) Shall use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the 22 month period;
 - (iii) Shall not include trial home visits or runaway episodes in calculating 15 months in foster care; and,
 - (iv) Need only apply section 475(5)(E) of the Act to a child once if the

department does not file a petition because one of the exceptions applies;

- (B) Whose child has been determined by a court of competent jurisdiction to be an abandoned infant (as defined under State law). A permanency hearing must be held within 30 days of a judicial determination that the child is an abandoned infant and a petition to terminate parental rights must be filed within 60 days of the judicial determination that the child is an abandoned infant; or,
- (C) Who has been convicted of: the murder of another child of the parent, voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, or parental rights with respect to a sibling have been terminated involuntarily. Under such circumstances, a permanency hearing must be held within 30 days of the judicial determination that reasonable efforts to reunify family are not required and the petition to terminate parental rights must be filed within 60 days of a judicial determination that reasonable efforts to reunify the child and parent are not required.
- (D) The department may elect not to file or join a petition to terminate the parental rights of a parent if:
 - (i) The child is being cared for by a relative;
 - (ii) The department has documented in the case plan (which must be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the individual child;
 - (iii) The department has not provided to the family, consistent with the time

period in the case plan, services that the department deems necessary for the safe return of the child to the home, when reasonable efforts to reunify the family are required.

- (5) When the department files for the termination of parental rights hearing, it concurrently begins to identify, recruit, process and approve a qualified adoptive family for the child.

(c) In the case where a child is subject to court ordered family supervision and the child is placed in out-of-home care by the department, a report shall be submitted to the court and a hearing held within ten days of the child's removal from the home, pursuant to section 587A-4, HRS. In addition, the provisions of subsection (b) (2) shall apply. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587A-28)

§§17-1610-30 to 17-1610-31 (Reserved)

SUBCHAPTER 4

REVIEW HEARINGS

§17-1610-32 Notice of hearings The department shall provide the resource caregiver(s) of a child and any prospective adoptive parent or relative providing care for the child with timely notice of and a right to be heard in any proceeding to be held with respect to the child during the time the child is in the care of such foster parent, prospective adoptive parent, or relative caregiver. [Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §§350-1, 350-2, 587A-14, 587A-30; 45 C.F.R. §1340.14; §1356.21)

§17-1610-33 Periodic review hearings - family supervision. The status of each child in the home subject to the jurisdiction of the court shall be reviewed by the court at intervals no greater than six months, to determine the safety of the child and whether the child may be safely maintained in the family home, pursuant to chapter 587A, HRS. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: .

HRS §§350-1, 587A-30; 45 C.F.R. §1340.14; 42 U.S.C. §675)

§17-1610-34 Periodic review hearings - foster custody. (a) The status of each child in court ordered out-of-home care under the placement responsibility of the department shall be reviewed by the court at intervals no greater than six months. The reviews shall be held within six months of the date of the initial date of entry into out-of-home care and at least every six months thereafter.

(b) If a periodic review is due, but in the assessment of the department a permanency hearing is more appropriate, a permanency hearing shall be requested in place of the periodic review hearing. The permanency hearing shall take the place of the periodic review in this instance.

(c) For children adjudicated under chapter 587A, HRS, the department shall request that the court review the status of the case to determine whether the child is receiving appropriate services and care, that case plans are being properly implemented, and that activities are directed toward a permanent placement for the child. Procedural safeguards relating to parental rights pertaining to the removal of the child from the home, changes in placement, any determination affecting visitation privileges of parents, notice, participation of the parties, and appeal shall be provided according to the rules of the court. At the hearing the court shall be requested to:

- (1) Determine the safety of the child;
- (2) Determine the continued need for and appropriateness of the out-of-home placement;
- (3) Determine the extent to which each party has complied with the case plan and the progress the family has made in making their home safe;
- (4) Determine the extent of progress toward resolving the problems that caused the placement and necessitate continued out-of-home placement of the child; and
- (5) Project a likely date for the child's return to a safe family home, or permanent placement out of the family home in the following order of preference, through adoption, legal guardianship, or other permanent out-of-home placement.

