

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES
SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 920.1

CHILD PROTECTIVE SERVICES

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Historical Note: This chapter is based substantially upon chapter 920 of title 17, Hawaii Administrative Rules. [Eff 7/19/82; R 2/2/85]

§17-920.1-1 Goals. The department shall provide protective services immediately to a child who is the subject of a report to:

- (1) Protect from harm or threatened harm; or
- (2) Prevent abuse or neglect of a child; and
- (3) Preserve, rehabilitate, or reunite families in a safe home by removing barriers to healthful development, adequate care and protection, and adequate parental or familial functioning. [Eff 2/2/85; comp JUN 11 1992] (Auth: HRS §346-14) (Imp: 45 C.F.R. §1340.1-1; 42 U.S.C. §1397; HRS §587)

§17-920.1-2 Definitions. As used in this chapter:

"Abuse and neglect" means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age by a parent, legal guardian, or person responsible for that child's care under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened with harm as defined in chapter 587, HRS.

"Authorized agency", as defined in chapter 587, HRS, means the department or other public or private agency, a person, organization, corporation, and benevolent society or association which 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 or neglect report were designed to mislead or deceive and not the result of an honest mistake.

"Casework services" means activities performed by a social worker which 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 families. Casework services guide families through the requirements imposed by state or federal law, court orders, community norms, and treatment expectations in the course of the family's contact with the department.

"Child protective services" means the social services provided to children who are reported to have been or are at risk of being abused or neglected. The term also includes the services provided to the parents and siblings of the children to help solve problems which caused the abuse or neglect.

"Consultant teams" or "diagnostic team" or "multidisciplinary team" or "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. Consultant teams may include, but are not limited to, social workers, medical personnel, psychiatrists, psychologist, and other related professionals.

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

"Criminal history record check", as defined in chapter 587, HRS, means an examination of an individual's criminal history record through fingerprint analysis or 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 the purposes under this chapter and shall be subject to applicable federal laws and regulations.

"Expunge" means to destroy or delete.

"Family" means family as defined in chapter 587, HRS, which includes a person responsible for a child's care.

"Family home", as defined in chapter 587, HRS, means the home of the child's legal custodian where there is provision of care for the child's physical and psychological health and welfare.

"Frivolous" means that the statements or material contained in the child abuse or neglect report are of little weight or importance.

"Harm or threatened with harm" means harm or threatened harm as defined in chapter 587, HRS.

"Imminent harm" means imminent harm as defined in chapter 587, HRS.

"Negligent treatment" or "maltreatment" means the failure of the family or person responsible for a child's care to provide adequate food, clothing, shelter, medical care, supervision, or guidance to a child.

"Out of home care" means care in a licensed child care facility. As defined by section 346-151, HRS, child care facility means a place maintained by any individual, organization, or agency for the purpose of providing care for three or more children with or without charging a fee during any part of a twenty-four hour day. It includes a family child care home, group care home, and group child care center.

"Permanent custody", as defined in chapter 587, HRS, means the legal status created by order of the court after the court has considered the criteria set forth in section 587-73(a) or (e), HRS, and determined by clear and convincing evidence that it is in the best interests of the child to order an appropriate permanent plan concerning the child. Permanent custody transfers from each legal custodian and family member to a permanent custodian certain parental and custodial duties and rights of a legal custodian and family member as described in and under additional conditions set forth in chapter 587, HRS.

"Permanent plan" means a specific written plan prepared pursuant to section 587-27, HRS.

"Person responsible for a child's care" means the child's parent, any other persons included in a child's family, guardian, foster parent, an employee of a public or private residential home or facility, or other person legally responsible for the child's welfare in a residential setting or out of home care.

"Physical injury" means the non-accidental injury of a child by the family or person responsible for a child's care.

