

H.B. NO. 1355

A BILL FOR AN ACT

RELATING TO CERTIFICATION OF CHILD PLACING ORGANIZATIONS, CHILD CARING INSTITUTIONS, FOSTER BOARDING HOMES, AND ADOPTIVE HOMES.

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

1 SECTION 1. Section 346-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§346-17 Child placing organizations, child caring
4 institutions, and foster boarding homes; authority over,
5 investigation of, and standards for. (a) No child placing
6 organization shall engage in the investigation, placement, and
7 supervision of minor children in foster care unless it meets the
8 standards of conditions, management, and competence set by the
9 department of human services.

10 (b) No child caring institution shall receive minor
11 children for care and maintenance unless it meets the standards
12 of conditions, management, and competence to care for and train
13 children set by the department.

14 (c) No foster boarding home shall receive for care and
15 maintenance any child unless:

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

1 (2) The foster boarding home applicant successfully
2 completes foster parent training; provided that after
3 July 1, 1999, new special licensed or relative foster
4 home care providers licensed for a specific child or
5 children shall successfully complete foster parent
6 training within the first year following placement of
7 the first child into the new special licensed or
8 relative foster home.

9 (d) The department shall adopt rules pursuant to chapter
10 91 relating to:

11 (1) Standards for the organization and administration of
12 child placing organizations;

13 (2) Standards of conditions, management, and competence
14 for the care and training of minor children in child
15 caring institutions and foster boarding homes; and

16 (3) Standards of conditions and competence of operation of
17 foster boarding homes as may be necessary to protect
18 the welfare of children.

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

1 (f) As a condition for a certificate of approval, any
2 organization, institution, or foster boarding home, including
3 all adults residing in the foster boarding home, shall:

4 (1) Meet [the] all standards [~~ensuring the reputable and~~
5 ~~responsible character of its operators and employees,~~]
6 and requirements established by the department;

7 (2) Be subject to criminal history record checks in
8 accordance with section 846-2.7[+] and child abuse and
9 neglect registry checks, in accordance with
10 departmental procedures; and

11 (3) Provide consent to the department to obtain criminal
12 history record and child abuse and neglect registry
13 information.

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

16 (g) Upon approval of the organization, institution, or
17 foster boarding home, the department or its authorized agents
18 shall issue a certificate of approval that shall continue in
19 force for one year or for two years if the organization,
20 institution, or foster boarding home meets the criteria
21 established by the department, unless sooner revoked for cause.

22 The certificate shall be renewed by the department or its

1 authorized agents, after annual or biennial investigation, if
2 the investigation discloses that the organization, institution,
3 or foster boarding home continues to meet [~~with~~] the standards
4 set by the department. The certificate of approval shall be a
5 permit to operate the child placing organization, child caring
6 institution, or foster boarding home, and no person or
7 organization shall operate or maintain the organization,
8 institution, or foster boarding home without the certificate.

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

13 (i) As used in this section, "foster parent training"
14 means training or instruction in special skills and knowledge to
15 care for foster children.

16 (j) The department shall request [a]:

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

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

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

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

17 (1) The department shall make a name inquiry into the
18 criminal history records for the first two years of
19 certification of a foster boarding home and annually or
20 biennially thereafter and child abuse registry in accordance
21 with departmental procedures depending on the certification
22 status of the home."

1 SECTION 2. Section 346-19.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§346-19.7 Prospective adoptive parents; standards and
4 home studies. (a) The department shall develop standards to
5 ensure the reputable and responsible character of prospective
6 adoptive parents as defined in this chapter.

7 (b) The department shall develop procedures for obtaining
8 verifiable information regarding the criminal history and child
9 abuse and neglect registry information of persons who are
10 seeking to become adoptive parents. These procedures shall
11 include criminal history record checks in accordance with
12 section 846-2.7.

13 (c) Except as otherwise specified, any person who seeks to
14 become an adoptive parent, including all adults residing in the
15 prospective adoptive home, shall:

16 (1) Meet all standards and requirements established by the
17 department;

18 (2) Be subject to criminal history record checks in
19 accordance with section 846-2.7[+] and child abuse and
20 neglect registry checks, in accordance with
21 departmental procedures; and

1 (3) Provide consent to the department to obtain criminal
2 history record and child abuse and neglect registry
3 information [~~for verification~~].

4 Information obtained pursuant to subsection (b) and this
5 subsection shall be used exclusively by the department for the
6 purpose of determining whether or not a person is suitable to be
7 an adoptive parent. All such decisions shall be subject to
8 federal laws and regulations currently or hereafter in effect.

9 (d) The department may deny a person's application to
10 adopt a child or children if either of the prospective adoptive
11 parents or any adult residing in the prospective adoptive home
12 was convicted of an offense for which incarceration is a
13 sentencing option, and if the department finds by reason of the
14 nature and circumstances of the crime that either of the
15 prospective adoptive parents or any adult residing in the
16 prospective adoptive home poses a risk to the health, safety, or
17 well-being of the child or children. Such denial may occur only
18 after appropriate investigation, notification of results and
19 planned action, and opportunity to meet and rebut the finding,
20 all of which need not be conducted in accordance with chapter
21 91.

1 (e) The department may deny a person's application to
2 adopt a child or children if either of the prospective adoptive
3 parents or any adult residing in the prospective adoptive home
4 has a history of confirmed child abuse or neglect, or both,
5 revealed by the child abuse and neglect registry check, if the
6 department finds by reason of the nature and circumstances of
7 the abuse or neglect, or both, that either of the prospective
8 adoptive parents or any adult residing in the prospective
9 adoptive home poses a risk to the health, safety, or well-being
10 of the child or children. Such denial may occur only after
11 appropriate investigation, notification of results and planned
12 action, and opportunity to meet and rebut the finding, all of
13 which need not be conducted in accordance with chapter 91.

14 [~~e~~] (f) The department may authorize or contract for
15 home studies of prospective adoptive parents for children under
16 the department's custody by experienced social workers with
17 specialized adoption experience."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect on July 1, 2007.

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INTRODUCED BY:

Calvin K. Amy

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BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Human Services.

TITLE: A BILL FOR AN ACT RELATING TO CERTIFICATION OF CHILD PLACING ORGANIZATIONS, CHILD CARING INSTITUTIONS, FOSTER BOARDING HOMES, AND ADOPTIVE HOMES.

PURPOSE: The purpose of this bill is to clarify that as a condition of approval, foster and adoptive parents must complete a child abuse and neglect clearance to comply with the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law No. 109-248.

MEANS: Amend sections 346-17 and 346-19.7, Hawaii Revised Statutes.

JUSTIFICATION: The changes will ensure that the State is in compliance with the requirements of the federal Adam Walsh Child Protection and Safety Act of 2006, which requires the State to specify that as a condition of approval, child abuse and neglect clearances will be conducted for all adults living in a foster or adoptive home in every state the family or adult has resided in for the previous five years.

The changes in child abuse and neglect clearances is a new federal requirement to conduct checks not only in Hawaii but in all states that the foster or adoptive applicants have lived in the last five years.

Impact on the public: The changes will ensure the safety of children in foster and adoptive homes.

Impact on the department and other agencies: The Department will be in compliance with federal law.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

HMS 301.

OTHER AFFECTED
AGENCIES:

Judiciary, Department of the Attorney
General

EFFECTIVE DATE:

July 1, 2007.