(d) The department shall request that the periodic reviews required by Pub. L. No. 96-272 be held at the same hearing as that scheduled for the chapter 587A, HRS, matter. [Eff **DEC 09 2010**] (Auth: HRS §§346-14) (Imp: HRS §§350-2, 587A-30; 45 C.F.R. §1340.14; 42 U.S.C. §627; Pub. L. No. 105-89)

§17-1610-35 Permanency hearing. (a) A permanency hearing shall be held within twelve months of the child's initial date of entry into out-of-home care or within thirty days of a judicial determination that the child is an abandoned infant or that aggravated circumstances are present and reasonable efforts to reunify a child and family are not required. The status of the child shall be reviewed at least every twelve months thereafter for as long as the child remains in out-of-home care under the placement responsibility of the department.

(b) The department shall request that the court review the status of the case to determine whether the child is receiving appropriate services and care, that case plans are being properly implemented, and that activities are directed toward a permanent placement for the child. Procedural safeguards relating to notice, participation of the parties, and appeal shall be provided according to the rules of the court. At the permanency hearing the court shall be requested to:

- (1) Determine that the department has made reasonable efforts to finalize a permanency plan for the child within twelve months of the initial date of entry into out-of-home care;
- (2) Determine the safety of the child and the continued need for and appropriateness of the out-of-home placement;
- (3) Determine the extent to which each party has complied with the case plan and the progress that the family has made in making the home safe;
- (4) Determine the extent of progress toward resolving the problems that caused the placement and necessitate continued placement;
- (5) Project a likely date for the child's return to a safe family home, or permanent placement out of the family home in the following order of preference, through adoption, legal

- guardianship, or other permanent out-of-home placement;
- (6) Determine the need for a termination of parental rights hearing pursuant to section 587A-33, HRS and if so, by when;
 - (7) Determine in the following order of preference whether, and if applicable when, the child will be:
 - (A) Returned to the legal custodian;
 - (B) Placed for adoption and parental rights terminated;
 - (C) Referred for legal guardianship;
 - (D) Placed permanently with a fit and willing relative; or
 - (E) Placed in another planned permanent custody living arrangement, but only in cases where the department has documented to the court a compelling reason for determining it would not be in the best interest of the child to follow one of the four specified options above.
 - (8) In the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options.
 - (9) Determine if the child is placed out of the state in which the home of the legal custodian is located, whether the out-of-state placement continues to be in the best interest of the child; and
 - (10) Consult, in an age appropriate manner, with the child about the proposed permanency or transition plan.
 - (11) Determine, in the case of the child who has attained sixteen years of age, the services needed to assist the child to make the transition from foster care to independent living. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-2, 587A-30; 42 U.S.C. §627; 45 C.F.R. §§1355.20, 1356.21; Pub. L. No. 96-272, Pub. L. No 105-89)

§17-1610-36 Termination of parental rights hearing. (a) The department shall file a petition for permanent custody of the child and request a hearing if there has been a determination that:

- (1) The court has made a finding that the child is an "abandoned infant" or that "aggravated circumstances" are present in the case, in which case the termination of parental rights hearing shall be heard by the court within thirty days of the judicial determination that the child is an abandoned child or has been subjected to aggravated circumstances;
- (2) The child's legal custodian is unwilling or unable to provide the child with a safe, nurturing home at any time during the duration of the case; or
- (3) The child has been in placement for a total of twelve consecutive months or an aggregate of fifteen out of the last twenty-two months from the initial date of entry into out-of-home care, calculated cumulatively from the initial date of out-of-home care, provided that the fifteen month time limit shall not include trial home visits or time the child may have been on runaway status in calculating the cumulative fifteen month time limit unless:
 - (A) The child is being cared for by a relative;
 - (B) There is documentation in the case plan which is available for court review of a compelling reason why filing a motion for permanent custody is not in the best interest of the child including the following:
 - (i) Adoption is not the appropriate permanency goal for the child; or
 - (ii) No grounds to file a petition to terminate parental rights exist; or
 - (iii) The child is an unaccompanied refugee minor as defined in 45 CFR 400.111; or
 - (iv) There are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights; or
 - (v) The family has not been provided services, consistent with the time period that has been determined necessary for the safe return of the child.
- (b) If a petition is filed by an agency other

than the department in accordance with subsection (a) (1) or (3) above, the department shall seek to join as a party to the petition. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 350-2) (Imp: HRS §587A-33; 42 U.S.C. §627; 45 C.F.R. §§1340.14, 1355.20, 1356.21, 1357)

§§17-1610-37 to 17-1610-38 (Reserved)

SUBCHAPTER 5

CASEWORK SERVICES

§17-1610-39 Concurrent planning. (a) For all children and families assessed as needing ongoing child welfare casework services and under the jurisdiction of the department either voluntarily or by court order, the department shall initiate concurrent planning in accordance with departmental procedures. Concurrent planning shall include but not be limited to the following:

- (1) An assessment to determine the needs of each child to ensure that each child's needs for safety and permanency are recognized and incorporated into intervention services, treatment, placement, and timely permanency decision making;
- (2) An assessment of the family's potential to maintain the child in the home or to reunify the child with the family; and
- (3) A casework strategy developed with the family that incorporates a plan to maintain or reunify the child with the legal custodian, and a plan to provide a permanent home in the following order of preference, through adoption, legal guardianship, or other permanent out-of-home placement should reunification not be successful.