"Psychological abuse and neglect" means child rearing practices or an absence of them, by the family, or person responsible for a child's care which result in the gross impairment or likely impairment of a child's opportunity for normal and healthy psychological development which would allow the child

to achieve a reasonable degree of positive and independent life adjustment within the child's inherent capabilities and cultural-environmental opportunities.

"Records" means the initial report and all subsequent information on a child or family while investigating, treating, or providing child protective services.

"Risk assessment" means the continual process of evaluating whether there is reasonable, foreseeable risk of harm to the child in the family home.

"Service plan" means a specific written plan which is prepared by the department or other appropriate authorized agency and the appropriate members of the family in accordance with federal and state requirements for a service plan.

"Sexual abuse" means any sexual act performed on or sexual exploitation of a child, by the family or person responsible for a child's care. 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 as those acts are defined by state law.

"State central registry" means the records or information regarding the report of a threat or an incident of abuse or neglect and the department's assessment of that report. This registry is maintained in the department's research and statistics office.

"Threatened harm" means threatened harm as defined in chapter 587, HRS.

"Treatment services" means casework, counseling, psychiatric or psychological, or other therapies directed at improving a parent's or abused or neglected child's family life in order to have a child remain at home or return to the home.

"Unconfirmed" means that the reasonable, foreseeable risk to the safety of the subject child of the abuse or neglect report cannot be established.

"Unsubstantiated" means that the statements or material contained in the child abuse or neglect report was frivolous or made in bad faith. [Eff 2/2/85; 3/2/87; 1/21/88; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-1, 350-2) (Imp: 45 C.F.R. §1340.1-2; §§346-14, 350-1, 350-2, 587)

§17-920.1-3 to 17-920.1-4 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§17-920.1-5 Eligibility requirements. (a) A child shall be eligible for protective services upon being reported to be harmed, threatened or subject to imminent harm by a person responsible for a child's care.

(b) A child shall be eligible for protective services under one of the following categories:

- (1) Income maintenance category as specified in section 17-912-22(2)(A);
- (2) Income eligible category as specified in section 17-912-22(2)(B); or
- (3) Without regard to income category as specified in section 17-912-22(2)(C). [Eff 2/2/85; am 3/2/87; comp JUN 11 1992]
(Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-2, 587; 42 U.S.C. §§1397, 1397a)

§17-920.1-6 Geographic area of service. (a) Protective services provided by departmental staff shall be available throughout the State.

(b) Where protective services are provided through purchase of service, these protective services shall be offered within the scope and funding of the current contract. [Eff 2/2/85; comp JUN 11 1992]
(Auth: HRS §§346-14, 350-2) (Imp: 42 U.S.C. §§3597, 1397a; HRS §587)

§17-920.1-7 Authorization for service. (a) Assessment and casework services shall be authorized on the basis that the department received a report of abuse, neglect, exploitation, harm or threatened harm. The department shall document the report on a prescribed form which shall serve as a written application for social services.

(b) Assessment or diagnostic services shall be authorized by the department verbally or by a written referral when the:

- (1) Family has no resource to cover the cost of needed medical, psychiatric, or psychological diagnosis; and
- (2) Medical, psychiatric, or psychological diagnosis may not be covered by medicaid.
- (c) Assessment, or diagnostic or treatment services given through a purchase of service contract shall be offered within the scope and funding of the current contract and shall be authorized through use of prescribed forms.
- (d) When foster care or group care is provided, payment shall be made to the foster home or institution according to board rates established by the department.
- (e) The department may utilize funds authorized to cover the cost of basic maintenance for children in licensed substitute care to provide placement prevention or reunification services to the child and family if the following criteria are met:
 - (1) Services, which are not available through the department, are available in the community and may prevent the placement of the child;
 - (2) Without the services, the child would be placed into licensed substitute care under the placement responsibility of the department or would be forced to remain in substitute care for a longer period.
- (f) The cost of the provided services shall not exceed:
 - (1) The equivalent cost of monthly foster board payment as allowed in section 17-828-6 for each month preplacement services are provided;
 - (2) The equivalent cost of six months of monthly foster board payment as allowed in section 17-828-6 for reunification services. [Eff 2/2/85; am 6/12/90; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §350-2; 45 C.F.R. §1340.3-3)

