

JAN 24 2018

---

# A BILL FOR AN ACT

RELATING TO CHILD CARE PROVIDERS.

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

1       SECTION 1. In an attempt to strengthen minimum standards  
2 of child care to improve health and safety of children, the  
3 legislature enacted Act 161, Session Laws of Hawaii 2017,  
4 requiring child care providers to obtain and maintain liability  
5 insurance coverage. Act 161 amended section 346-157, Hawaii  
6 Revised Statutes, directing the department of human services to  
7 require all child care providers to obtain and maintain  
8 liability insurance as a condition of operating a child care  
9 facility.

10       The legislature finds that while insurance coverage for  
11 providers of child care services is available, there are a  
12 variety of policy limits, premium amounts, coverages, and  
13 exclusions from coverage that may impact access to affordable  
14 child care insurance coverage. The legislature is concerned  
15 that cost of obtaining and maintaining insurance coverage may  
16 result in a decrease in the number of regulated home-based  
17 family child care and group child care providers across the  
18 state. Currently, there are approximately 400 independent

## S.B. NO. 2787

1 regulated home-based family child care and group child care  
2 providers located state wide. A reduction in available  
3 regulated home-based family child care and group child care  
4 providers may further result in an increase in child care costs  
5 at remaining providers, families choosing to forgo employment to  
6 provide their own child care or choosing unregulated child care.  
7 Consequently, forgoing employment will reduce a family's income  
8 and resources, and choosing unregulated child care will decrease  
9 the health and safety measures provided through regulated child  
10 care.

11 Further, the legislature finds that survey responses from  
12 home-based child care providers have reported that insurance  
13 providers have informed child care providers that current  
14 homeowners' policies may not be renewed if they are conducting a  
15 child care business on the insured property. The legislature  
16 finds that the inability of homeowners to obtain homeowners'  
17 insurance due to providing child care services is clearly an  
18 unintended consequence of Act 161.

19 The purpose of this Act is to delay the implementation and  
20 enforcement of Act 161 to provide the legislature additional  
21 time to study the issue that balances access to affordable  
22 regulated child care and affordable insurance coverage and give

# S.B. NO. 2787

1 the department additional time to develop and implement a  
2 compliance process to verify that a regulated child care  
3 provider maintains liability insurance.

4 SECTION 2. Section 346-157, Hawaii Revised Statutes, is  
5 amended by amending subsections (b) and (c) to read as follows:

6 "(b) The department shall require all providers to obtain  
7 and maintain liability insurance coverage [~~in an amount~~  
8 ~~determined by the department~~] as a condition of licensure,  
9 temporary permission, or registration to operate a child care  
10 facility.

11 (c) The department, as a condition of continued licensure,  
12 temporary permission, or registration, shall require all  
13 providers to disclose in writing to each parent or guardian:

14 (1) Applying to have a child cared for at the provider's  
15 facility, summary information including the insurer's  
16 name and contact information, coverage amounts, and  
17 effective dates for the provider's liability insurance  
18 coverage at the time of application; [~~or~~] and

19 (2) Within seven working days of any change, cancellation,  
20 or termination of liability insurance coverage, that  
21 the coverage has been changed, canceled, or terminated

**S.B. NO. 2787**

1           while the parent's or guardian's child is cared for at  
2           the provider's facility."

3           SECTION 3. Act 161, Session Laws of Hawaii 2017, is  
4 amended by amending section 3 to read as follows:

5           "SECTION 3. The department of human services shall submit  
6 a report to the legislature, no later than twenty days prior to  
7 the convening of the regular session of ~~[2018,]~~ 2019, on the  
8 following issues related to the liability insurance requirements  
9 established by section 2 of this Act:

10          ~~[(1) The amount of liability insurance coverage required~~  
11           ~~to be obtained by child care providers;~~

12          ~~-(2)]~~ (1) The costs incurred by child care providers to  
13 obtain liability insurance and the projected impact  
14 these costs may have on the rates charged to  
15 consumers; and

16          ~~[-(3)]~~ (2) Outreach efforts conducted by the department, to  
17 ensure compliance with the requirements of this Act."

18           SECTION 4. Act 161, Session Laws of Hawaii 2017, is  
19 amended by amending section 5 to read as follows:

20           "SECTION 5. This Act shall take effect on July 1, 2017;  
21 provided that implementation and enforcement of the liability

**S.B. NO. 2787**

1 insurance requirements under section 2 of this Act shall take  
2 effect on [~~January~~ July 1, 2019."

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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

6

7

INTRODUCED BY: 

8

BY REQUEST

# S.B. NO. 2787

**Report Title:**

Child Care Providers; Liability Insurance; Department of Human Services; Wiley Kaikou Muir Act.

**Description:**

Extends the implementation and enforcement dates of Act 161, Session Laws of Hawaii 2017, until July 1, 2019. Requires the Department of Human Services to submit a report to the Legislature prior to the 2019 Regular Session.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO CHILD CARE PROVIDERS.

PURPOSE: To amend section 346-157 Hawaii Revised Statute (HRS), to remove the requirement that the Department of Human Services determine the amount of liability insurance coverage required by regulated child care providers; amend sections 3 and 5 of Act 161, Session Laws of Hawaii (SLH) 2017, to remove a reporting requirement, to delay implementation and enforcement of the liability insurance requirement of the act, and to give additional time to establish affordable child care insurance coverage.

MEANS: Amend section 346-157(b) and (c), HRS, and sections 3 and 5 of Act 161, SLH 2017.

JUSTIFICATION: The intent of Act 161, SLH 2017, was to strengthen minimum standards of child care to improve health and safety of children by requiring child care providers to obtain and maintain liability insurance coverage. Prior to Act 161, SLH 2017, the department was prohibited from requiring regulated child care providers to obtain and maintain liability insurance coverage. Information obtained through meetings with insurance industry providers, indicates that a variety of insurance products, coverage, exclusions and premiums are available for purchase. Exclusions to coverage include injury from sexual molestation. Survey responses from child care providers indicate that current insurers may not renew existing homeowner policies if child care is being provided on the premises. Survey responses from child care providers also indicated that home-based child care providers were considering not continuing to be registered with the department due to the new insurance

requirement. Hawaii currently has nearly 400 independent home-based child care providers.

Information obtained from other states that require liability insurance coverage indicates that most states only require providers to produce evidence of insurance, and minimum coverage amounts are not established within child care regulatory requirements. The department is concerned that it is not the appropriate entity to determine the amount of coverage to be maintained by independent small businesses. Parent-consumers may choose a different child care provider if they would prefer a provider with a different amount of coverage.

Impact on the public: The amendment to Act 161 (SLH 2017) to delay the implementation and enforcement of the liability insurance requirement to July 1, 2019, is intended to preserve the existing number of regulated child care providers as the department works with the Legislature to implement the insurance coverage mandate for child care providers, and to provide more clarity.

Impact on the department and other agencies: By removing a minimum coverage amount and requiring only evidence of coverage, the department anticipates that staff will require less training and time to confirm compliance with the coverage mandate. The Department of Accounting and General Services, Risk Management Office, may also be asked to assist with training of department staff and or for consultation. The Office of the Attorney General may all be affected due to increased questions from the department regarding implementation and assistance to review and enforce new rules.

GENERAL FUND: None.

OTHER FUNDS: None.



PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED  
AGENCIES:

Department of Accounting and General  
Services, Office of the Attorney General,  
and all regulated child care providers.

EFFECTIVE DATE: Upon approval.