(b) Concurrent planning shall be initiated in any case where the department has joined in a petition to terminate parental rights. Concurrent planning for those cases shall include but not be limited to identification, recruitment, processing and approving a qualified adoptive family for the child.

(c) Concurrent planning shall not be implemented in the case where there is a finding that the child is

an abandoned infant or where there has been a finding of aggravated circumstances by the court. [Eff
DEC 09 2010] (Auth: HRS §§346-14) (Imp: HRS §§350-2, 587A-33; 42 U.S.C. §627; 45 C.F.R. §§1340.14, 1355.20, 1356.21)

§17-1610-40 Family preservation services. (a) If the department assesses the child is safe in the home with the assistance of a service plan, reasonable efforts shall be made to assist the family in maintaining the child in the home with the provision of appropriate and available services in accordance with departmental procedures.

(b) Services provided the child and family shall be in accordance with a case plan pursuant to section 17-1610-26.

(c) Family preservation services shall be provided to meet the child's medical, psychological, social, recreational, educational, and physical needs.

(d) Family preservation services may be provided to the family via referrals, purchase of service contracts, and services provided by departmental staff in accordance with departmental procedures.

(e) If the child and family are determined eligible pursuant to chapter 17-1616, the department may utilize funds authorized to cover the cost of services to maintain the child in the family home or to prevent removal to the extent that funds are available.

(f) Family preservation services shall not be provided to children and families where there has been an assessment by the department that the child cannot safely be maintained in the home, even with the assistance of a service plan, or when there has been a finding by the court of aggravated circumstances or that the child is an abandoned infant. [Eff

DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §587A-11; 45 C.F.R. §1340.14)

§17-1610-41 Out-of-home placement services. (a) The department shall remove the child from the family home if the home is assessed as unsafe, even with the assistance of a service plan.

(b) If placement of a child out of the family home is determined necessary to ensure the safety of the child, the department shall:

(1) Place the child only:

- (A) Through the legal custodian's signed, valid voluntary foster custody agreement, which specifies at a minimum the legal status of the child, and the rights and obligations of the legal custodian of the child and the department while the child is in out-of-home placement;
 - (B) By court order;
 - (C) By assuming temporary foster custody of a child subject to court ordered family supervision and placing the child in foster care, pursuant to section 587A-4 HRS; or
 - (D) By the transfer of protective custody from the police.
- (2) Make reasonable efforts to place the child in the least restrictive and most family-like setting available which is able to meet the child's needs;
 - (3) Make reasonable efforts to place the child in close proximity to the family home;
 - (4) Make reasonable efforts to maintain the child in the same school, when appropriate;
 - (5) Make reasonable efforts to place siblings together, when appropriate;
 - (6) Make reasonable efforts to place siblings removed from their home in the same foster care, adoption, or guardianship placement, or facilitate visitation or ongoing contacts with those who cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings to do so.
 - (7) Within thirty days after the removal of a child from the custody of the parent or parents of the child, the department shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parent), subject to exception due to family violence, that:
 - (A) Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - (B) Explains the options the relative has under federal, state, and local law to participate in the care and placement

of the child, including any options that may be lost by failing to respond to the notice;