§17-920.1-8 Confidentiality. (a) All records and information shall be confidential and unauthorized disclosure shall be a criminal offense. Records shall not be accessible for public inspection except as provided by this section. The name of a reporter who requests that the reporter's name be confidential shall

be disclosed only with the reporter's written consent or pursuant to a court order.

(b) The general provisions of chapter 17-601 including, but not limited to, adoption, shall apply to this chapter. In addition, the specific provisions in subsections (c) to (f) shall apply.

(c) The original record may be reviewed as provided for in this section, but copies of that record and other information shall be released at the discretion of the department or pursuant to a court order. Copies of the record and other information may be released, at the discretion of the department, to the following:

- (1) Consultant teams under contract or arrangement with the department to give consultation to social workers;
- (2) Courts, upon finding that access to the records may be necessary for determination of an issue before the court. Access shall be limited to inspection by the court only, unless the court determines that public disclosure of the records is necessary for the resolution of an issue pending before it;
- (3) Grand juries when connected with the administration or prosecution of a child abuse or neglect case;
- (4) Properly constituted authorities or agencies both military and civilian, investigating a report of known or suspected child abuse or neglect, or providing services to a child or family who is the subject of a report;
- (5) Any licensed physician who has before the physician a child whom the physician reasonably suspects to be harmed, threatened with harm, or subject to imminent harm;
- (6) A person legally authorized to remove a child from home when that person reasonably suspects the child is being abused, neglected, or in imminent harm, and the record is required in order to determine whether to remove the child;
- (7) Any agency, including purchase of service (POS) providers, authorized, contracted, or licensed to diagnose, care or treat, or supervise a child who is the subject of a report of abuse or neglect;

- (8) A person including, but not limited to, a guardian ad litem or foster parent, who is responsible for the welfare of the child named, with protection for the identity of reporters and other appropriate persons;
- (9) State and local officials responsible for administration of child protective service programs, legislation or registration in order to carry out official functions; and
- (10) A person, agency, or organization engaged in research where prior written approval has been secured from the director specifying the limits and scope of the study. No record identifying the subjects of the report shall be made available to the researcher unless it is absolutely essential to the research purpose and a prior consent to the release of information is obtained from the child's parent or legal guardian or, if there is an active court case, with prior order of the court.

(d) Copies of records and other information may be released to a family member to whom the records and information pertain. Records and information concerning a child may be released to the child, legal custodian, legal guardian, guardian ad litem or foster custodian as deemed appropriate by the department. A family member may not have access to records which violate the confidentiality of another parent, the child, a consultant, a complainant, or any other person.

(e) Records and other information may only be released to a family member's designee when a written authorization has been obtained from the family member which shall specifically include consent to have the record or other information released or reviewed by such designee.

(f) When records and other information are released under subsections (d) and (e) the following shall apply:

- (1) Medical, psychological, or psychiatric information in the department's case record, including diagnosis and past history of disease or disability of a particular individual shall remain the property of the medical, psychological, or psychiatric consultant and an individual requesting this

