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# A BILL FOR AN ACT

RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES.

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

1           SECTION 1. The legislature finds that there is an ever-  
2 increasing need for community care foster family homes to  
3 support the health and long-term care needs of an aging  
4 population and families. Community care foster family homes  
5 provide an essential function in the State by providing twenty-  
6 four-hour living accommodations, which includes housing,  
7 supervision, personal care, and assistance with daily living  
8 activities for their residents. These homes provide individuals  
9 who are at a nursing facility level of care with living  
10 accommodations in a family-like setting, an alternative to  
11 living in an institutional setting.

12           Community care foster family homes are licensed to provide  
13 accommodations and services to not more than two adults at any  
14 one time, at least one of whom shall be a medicaid recipient,  
15 who are at the nursing facility level of care. The department  
16 of health may certify a community care foster family home for a



1 third adult who is at the nursing level of care and a medicaid  
2 recipient, provided certain requirements are met.

3 The legislature further finds that not only do medicaid  
4 clients have limited options for long-term care, but so do  
5 individuals who do not rely on medicaid for long-term care.  
6 Besides providing accommodations to medicaid recipients,  
7 community care foster family homes also provide accommodations  
8 to private-pay individuals. There is also a recognized need to  
9 accommodate private-pay individuals who share a long-term  
10 relationship. As the cost of medical care continues to rise, it  
11 is becoming apparent that even those who do not rely on medicaid  
12 for their long-term care cannot afford the cost of private care,  
13 leaving this population also with limited options.

14 The purpose of this Act is to recognize the varied needs of  
15 the State's aging population by allowing the department of  
16 health flexibility to include two private-pay individuals to be  
17 cared for in the same community care foster family home,  
18 provided they meet certain qualifying conditions.

19 SECTION 2. Section 321-481, Hawaii Revised Statutes, is  
20 amended by amending the definition of "community care foster  
21 family home" or "home" to read as follows:



1            ""Community care foster family home" or "home" means a home  
2 that:

3            (1) Is regulated by the department in accordance with  
4 rules that are equitable in relation to rules that  
5 govern expanded adult residential care homes;

6            (2) Is issued a certificate of approval by the department  
7 or its designee to provide, for a fee, twenty-four-  
8 hour living accommodations, including personal care  
9 and homemaker services, for not more than two adults  
10 at any one time, at least one of whom shall be a  
11 medicaid recipient, who are at the nursing facility  
12 level of care, who are unrelated to the foster family,  
13 and who are receiving the services of a licensed home  
14 and community-based case management agency; provided  
15 that [~~the~~]:

16            (A) The department, in its discretion, may certify a  
17 home for a third adult who is at the nursing  
18 facility level of care and is a medicaid  
19 recipient; provided further that [~~the~~]:

20            [~~(A)~~ Home] (i) The home has been certified and in  
21 operation for not less than one year;



1           ~~[(B) Primary]~~   (ii)   The primary caregiver is a  
2                                   certified nurse aide, as defined in section  
3                                   457A-1.5, who has completed a state-approved  
4                                   training program and other training as  
5                                   required by the department; and

6           ~~[(C) Substitute]~~   (iii)   The substitute caregiver is a  
7                                   nurse aide, as defined in section 457A-1.5,  
8                                   who has completed a state-approved training  
9                                   program and other training as required by  
10                                  the department; and

11           (B) The department, in consultation with the  
12                                  department of human services and in its  
13                                  discretion, and considering the past admission  
14                                  history and current client mix of the community  
15                                  care foster family home, may allow two private-  
16                                  pay individuals to be cared for in the same  
17                                  community care foster family home if all of the  
18                                  following are met:

19                                  (i)   The community care foster family home is  
20   certified for three beds;



- 1            (ii) The operator of the three-bed community care  
2            foster family home has had a vacant medicaid  
3            bed for at least six months; provided that  
4            the operator shall not transfer out a  
5            medicaid or private-pay client from the  
6            community care foster family home in order  
7            to accept a private-pay individual;
- 8            (iii) The two private-pay individuals are in a  
9            relationship with each other as a married  
10           couple or in a civil union and one of the  
11           private-pay individuals is currently  
12           residing in the community care foster family  
13           home for at least six months;
- 14           (iv) The department, in its discretion,  
15           determines that no other adult residential  
16           care home, expanded adult residential care  
17           home, or healthcare facility within the area  
18           has an available opening and is capable of  
19           providing care to both private pay  
20           individuals; and



1           (v) There are no medicaid recipients seeking  
 2           placement in the community care foster  
 3           family home that the married or civil union  
 4           private-pay individual is seeking to occupy;

5           (C) If the legal relationship of the marriage or  
 6           civil union of the individuals ceases to exist  
 7           including but not limited to, as a result of  
 8           death or divorce, one of the two private-pay beds  
 9           shall immediately, upon the death or the  
 10          effective date of divorce, become a medicaid bed;  
 11          and

12          (D) The department, and its officers, employees, and  
 13          agents, in exercising its discretion and in  
 14          considering any other factors that the department  
 15          deems relevant to its decision, shall be immune  
 16          from suit and liability in the exercise of its  
 17          discretion under this section.

18          (3) Does not include expanded adult residential care homes  
 19               or assisted living facilities."

20          SECTION 3. The department of health shall submit a report  
 21 of its findings and recommendations to the legislature no later



1 than twenty days prior to the convening of the regular session  
2 of 2018 on the authorization to allow two private-pay  
3 individuals to be cared for in the same community care foster  
4 family home as provided under this Act, including its impact on  
5 the availability of space for medicaid clients.

6 SECTION 4. It is the intent of this Act not to jeopardize  
7 the receipt of any federal aid. If this Act is found to be in  
8 conflict with federal requirements that are a prescribed  
9 condition for the allocation of federal funds to the State, this  
10 Act shall be deemed void.

11 SECTION 5. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Community Care Foster Family Homes; Private-Pay Clients;  
Medicaid Clients

**Description:**

Authorizes the Department of Health, working in consultation with the Department of Human Services, to allow two private-pay individuals to be cared for in the same community care foster family home if certain requirements are met. (HB1396 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