- (C) Describes how a family can become a licensed resource family home and the additional services and supports that are available for the children placed in such a home; and
 - (D) Describes how the relative guardian of the child may subsequently enter into a kinship guardianship agreement with the department to receive the kinship guardianship payments;
- (8) Exercise due diligence to assure that each child receiving a title IV-E foster care, adoption, or guardianship payment is a full-time elementary or secondary school student, or is incapable of attending school due to a documented medical condition.
 - (9) Exercise due diligence to inform prospective adoptive parents of the adoption tax credit.
 - (10) Place a child under the department's placement responsibility in a licensed home or facility, after first considering, when appropriate, placement with relatives who meet the department's licensing standards;
 - (11) Not delay or deny to any person the opportunity to become an adoptive or resource caregiver, on the basis of race, color, or national origin of the person, or of the child involved;
 - (12) Not delay or deny the placement of a child, or otherwise discriminate in making placement decisions solely based on the race, color, or national origin of the resource caregiver or the child involved. However, the cultural, ethnic or racial background of the child and the capacity of the resource caregiver(s) to meet the needs of the child of such background may be considered as factors when making a determination of placement that is in the best interests of the child;
 - (13) Not maintain any statute, regulation, policy, procedure or practice that, on its face, is a violation of 45 CFR §1355.38(a)(2)(iii); and
 - (14) Ensure that the child, if eligible under chapter 17-1617, receives federally funded

foster care payments through Title IV-E.

(c) The department shall ensure that each child entering foster care is provided with medical services pursuant to HRS 350, HRS 346, in accordance with departmental procedures. In addition:

- (1) As a requirement for admission into a resource family home or on-call resource family home, the child shall have a physical examination prior to placement or, in emergency situations, after placement, which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older; or
- (2) As a requirement for admission into a group home or child-caring institution, the child shall have a physical examination prior to admission which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older; and
- (3) Each child in foster care shall have a health record which shall include a record of immunizations. If no record is available on immunizations or the immunizations are not completed, immediate steps shall be taken to have the immunizations completed;
- (4) Each child in foster care shall have an annual physical examination which shall indicate the absence of any communicable condition, known allergies, physical handicaps or limitations, and specific health needs. The annual physical examination shall also include a chest x-ray or a tuberculin skin test for a child fifteen years or older; and
- (5) Each child in foster care shall have regular dental examinations and appropriate dental care.

(d) The department shall notify the legal custodian in writing of any change in placement or visitation prior to the change, except in case of

emergency when the legal custodian may be notified verbally, to be followed by written notice in accordance with departmental procedures.

(e) The department shall make reasonable efforts to assist the family in reunifying with the child, except that reasonable efforts need not be made when a court of competent jurisdiction determines that:

- (1) The child has been found to be an abandoned infant; or
- (2) The legal custodian subjected the child to aggravated circumstances.

(f) Services provided the child and family shall be in accordance with a case plan pursuant to section 17-1610-26.

(g) The services may be provided directly by department staff, through purchase of service providers, or by other individuals or agencies through referral by the department.

(h) If the child and family are determined eligible pursuant to chapter 17-1616, the department may utilize funds authorized to cover the cost of services to reunify the child with the family in the family home to the extent that funds are available.

(i) The child shall be returned to the custody of the child's legal custodian when the department determines that the child's legal custodian is willing and able to provide a safe family home pursuant to chapter 587A, HRS.

(j) When reunification is clearly and convincingly established as not being able to be accomplished in the reasonably foreseeable future pursuant to section 17-1610-36, the department shall pursue permanent custody for the child at the earliest possible time in accordance with the concurrent permanency plan.

- (1) An assessment shall be made of the child to determine whether adoption is an appropriate permanency goal.

- (2) If adoption is not possible for a child, an assessment shall be made to determine the most appropriate long-term permanent placement option. [Eff

DEC 09 2010]
(Auth: HRS §§346-14, 350-2) (Imp: HRS
§§350-2, 587A-11; 42 U.S.C. §671(a); 45
C.F.R. §§1340.14, 1355.38; Pub. L. No. 110-
351; 471(a)(29) of the Social Security Act)

§17-1610-42 Independent living services. Each eligible child in out-of-home care shall be offered age appropriate independent living services by the department in accordance with chapter 17-1611. [Eff
DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §587A-30; 42 U.S.C. §671(a); 45 C.F.R. §§1340.14, 1355.38;)

§17-1610-43 Adoption services. (a) Adoption services shall be provided to children who are legally free, as well as to children who are not yet legally free for whom adoption is the goal. Adoption services shall be provided to:

- (1) Locate suitable adoptive homes for children needing adoption; and
- (2) Help children become members of a family who can give them the love, care, protection, and opportunities essential for their healthy growth and development.

(b) The needs of the child shall be the primary determinant of the total service, with full recognition of the interrelated needs and interests of the child and prospective adoptive parent(s).

(c) Adoption services provided shall ensure that:

- (1) The rights of the parent or legal custodian are respected;
- (2) The best interests of the child are protected; and
- (3) The prospective adoptive parents are able to provide appropriate care and supervision for the healthy growth and development of the child.