- record shall be referred to the original consultant for release of that information;
- (2) Case records shall be reviewed under supervision within the department's offices. The original records shall not be removed from the premises;
 - (3) Information from records may be released upon an individual's request provided that a signed and dated written request is received stating specifically:
 - (A) What portion of the record is to be released;
 - (B) Whether the record is desired verbally, through review, or by receipt of copies of the record requested at a cost specified in chapter 17-601 and postage, if any;
 - (C) The name of the individual authorized to receive the record or to review the record, and the individual's agency connection, if any;
 - (D) The purpose for which the record is being sought;
 - (E) The family member's social security number or birthdate, and address; and
 - (F) The period of time the authorization is valid, not to exceed ninety days;
 - (4) The department shall permit the review of the record or provide a copy of the record requested within ten working days of the date the written request is received. When the ten day time limit cannot be met the time period may be extended for twenty additional days if:
 - (A) A written explanation of the delay is provided to the individual; and
 - (B) The written explanation is provided within the initial ten working day period;
 - (5) When the record requested contains or consists of coded or abbreviated material such as computer input and output forms, the department may provide an explanation concerning the information set forth in the record, if requested;
 - (6) Records and information which have been submitted to the family court pursuant to

chapter 587, HRS, shall only be released pursuant to section 587-81, HRS.

(g) Before copies of records are released or reviewed under subsections (c), (d) and (e), the department shall:

- (1) Block out the name or other portion of the record identifying the child abuse or neglect reporter who requested confidentiality;
- (2) Reproduce a copy of the page from which the portion of the record was blocked out; and
- (3) Allow the appropriate party to receive or to review the blocked out page. [Eff 2/2/85; am 3/2/87; am 1/21/88; am and comp JUN 11 1992] (Auth: HRS §§ 346-10, 346-14, 350-1; 45 C.F.R. §§205.50, 1396.10) (Imp: HRS §§ 346-10, 350-1, 587; 45 C.F.R. §§205.50, 1340.3-3)

§17-920.1-9 to 17-920.1-10 (Reserved).

SUBCHAPTER 2

REPORTS

§17-920.1-11 Verification of reports. (a) The department shall accept reports made pursuant to chapter 350, HRS, and shall immediately assess the validity of the report to provide appropriate services to the child and family in accordance with the department's guidelines. Written applications shall not be required.

(b) The department shall inform the complainant that the department shall verify the report and that if needed, services shall be provided.

(c) At the complainant's request, the department shall assure the complainant that, whenever possible, the complainant's identity shall be protected.

(d) If any department employee is an alleged perpetrator of child abuse and neglect of a child in a non-familial relationship who is in the physical or legal care of the department, the police department in the county where the alleged report is made shall be notified in order to investigate wrongdoing. The

department of the attorney general shall be notified of the report and the actions being taken by the department in the matter.

(e) The department shall verify or validate the report in the following manner:

- (1) Evaluate the report to insure that it is based on fact;
- (2) Take action as soon as possible in order to provide immediate protection to the child;
- (3) Discuss the report directly with the parents, guardians, or custodians preferably through a home visit by:
 - (A) Interpreting the department's services and legal authority to protect children;
 - (B) Discussing specific reasons for the department's entry in the particular situation;
 - (C) Evaluating whether the report is justified; and
- (4) See the child as early as possible to evaluate the extent to which the child is threatened with harm.

(f) The department shall inform the complainant or reporting agency of the completion of its investigations. [Eff 2/2/85; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-1, 350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-12 Registration of reports. (a) Every report, whether confirmed, unconfirmed, or unsubstantiated, shall be registered with the State central registry on child abuse and neglect within sixty calendar days from the date of the referral, including, but not limited to:

- (1) Reports of incidents in cases active with another social agency; and
 - (2) Reports of incidents occurring in families receiving financial assistance or social services from the department; and
 - (3) Reports of threatened or imminent harm.
- (b) Information of previous registration of the child or perpetrator may be shared with social agencies which administer child welfare programs.
- (c) The department social worker who observes, has knowledge of, or is aware or suspects an incident of abuse or neglect shall complete a report form as the

complainant if there is no report from outside the department.

(d) All department social workers shall report incidents of child abuse including incidents in which the department employee may be the perpetrator. [Eff 2/2/85; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§346-10, 350-2; 45 C.F.R. §1340.3-3)

§17-920.1-13 Expungement of reports. (a) A child abuse or neglect report registered with the State central registry shall be expunged within sixty calendar days following the date of case registration when:

- (1) The report is determined to be unsubstantiated; or
- (2) The petition arising from the child abuse or neglect report has been dismissed by the order of the family court after an adjudication hearing on the merits pursuant to chapter 587, HRS.

