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# A BILL FOR AN ACT

RELATING TO CHILD CARE.

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

1       SECTION 1. Access to safe, affordable, and nurturing child  
2 care is a critical need for Hawaii's children and working  
3 parents. The purpose of this Act is to:

4       (1) Improve the safety of children in Hawaii's regulated  
5 and licensure-exempt child care settings by repealing  
6 the limitation on criminal history record checks of  
7 all household members of a child whose family receives  
8 a child care subsidy from the department of human  
9 services;

10       (2) Clarify the timing of release of investigation  
11 information to the public;

12       (3) Clarify that when the child care licensing program  
13 receives a report of death or injury of a child in a  
14 child care setting, the program shall share  
15 information it receives and cooperate with child  
16 welfare services and law enforcement; and



1           (4) Clarify that the department of human services may take  
2           both administrative and judicial action to enforce  
3           child care licensing provisions of chapter 346, Hawaii  
4           Revised Statutes, and increase penalties by making  
5           them apply on a daily basis.

6           SECTION 2. Section 346-152.5, Hawaii Revised Statutes, is  
7           amended by amending subsection (a) to read as follows:

8           "(a) ~~[To be eligible]~~ In order to provide child care for a  
9           child whose family receives a child care subsidy from the  
10          department, persons exempt pursuant to section 346-152 shall be  
11          required to agree to:

12          (1) A criminal history record check, a sex offender  
13          registry check, a child abuse record check, and an  
14          adult abuse perpetrator check in the same manner as a  
15          prospective applicant or licensed provider in  
16          accordance with section 346-154; ~~[provided that the~~  
17          ~~criminal history record check shall be limited to a~~  
18          ~~criminal history record check conducted through files~~  
19          ~~maintained by the Hawaii criminal justice data center~~  
20          ~~for the following relatives of the child who requires~~  
21          ~~care: grandparents, great grandparents, aunts, uncles,~~



1           ~~and siblings aged eighteen or older living in a~~  
2           ~~separate residence,]~~

- 3           (2) Completion of a pre-service or orientation training  
4           and ongoing training in health and safety topics; and  
5           (3) Any monitoring inspection visits by the department or  
6           its designee to determine compliance with minimum  
7           health and safety standards at the location where  
8           child care is being provided for a child whose family  
9           receives a child care subsidy from the department,  
10          including investigations by the department when the  
11          department has received a report of health and safety  
12          concerns."

13          SECTION 3. Section 346-153, Hawaii Revised Statutes, is  
14          amended to read as follows:

15          "**§346-153 Records of deficiencies and complaints; release**  
16          **to public.** (a) For every child care facility, the department  
17          shall maintain records for the current and previous two years  
18          of: results of its inspections; notifications to providers of  
19          deficiencies; corrective action taken; complaints of violations  
20          of rules adopted under this part; results of its investigations;  
21          resolution of complaints; and suspensions, revocations,



1 reinstatements, restorations, and reissuances of licenses,  
2 temporary permits, and registrations issued under this part.

3       **(b)** Notwithstanding any other law to the contrary, the  
4 records described in this section shall be available for  
5 inspection in the manner set forth in chapter 92F and may be  
6 posted by the department on a public website; provided that with  
7 respect to records of family child care homes and group child  
8 care homes, sensitive personal information, including home  
9 addresses, or information provided to the department with the  
10 understanding that it would not be publicly divulged shall be  
11 deleted or obliterated prior to making the records available to  
12 the public. Nothing in this section shall authorize the  
13 department to release to the public the names of or any other  
14 identifying information on complainants. Nothing in this  
15 section shall prohibit the department's child care licensing  
16 program from sharing information and cooperating with the  
17 department's child protective services and law enforcement on  
18 investigations.

19       **(c)** The department may withhold information ~~[en-a]~~ about  
20 an investigation of a complaint ~~[for which an investigation is~~  
21 ~~being conducted]~~ of a violation for not more than ten working



1 days ~~[following the date of filing of the complaint,]~~ from the  
2 date the investigation report is completed; provided that if an  
3 investigation relates to an alleged criminal offense, no  
4 information shall be released until the criminal investigation  
5 has been completed and the director has determined that no legal  
6 proceeding will be jeopardized by its release."

7 SECTION 4. Section 346-156, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§346-156 Penalty~~[-]~~; remedies. (a) Any person, entity,  
10 agency, or organization violating any provision of this  
11 ~~[chapter]~~ part or any rule made pursuant thereto shall be ~~[fined~~  
12 ~~as follows:-~~

13 ~~(1) Up]~~ subject to penalties including a fine of up to  
14 \$1,000 for [the first] each day of violation; [and

15 ~~(2) Up]~~ provided that for a violation of section 346-161  
16 or 346-171, the fine may be up to \$3,000 [the second  
17 ~~violation and each succeeding violation.] for each day~~  
18 of violation.

19 (b) The department may enforce this part in either  
20 administrative proceedings, judicial proceedings, or both."



1       SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

4



**Report Title:**

Improve Safety of Children in Care; Criminal History Checks; Records of Deficiencies and Complaints; Role and Response to Reports of Death or Injury in a Child Care Setting; Release of Information for Purposes of Investigation; Penalties, Administrative and Judicial Action

**Description:**

Requires, without limitation, criminal history record checks of household members of a child whose family receives a child care subsidy from the Department of Human Services, clarifies that the Department of Human Services may take administrative and judicial action to enforce child care licensing provisions of chapter 346, Hawaii Revised Statutes, clarifies the role and response of the child care licensing program when it receives a report of death or injury of a child in a child care setting, and addresses the release of information pending an investigation. (SD1)

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