(d) Only approved adoptive homes or licensed resource family homes shall be used for the placement of children with a goal of adoption.

(e) The department may consider adoption by a licensed resource caregiver(s) if it is assessed by the department as being in the best interest of the child, and the home has been approved as an adoptive home in accordance with departmental procedures.

(f) When an adoptive home is not available in the state, the department shall use child-specific state, regional, and national adoption exchanges, including but not limited to electronic exchange systems, to search for an appropriate adoptive home out-of-state.

(g) The department shall not delay or deny to any person the opportunity to become an adoptive parent, on the basis of race, color, or national origin of the

person, or of the child involved. However, the cultural, ethnic, or racial background of the child and the capacity of the adoptive parent(s) to meet the needs of the child of such background may be considered as factors when making a determination of placement that is in the best interest of the child.

(h) The department shall not delay or deny the placement of a child under the jurisdiction of the department for adoption when an approved family is available out-of-state. Individuals who believe an adoptive placement has been delayed or denied due to where they reside shall be afforded the opportunity for a fair hearing pursuant to HAR 17-602.1.

(i) An assessment of the child's needs and potential shall be conducted before the placement of the child into an adoptive home. When appropriate, the child shall be involved in the adoption planning and participate in the final adoption decision. Selection of the home shall be made in accordance with departmental procedures.

(j) Placement of a child with prospective adoptive parent(s) shall be made only after the child and the prospective adoptive parent(s) are prepared for the placement in accordance with departmental procedures.

(k) A placement shall be designated as the adoptive placement for the child when:

- (1) The home has been studied and approved as an adoptive home by the department or licensed child-placing organization;
- (2) The child has been legally freed for adoption;
- (3) The placement has been determined to be the placement that is most appropriate for the child's needs and in the child's best interests; and
- (4) The department and the prospective adoptive parent(s) have entered into a written agreement that formalizes the intent to proceed with the legalization of the adoption when the department is fully satisfied that the adoption is in the child's best interest.

(l) After the child is placed with the prospective adoptive parent(s), the department shall assist the prospective adoptive parent(s) and the child with the adjustment and integration into a new family unit.

(m) The department may remove the child at any

time prior to the finalization of the adoption when such action has been determined to be in the child's best interest.

(n) The department shall inform prospective adoptive parent(s) of the availability and eligibility criteria for adoption assistance pursuant to chapter 17-1620.

(o) The department shall proceed with finalizing the adoption in accordance with departmental procedures when:

- (1) The child's birth parents' or legal custodians' rights have been relinquished or terminated by order of the court;
- (2) The department is satisfied with the progress of the placement;
- (3) The child has consented if required by statute, unless there is a finding by the court that finds the adoption is in the best interest of the child and orders the adoption to proceed; and
- (4) The prospective adoptive parents concur.

(p) Post-adoption services may be provided by the department or other agencies to support the child and adoptive family after the finalization of the adoption, depending on the availability of resources. [Eff

DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §§346-14, 578-8, 587A-33, Pub. L. No. 105-89)

§17-1610-44 Permanent out-of-home services. (a) If the child cannot be reunified with the legal custodian and adoption is not possible, permanent placement with specified individual(s), such as legal guardian(s) or permanent custodian(s), shall be considered before long-term foster care. Placement with appropriate family members, if determined to be in the best interests of the child, shall be given first consideration pursuant to departmental procedures.

(b) Permanent out-of-home services shall be provided to:

- (1) Locate suitable permanent homes for children needing permanent placement; and
- (2) Help children become members of a family who can give them the love, care, protection, and opportunities essential for their healthy personality growth and development.

(c) The needs of the child shall be the primary determinant of the total service, with full recognition

of the interrelated needs and interests of the child and permanent caregiver(s).

(d) Only licensed resource family homes or agency approved adoptive homes shall be approved for permanent placement of a child.

(e) The department shall not delay or deny to any person the opportunity to become a resource caregiver, on the basis of race, color, or national origin of the person, or of the child involved. However, the cultural, ethnic or racial background of the child and the capacity of the permanent caregiver(s) to meet the needs of the child of such background may be considered as factors when making a determination of placement that is in the best interests of the child.

(f) The department shall not delay or deny the placement of a child under the jurisdiction of the department for adoption when an approved family is available out-of-state.