(b) The department's record concerning a child abuse or neglect report that is unsubstantiated shall be expunged within sixty calendar days following the date of case registration.

(c) The department's record concerning a child abuse or neglect report that is unconfirmed or where the petition has been dismissed by the order of the family court after an adjudication hearing on the merits pursuant to chapter 587, HRS, shall be expunged after a period of three years from the date of case registration. [Eff and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§346-14, 350-2; 45 C.F.R. §1340.14)

§17-920.1-14 REPEALED. [R JUN 11 1992]

SUBCHAPTER 3

SCOPE OF SERVICES

§17-920.1-15 Social assessment. (a) The

department shall obtain a written medical diagnosis of the child's physical condition when one or more of the following conditions exist:

- (1) A sibling died as a result of suspected abuse, neglect, or harm;
 - (2) Life-threatening or other serious abuse is reported;
 - (3) Failure to thrive is suspected;
 - (4) Sexual abuse is suspected;
 - (5) Abuse or harm is suspected, injuries are observed, but parents deny abusing the child or fail to provide reasonable explanation;
 - (6) A child is denied needed medical care and the department has reason to believe that the denial may result in harm to the child; or
 - (7) The quality of care provided to the child is seriously inadequate.
- (b) The purpose of obtaining a medical diagnosis shall be to determine:
- (1) If there are any current or past injuries or illnesses;
 - (2) How the injury or illness occurred;
 - (3) The seriousness of any injuries or illnesses present;
 - (4) The type of medical care needed, if any; and
 - (5) Whether abuse or neglect is the probable cause of the child's condition.
- (c) Medical diagnosis may be obtained with consent of the parents utilizing:
- (1) The child's pediatrician or family physician;
 - (2) A hospital or medical facility contracted by the department for specialized protective services to children; or
 - (3) Any pediatrician or physician in the area.
- (d) Where the department determines that multidisciplinary resources are needed, and the resources are available, the resources may be utilized to assist the department with assessment of the child and appropriate family members by referral to multidisciplinary consultant or diagnostic teams, psychiatric and psychological consultants, mental health clinics, and similar resources.
- (e) The department shall obtain a written psychiatric report, psychological report, or other multidisciplinary consultant team evaluation on the child, or appropriate family members when the actual or

potential threat to the child is believed to be serious and one or more of the following conditions exist:

- (1) It is difficult to determine whether abuse or neglect has occurred;
- (2) Abuse or neglect has been confirmed but there is need to obtain a clearer understanding of the extent and nature of the problem;
- (3) There is need to assess what help, appropriate therapy, counseling or visitation is needed;
- (4) There is reason to believe that unsafe conditions in the home cannot be realistically improved and permanent separation seems necessary; or
- (5) It is difficult to determine whether the threat of harm exists or the degree of severity of the threat of harm.

(f) The department shall conduct a social study of the child and family which shall incorporate, but not be limited to, the guidelines for determining a safe family home as enumerated in chapter 587, HRS.

(g) If the family refuses to cooperate or otherwise prevent the department from fully assessing the report, the department may petition the family court to bring the child under the court's jurisdiction.

(h) 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 including, but not limited to:

- (1) Relatives, neighbors, friends;
- (2) Family doctors, public health nurses;
- (3) Schools;
- (4) Social service agencies;
- (5) Therapists; and
- (6) Mental health clinics.

