

A Bill for an Act Relating to Child Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-18, Hawaii Revised Statutes, is amended to read as follows:

“§346-18 License for [day] child care [centers] facilities required. It shall be unlawful to operate, maintain, or conduct a [day] child care [center] facility unless licensed to do so by the department of social services and housing.”

SECTION 2. Section 346-19, Hawaii Revised Statutes, is amended to read as follows:

“§346-19 [Day] Child care [centers] facilities defined. A “[day] child care [center]” facility” is defined as a place maintained by any individual, organization, or agency for the purpose of providing care for[a child or] two or more children with or without charging a fee during any part of a twenty-four hour day. The term [day] child care [center] facility includes [any place where

group care is provided for six or more children, and any family home providing care for two to five children.] any family child care home providing care in a private home for two to five children, group child care home providing care in a facility that may be an extended or modified family child care home for six to twelve children, or group child care center providing care in a facility other than a private home. The term “care” as used herein refers to those situations where a person or organization has agreed to assume and has been entrusted with the responsibility for the child’s supervision, development, safety, and protection apart from the parent or guardian.

[Nothing in sections 346-18 to 346-25 shall be construed to include an individual person caring for a related child, a neighbor or friend caring for a child or children if the person does not regularly engage in such activity, a kindergarten or school conducted solely for educational purposes or specialized training, or an organization established to conduct athletic or social group functions.]”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Exclusions. Nothing in sections 346-18 to 346-25 shall be construed to include:

- (1) An individual person caring for a related child;
- (2) A neighbor or friend caring for a child or children, if the person provides care for less than three hours per day but not more than two times a week;
- (3) A kindergarten, school, or program licensed by another department;
- (4) A program which provides exclusively for a specialized training or skill for children from and including age five to age seventeen, including but not limited to such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;
- (5) A community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for children from and including age five to age seventeen; or
- (6) Other such organizations as the director may choose to exclude.”

SECTION 4. Section 346-20, Hawaii Revised Statutes, is amended to read as follows:

“§346-20 **Rules; [and regulations;] minimum standards.** The department of social services and housing, after consultation with the department of health, the department of education, and the [fire marshall,] fire chiefs of the respective

counties, shall make, prescribe, and publish such rules [and regulations and minimum standards] in accordance with chapter 91 as are deemed necessary to protect the best interests of minor children and to carry out the purposes of sections 346-18 to 346-25. [The rules and regulations shall have the force and effect of law, and shall be administered by the department of social services and housing.]”

SECTION 5. Section 346-21, Hawaii Revised Statutes, is amended to read as follows:

“**§346-21 Licenses and temporary permits.** If satisfied that the applicant meets the minimum standards established pursuant to section 346-20, the department of social services and housing shall grant the applicant a license for the operation of a [day] child care [center] facility which license shall be valid for one year unless sooner revoked. Where the activities of the applicant fall within the licensing requirements of the department of education and sections 346-18 to 346-25, a license shall be required from both the department of education and the department of social services and housing. A temporary permit may be issued for a period of six months at the department of social services and housing’s discretion to any applicant who is temporarily unable to conform to all of the minimum standards. Renewal of the temporary permit shall be left to the department of social services and housing’s discretion[.]; provided that the combined period of the initial and subsequently renewed permits shall not exceed twelve months. Licenses and permits shall be conspicuously posted on the licensed premises.”

SECTION 6. Section 346-22, Hawaii Revised Statutes, is amended to read as follows:

“**§346-22 Suspension and revocation of licenses and permits; reissuance.** Any license or temporary permit issued hereunder may be suspended or revoked by the department of social services and housing after due notice and hearing, provisions for which shall be made in the rules [and regulations]. However, upon a determination by the department that conditions exist which constitute an imminent danger to the health, welfare, or safety of the children cared for, a license or temporary permit may be immediately suspended pending a hearing by the department as herein provided. The department, in its discretion, may reissue a license or temporary permit which has been suspended or revoked upon satisfying itself that minimum standards have been or will be met.”

SECTION 7. Section 346-23, Hawaii Revised Statutes, is amended to read as follows:

“**§346-23 Visitation and inspection of [centers.] facilities.** The department of social services and housing shall cause the [licensee’s] child care

facility's premises to be visited and inspected as frequently as it deems necessary for the proper operation, sanitation, and safety thereof. The visits and inspections shall be made at least once annually. Every [center] facility licensed hereunder shall be open to visitation and inspection by representatives of the department of social services and housing, the department of education, and the department of health, and by [the fire marshal] designated representatives of the respective county fire departments at all times."

SECTION 8. Section 346-24, Hawaii Revised Statutes, is amended to read as follows:

“§346-24 Records. (a) Every [licensee] child care facility shall keep such records and shall file with the department of social services and housing such reports as the rules [and regulations] require. All records and all information obtained concerning children or their parents or relatives shall be kept confidential by the licensee and by members of any department herein named.

(b) For every child care facility, the department shall maintain records of the current and previous two years of the results of its inspections, notifications to licensees of deficiencies, corrective action taken, complaints that allege violation of its child care facility rules, the results of its investigations, and the resolution of complaints. Notwithstanding any other law to the contrary, such records shall be available for inspection in the manner set forth in section 92-51; provided that with respect to records of family child care homes and group child care homes, sensitive personal information or information provided to the department with the understanding that it would not be publicly divulged shall be deleted or obliterated prior to making the records available to the public. Nothing in this section shall authorize the department to release the names of or any other identifying information on complainants. The department may withhold information on a complaint for which an investigation is being conducted for not more than ten working days following the date of filing of the complaint; provided that if an investigation relates to an alleged criminal offense, no information shall be released until the investigation has been completed and the director has determined that no legal proceeding shall be jeopardized by its release.”

SECTION 9. Section 346-25, Hawaii Revised Statutes, is amended to read as follows:

“§346-25 Penalty. Any person violating any provision of sections 346-18 to 346-24 or any rule [or regulation] made pursuant thereto shall be [fined not more than \$200.] guilty of a misdemeanor.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.¹

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SECTION 11. The department of social services and housing shall submit a report to the Legislature at least 20 days prior to the convening of the 1985 Regular Session on the organizations or programs which the department has determined are excluded from the State's child care facility licensing requirement pursuant to Section 3 of this Act. Such report shall identify the organization or program granted an exclusion and the specific reasons therefor.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.