



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 9, 2009

MEMORANDUM

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 441 - RELATING TO CHILD CARE**

Hearing: Monday, February 9, 2009; 8:15 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B. 441 is to create penalties for child care facility providers who misrepresent material information about their child care center operations to the guardians or parents of a prospective or active child at the center, an employee of the department of human services, or any law enforcement officer.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of the measure, but has concerns.

The Department currently takes adverse actions on DHS-licensed child care providers by suspending or revoking their child care license as well as through fines. Child care providers who are not DHS-licensed can be fined for conducting unlicensed child care if they do not meet any of the exemptions stated in Hawaii Revised Statutes (HRS) §346-152.

Enacting this measure will deter child care providers from misrepresenting the services that they offer, which is something that Department supports. However, it

may also prove to be a deterrent in starting a child care business as potential child care providers may become anxious when informed that there may be criminal charges involved when they are found in violation of specific areas of the licensing rules.

It is also unclear whether the term “misrepresentation” is only for those instances when a child care provider makes a false statement, or it also includes instances when they care for more children than they are licensed or can legally care for as there would be an implied misrepresentation.

Since a child care “provider” includes individuals, organizations, and agencies that maintain or operate a child care facility, when there is misrepresentation about any of the items listed in (1)(a) – (1)(c) it is unclear who would be charged with the misdemeanor in an organization or agency.

Thank you for the opportunity to provide comments on this bill.

**Written Testimony of
Deona Ryan**

**HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009**

COMMITTEE ON HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Tom Brower, Vice Chair

I want to speak on behalf of proposed HB441 for many reasons. This important bill being proposed to you would serve to protect families from the heartache in which many people have suffered across the nation because childcare providers falsely represent themselves to unsuspecting parents. The misrepresentation, no matter how small the providers think they are, can cost children their lives or cause irreparable injuries. Childcare providers should be held to higher standards. They are caring for our most precious future, our children.

Our daughter's death is like many across the country, and like many of those stories our daughter's life ended in tragedy. Through a sitter's misrepresentation, we had suffered extreme pain after our little girl, Aslyn, died on February 7th, 2004.

After years of investigation into the events, we were made painfully aware from the beginning regarding the deceit on the sitter's behalf not only in the events that occurred the day she cost our child her life, but also by her deceit from the very beginning of her employment in caring for our child.

Upon my return to work in March of 2003, I was given a list of childcare providers by the base. The sitter's name should have been removed from the list. Although they had given me the list with her name, she had obtained deficiencies for her services and was in the process of being terminated when she resigned three months prior to her name being given to me. Upon phone interview with her and upon personal interview, she kept important facts hidden and did not disclose them to us. The sitter had represented herself as a current childcare provider at Hickam Air Force Base for the base Child Development Center. She never once made it factual that she was no longer allowed to provide childcare in her home. She asked us to fill out paperwork as though she were still a licensed provider for the base. She also told us everything she was required to do to maintain her licensure and assured us she was extremely experienced. When she more then likely did not intend to maintain licensure or CPR to care for children. As time went on, she kept up the ruse and went as far as telling us that she was paying childcare insurance, etc. My family suffered because of her lack of responsibility.

Almost a year went by when on the morning of Feb 5th my husband dropped our 1 year old daughter off for child care at her sitters house. Our day went the same as it always had but at 2:30 PM we were called to come to the ER because our child was suffering from "respiratory problems" according to the sitter. Her temperature was almost 106 degrees when the ambulance arrived at the sitter's residence.

We found out later that our beautiful daughter suffered from hyperthermia after prolonged exposure to extreme environmental conditions in a car at Kapiolani Medical Center after her sitter ran errands with her.

Aslyn was gravely ill and suffered horribly with medical workers not knowing how to treat her or why she was ill. Facts that the sitter was aware of regarding leaving her in the car were never given to medical workers or to our family.

Over the next 48 hours of her life, in the Intensive Care Unit, she suffered from the trauma that this incident caused, and all these things were caused by a sitter's careless act. She suffered multiple strokes, and needed continuous blood transfusions from bleeding from her intestines, kidneys, and nose. She suffered many other hypoxic and hyperthermia related injuries. A parent's should never have to witness their child in pain, deteriorating and suffering the way that Aslyn did. She struggled to survive but on February 7th 2004 she lost her fight for life. We laid her to rest on February 14th 2004.

Through the investigation, the sitter told multiple versions of what happened but the overlying reality and medical evidence that she allegedly left her in a car and this outweighed any other story she told. Truth never changes. Her truth should have started from the beginning. She neither has yet to be truthful nor held accountable to her actions.

The sitter was asked by the base commander not to provide childcare again, but we were told that she went out into the Hawaii community and continued to care for children even though her negligence had cost our child her life. I am certain those facts were not disclosed to the families of the children she was caring for and that pains my heart and frightens me to even think about.

We ask that the committee pass this bill and send a clear message that those who violate this law will be held accountable. Do not let what happened to Aslyn happen to any other Hawaii children and families. Help us hold sitters to higher standards and help protect children.

Sincerely,

Deona Ryan
Chair, Hot Spot
229 Moon Dance Lane
Summerville, SC 29483
808-778-0851