(i) The department may conduct a criminal history record check on an alleged perpetrator of imminent harm, harm, or threatened harm to a child. [Eff 2/2/85; am 3/2/87; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-16 Disposition. The department shall make a clear decision whether abuse, neglect, or

exploitation did or will occur. This decision shall be:

- (1) Made within sixty days of the date of report;
- (2) Clearly recorded in the department's records;
- (3) Shared with and explained to the child's parent or legal guardian and to the alleged perpetrator either in writing or orally. A written description of the department's findings shall be given to the parent, legal guardian, or alleged perpetrator at their request. If the parent, legal guardian, or alleged perpetrator cannot be contacted, this fact shall be noted in the department's records; and
- (4) Shared with the complainant without violating the child's or family's right to confidentiality (see sections 17-920.1-8 Confidentiality and 17-920.1-11(f) Verification of reports). [Eff 2/2/85; am 4/7/89; am and comp JUN 1 1992] (Auth: HRS §346-14, 350-2) (Imp: HRS §§350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-17 Foster custody. (a) The department shall remove a child from the home if the child is in imminent harm or if the child is not in a safe home.

(b) Where immediate removal of a child is indicated but the family members refuse to consent, the department shall enlist the authority of the police to place the child in protective custody.

(c) If the department receives temporary foster custody of the child from the police, the department shall:

- (1) Petition the family court if the department determines that continued temporary foster custody is necessary pursuant to chapter 587, HRS; or
- (2) Continue its assumption of foster custody of the child with the child being voluntarily placed in foster care by the child's legal custodian or custodians; or
- (3) Relinquish its temporary foster custody and return the child to the child's legal custodian or custodians; or

- (4) Ensure that a petition is filed in court by another appropriate authorized agency pursuant to chapter 587, HRS.
- (d) For children who are recipients of AFDC or would have been eligible to be recipients of AFDC at the time of their removal from the home, there must be a judicial determination that:
- (1) Continuation in the child's home would be contrary to the best interests of the child, and
 - (2) Reasonable efforts had been made to either prevent placement or return the child to a safe family home (See chapter 17-943).
- (e) If a child is left in the care of an individual who is not a legal custodian for the child the department shall:
- (1) Determine if the child's living arrangement is safe; or
 - (2) Arrange placement of the child if needed; and
 - (3) Petition to the family court.
- (f) Any child removed from the child's home by family court order shall be returned to the family only after court review and approval unless chapter 587, HRS, or the court indicates this is unnecessary.
- (g) The department shall cooperate with the court appointed guardian ad litem for the child in planning services for the child.
- (h) The provisions of chapter 17-945 shall apply to families and children receiving services under this chapter. [Eff 2/2/85; am 3/2/87; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-18 Casework services. (a) When the nature of the report and the problems identified indicate the need for protective services, the department shall develop with the family a service plan which shall be completed within sixty days from the receipt of the report.

(b) In order to insure the long term safety of children referred for protection, the department shall petition the family court to bring the child under the jurisdiction of the court when one or more of the following conditions exist:

- (1) A sibling has died as a result of suspected abuse or neglect;

- (2) Serious abuse is suspected;
- (3) Failure to thrive is diagnosed;
- (4) An act or failure to act which poses a life-threatening or threat to the child is reported;
- (5) The family, either through words or actions, show an unwillingness or inability to jointly develop and carry out a protective service plan within the sixty days and the department believes that the child will be denied safe or adequate care if changes are not made in the family's functioning; or
- (6) The family willingly enters into a service plan but the plan is not successful within one year.

(c) The department shall refer to the police or to the county prosecutor's office all cases as outlined in interagency agreements in which criminal prosecution may be indicated.

(d) The department shall help those families needing counseling or therapy to find and arrange for the necessary treatment services. Treatment sources shall include, but not be limited to:

- (1) State department of health;
- (2) Mental health clinics of major medical centers;
- (3) Military clinics and medical treatment programs;
- (4) Private therapists such as psychiatrists, psychologists, and social workers;
- (5) Private social agencies; and
- (6) Family and adult services division of the department.