(g) An assessment of the child's needs and potential shall be conducted before the placement of the child into a permanent caregiver's home. When appropriate, the child shall be involved in the permanency planning and participate in the final decision. Selection of the home shall be made in accordance with departmental procedures.

(h) Placement of a child with prospective permanent caregiver(s) shall be made only after the child and the prospective permanent caregiver(s) are prepared for the placement in accordance with departmental procedures. The Department shall assist the prospective permanent caregiver(s) and the child to facilitate the child's adjustment and integration into the new family unit.

(i) A placement shall be considered the prospective permanent placement for the child when:

- (1) The proposed caregiver(s) is a licensed resource caregiver(s) or meets the approval or certification requirements of chapters 17-1625 or 17-1628 and is willing and able to provide for the needs of the child; and
- (2) The placement has been determined to be the placement that is most appropriate for the child's needs and in the child's best interests.

(j) After the child is placed with the prospective permanent caregivers(s), the department shall assist the prospective permanent caregivers(s) and the child with the adjustment and integration into

a new family unit.

(k) The department may remove the child at any time before the finalization of the permanent placement when such action has been determined to be in the child's best interest.

(l) The department shall inform prospective permanent caregiver(s) of the availability and eligibility criteria for permanency assistance pursuant to chapter 17-1621.

(m) The department shall proceed with finalizing the permanent placement in accordance with departmental procedures when:

- (1) The department is satisfied with the progress of the placement;
- (2) The child, if appropriate, is in support of the permanent placement; and
- (3) The permanent caregiver(s) agree to the permanent placement of the child in the home.

(n) Post-permanency services may be provided by the department or other agencies to the child and family after the placement of the child into the permanent home has been finalized, depending on the availability of resources. [Eff. DEC 09 2010] (Auth: HRS §346-14) (Imp: HRS §§346-17, 587A-32)

§17-1610-45 Termination of child welfare casework services. Notice shall be provided and child welfare casework services shall be terminated when:

- (1) The department finds the child is not at risk of harm or threatened harm;
- (2) Harm or threatened harm is not confirmed after an assessment is completed;
- (3) Harm or threatened harm is confirmed, but child welfare casework services are not determined necessary to ensure the child's safety;
- (4) Harm or threatened harm is confirmed, services are successfully completed, and the department finds that the child is no longer at risk of harm or threatened harm;
- (5) The family refuses to accept services, the department petitions the family court, but the court decides against assuming jurisdiction over the child;
- (6) The department determines the recipient who is participating in services or treatment provided by the department is unwilling or

- unable to make constructive use of the service;
- (7) The maltreater leaves the home permanently and the family is able to protect the child from harm or threatened harm;
 - (8) The child victim leaves the home permanently with parental consent to live with the non-maltreating parent, other relatives, or friends and there are no other siblings harmed or threatened with harm;
 - (9) Approval for termination of court jurisdiction by the receiving state's office of the interstate compact on the placement of children has been received and jurisdiction is terminated by the family court;
 - (10) The child has been returned to a safe family home and services have been successfully completed;
 - (11) The adoption is finalized and verifying documentation has been received from the family court or other authorized agency;
 - (12) Sole legal guardianship or permanent custody is awarded to an authorized agency or individual and the department is relieved of any placement responsibility;
 - (13) The child is placed in a correctional facility and the department is relieved of any placement responsibility;
 - (14) The child victim reaches the age of eighteen and casework services are no longer being provided;
 - (15) The child is determined to be a runaway or incorrigible, and the department's responsibility is terminated, by legal custodian(s) or legal guardian(s) in the case of a voluntary placement, or by family court, when the child cannot be found, or refuses to engage in services;
 - (16) The child or family has been determined ineligible for or no longer requires services under this chapter;
 - (17) The service is no longer included in the department's scope of services;
 - (18) The family receiving voluntary child welfare casework services moves and cannot be located after three months despite reasonable efforts to locate the family;
 - (19) Jurisdiction over the child and family is

- terminated by the family court, with or without the department's agreement; or
- (20) The child victim dies and there are no other children in the family home." [Eff
DEC 09 2010] (Auth: HRS §§346-14, 350-2)
(Imp: HRS §§350-2, 587A-28; 45 C.F.R.
§1340.14)

9. The repeal of chapters 17-804, 17-806, 17-830, 17-913, 17-918.1, 17-920.1, and 17-945 and the adoption of chapter 17-1610 shall take effect ten days after filing with the Office of the Lieutenant Governor.