(e) For those families needing other supportive services, the department shall arrange or provide social rehabilitation services, homemaker services, chore services, day care services, or family care services.

(f) The department shall maintain regular contacts with the family and the abused or neglected child in order to:

- (1) Monitor and coordinate the family's use of treatment services made available;
- (2) Evaluate the family's progress toward making the recommended changes;
- (3) Insure the safety of the children remaining in the home;

- (4) Identify any serious adjustment problems for children placed out of the home and give counseling to those children so identified;
- (5) Help those children placed out of the home to prepare for return home when reunification is agreed upon; and
- (6) Help those children placed out of the home to accept permanent separation when the department decides that the children's own families cannot provide a safe home in the foreseeable future.

(g) The department shall obtain periodic written reports from those persons or agencies giving counseling or treatment to the family, the child, or both. These reports shall describe the problems being worked on, the response and progress shown, further treatment needs, and recommendations on the family's ability to meet the needs of the child.

(h) Within the requirements of chapter 587, HRS, and the service plan, the department shall recommend to the family court a definite plan to:

- (1) Leave the child in or return the child to the child's own home; or
- (2) Permanently separate the child from the parents or regular caretakers.

(i) The department shall consider the following factors as a basis for keeping a child in or returning a child to the child's own home:

- (1) Whether the family can provide a safe home pursuant to chapter 587, HRS; and
- (2) Whether the family has complied with the service plan or plans which have been in effect. [Eff 2/2/85; am and comp

JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §§350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-19 Treatment. (a) Treatment services are casework, counseling, and psychiatric or other therapies directed at improving home life so that the abused or neglected child may remain in or return to the home. The treatment services may be provided by the department or other persons.

(b) The department may offer selected services aimed at helping families to:

- (1) Improve child care;

- (2) Decrease day to day stress;
 - (3) Find support and help from other family members, relatives, friends, and others in time of stress;
 - (4) Make better use of available services in the community;
 - (5) Strengthen ties and improve mutual support within the family;
 - (6) Improve communication and strengthen relationships;
 - (7) Find ways of setting limits and controls for children without use of physical violence; and
 - (8) Evaluate marriages or relationships that block normal, healthy growth and development for both adults and children.
- (c) Treatment services offered through purchase of service contracts shall be limited by the scope, terms, and funding of each contract.
- (d) Treatment services offered by department staff shall be limited by the availability of staff responsible for treatment. [Eff 2/2/85; comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §350-2; 45 C.F.R. §1340.3-3)

§17-920.1-20 (Reserved)

SUBCHAPTER 4

OTHER PROVISIONS

§17-920.1-21 Risk Assessment. (a) Risk assessment is a continual process of evaluating whether there is reasonable, foreseeable risk of harm to the child. Specific, measurable variables known to contribute to a child's risk are weighed and used in considering safety issues and the necessity for the agency's intervention.

(b) Risk assessment matrices (scales) are tools completed at certain defined points during the casework process based on the social assessment:

- (1) Intake to assist in evaluating the agency's response and the urgency of that response based on information which

- places the child at risk and threatens family preservation;
- (2) Investigation to assist in evaluating whether risk is established based on identifying problems which pose risk to the child and threaten family preservation;
 - (3) Casework services to assist in evaluating family strengths/capacity to reduce risk and improve or stabilize family functioning with appropriate services. [Eff and comp JUN 11 1992]
(Auth: HRS §§346-14, 350-2, 587; 45 C.F.R. §1340.14) (Imp:)

§17-920.1-22 Permanent separation. (a) The department shall consider the criteria set forth in section 587-73(a), HRS, as the basis for permanently separating the child from the child's family.

(b) When the department determines that the family cannot provide the child with a safe home now or in the reasonably foreseeable future even with the assistance of a service plan, the department shall develop a permanent plan pursuant to section 587-27, HRS, which shall include but not be limited to:

- (1) A recommendation to the family court that permanent custody be awarded to an appropriate authorized agency as defined in section 587-2, HRS, with plans for:
 - (A) Adoption;
 - (B) Permanent custody with subsequent adoption; or
 - (C) Permanent custody until majority.
- (2) Where appropriate, for a child sixteen years and over, who is in substitute care and for whom the department has placement responsibility, a written description of the programs and services which will help the child in substitute care to prepare for transition to independent living.
- (c) The department shall explain and help the family and child to accept the need for permanent separation.
- (d) The family shall be encouraged to voluntarily consent to the adoption of the child.

(e) If adoption is not a realistic plan for the child, every effort should be made to place the child in the permanent custody of individuals.

(f) If placement in the permanent custody of an individual is not appropriate or in the best interest of the child, the department shall recommend permanent custody until majority be awarded to another appropriate authorized agency or to the department.

[Eff 2/2/85; am 3/2/87; am and comp JUN 11 1992]
(Auth: HRS §§346-14, 350-2) (Imp: HRS §350-2, 587; 45 C.F.R. §§1340.3-3, 1392.92; 42 U.S.C. §670-676)

§17-920.1-23 Termination of service. Protective services shall be terminated when:

- (1) The family moves and cannot be located after three months despite reasonable efforts to locate the family;
- (2) The department makes arrangements with a protective services agency in another state to continue follow-up services;
- (3) The family refuses to cooperate and the department lacks grounds to seek police or court intervention. Other social services to the child may continue;
- (4) The family refuses to accept protective casework services, the department petitions the family court, but the court decides against assuming jurisdiction over the child. Other social services to the child may continue;
- (5) Services are successfully completed and the department finds the child is no longer in danger of harm or threatened harm;
- (6) Harm or threatened harm is not confirmed;
- (7) The perpetrator of harm leaves the home permanently and the family is able to protect the child from injury or further risk;
- (8) The child victim leaves the home permanently with parental consent to live with other relatives or friends or the child victim is adopted;
- (9) Permanent custody is awarded to an appropriate authorized agency and child protective services are no longer needed;
- (10) The family voluntarily agrees to, or the family court orders legal termination of

parental rights over the child. Other social services to the child shall continue for permanent planning and follow through for the purpose of adoption until the adoption is final;

- (11) The child victim dies and there are no other children in the family home; or
- (12) The child victim reaches the age of eighteen unless jurisdiction is extended. [Eff 2/2/85; am 3/2/87; am and comp JUN 11 1992] (Auth: HRS §§346-14, 350-2) (Imp: HRS §350-2, 587; 45 C.F.R. §1340.3-3)

§17-920.1-24 Emergency assistance funds. (a)

Emergency assistance funds may be authorized in a crisis situation to prevent harm or threatened harm of a child, to maintain the child safely at home, or to meet the immediate needs of a child who has been placed into substitute care for protection reasons, to the extent that funds are available.

(b) Emergency assistance funds may be authorized when the following conditions are met:

- (1) A situation exists which has caused children and families to need assistance pursuant to chapter 587, HRS;
- (2) The family is eligible for public welfare assistance or has no available financial resources;
- (3) Financial assistance may eliminate or alleviate the situation and remove the danger of imminent harm, harm or threatened harm or would meet the immediate needs of a child who has been placed into substitute care for protection reasons; and
- (4) There are no other financial resources available.

(c) Emergency assistance funds may be used for shelter, child care, clothing, transportation, medical costs, utilities, food, repairs, essential equipment, and other available and appropriate goods or services determined necessary to eliminate or alleviate the emergency situation that are not otherwise provided for in other department programs.

(d) Emergency assistance funds shall be authorized as follows:

- (1) No more than \$1,000 per family during one state fiscal year.
- (2) In an exceptional situation, no more than \$2,000 per family during one state fiscal year with the director's approval. [Eff 3/02/87; am 4/7/89; am and comp JUN 11 1992] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-65)