

ACT 46

S.B. NO. 1441

A Bill for an Act Relating to Certification of Child Placing Organizations, Child Caring Institutions, Foster Boarding Homes, and Adoptive Homes.

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

SECTION 1. Section 346-17, Hawaii Revised Statutes, is amended to read as follows:

“§346-17 Child placing organizations, child caring institutions, and foster boarding homes; authority over, investigation of, and standards for. (a) No child placing organization shall engage in the investigation, placement, and supervision of minor children in foster care unless it meets the standards of conditions, management, and competence set by the department of human services.

(b) No child caring institution shall receive minor children for care and maintenance unless it meets the standards of conditions, management, and competence to care for and train children set by the department.

(c) No foster boarding home shall receive for care and maintenance any child unless:

- (1) It meets with the standards of conditions, management, and competence set by the department; and
- (2) The foster boarding home applicant successfully completes foster parent training; provided that after July 1, 1999, new special licensed or relative foster home care providers licensed for a specific child or children shall successfully complete foster parent training within the first year following placement of the first child into the new special licensed or relative foster home.
- (d) The department shall adopt rules pursuant to chapter 91 relating to:
 - (1) Standards for the organization and administration of child placing organizations;
 - (2) Standards of conditions, management, and competence for the care and training of minor children in child caring institutions and foster boarding homes; and
 - (3) Standards of conditions and competence of operation of foster boarding homes as may be necessary to protect the welfare of children.

(e) All rules of the department shall have the force and effect of law, and any violation thereof or of this section shall be punishable by a fine of not more than \$200.

(f) As a condition for a certificate of approval, any organization, institution, or foster boarding home, including all adults residing in the foster boarding home, shall:

- (1) Meet [the] all standards [ensuring the reputable and responsible character of its operators and employees;] and requirements established by the department;
- (2) Be subject to criminal history record checks in accordance with section 846-2.7[;] and child abuse and neglect registry checks, in accordance with departmental procedures; and
- (3) Provide consent to the department to obtain criminal history record and child abuse and neglect registry information.

New employees of the organization, institution, or home shall be fingerprinted within five working days of employment.

(g) Upon approval of the organization, institution, or foster boarding home, the department or its authorized agents shall issue a certificate of approval that shall

continue in force for one year or for two years if the organization, institution, or foster boarding home meets the criteria established by the department, unless sooner revoked for cause. The certificate shall be renewed by the department or its authorized agents, after annual or biennial investigation, if the investigation discloses that the organization, institution, or foster boarding home continues to meet [with] the standards set by the department. The certificate of approval shall be a permit to operate the child placing organization, child caring institution, or foster boarding home, and no person or organization shall operate or maintain the organization, institution, or foster boarding home without the certificate.

(h) Any child placing organization, child caring institution, or foster boarding home shall be subject to review or investigation at any time and in a manner, place, and form as may be prescribed by the department or its authorized agents.

(i) As used in this section, "foster parent training" means training or instruction in special skills and knowledge to care for foster children.

(j) The department shall request [a]:

(1) A criminal history record check through the Hawaii criminal justice data center on all operators, employees, and new employees of child care institutions, child placing organizations, and foster boarding homes, including all adults residing in the foster boarding homes, subject to licensure pursuant to section 846-2.7[-]; and

(2) A child abuse and neglect registry check on all operators, employees, and new employees of child care institutions, child placing organizations, and adults residing in a foster boarding home subject to licensure in accordance with departmental procedures.

(k) The department may deny a certificate of approval if an operator, employee, or new employee of [the] a child care institution or child placing organization's facility, or any adult residing in a foster boarding home, was convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal history record or child abuse registry history of an operator, employee, [or] new employee, or adult residing in a foster boarding home poses a risk to the health, safety, or well-being of the children in care.

(l) The department shall make a name inquiry into the criminal history records for the first two years of certification of a foster boarding home and annually or biennially thereafter and into the child abuse and neglect registry in accordance with departmental procedures depending on the certification status of the home."

SECTION 2. Section 346-19.7, Hawaii Revised Statutes, is amended to read as follows:

"§346-19.7 Prospective adoptive parents; standards and home studies.

(a) The department shall develop standards to ensure the reputable and responsible character of prospective adoptive parents as defined in this chapter.

(b) The department shall develop procedures for obtaining verifiable information regarding the criminal history and child abuse and neglect registry information of persons who are seeking to become adoptive parents. These procedures shall include criminal history record checks in accordance with section 846-2.7.

(c) Except as otherwise specified, any person who seeks to become an adoptive parent, including all adults residing in the prospective adoptive home, shall:

(1) Meet all standards and requirements established by the department;

(2) Be subject to criminal history record checks in accordance with section 846-2.7[;], and child abuse and neglect registry checks in accordance with departmental procedures; and

(3) Provide consent to the department to obtain criminal history record and child abuse and neglect registry information [for verification].

Information obtained pursuant to subsection (b) and this subsection shall be used ~~[exclusively]~~ by the department for the purpose of determining whether or not a person is suitable to be an adoptive parent. All ~~[such]~~ decisions shall be subject to federal laws and regulations ~~[currently or hereafter in effect]~~.

(d) The department may deny a person's application to adopt a child ~~[or children]~~ if either of the prospective adoptive parents or any adult residing in the prospective adoptive home was convicted of an offense for which incarceration is a sentencing option, and if the department finds by reason of the nature and circumstances of the crime that either of the prospective adoptive parents, or any adult residing in the prospective adoptive home, poses a risk to the health, safety, or well-being of the child ~~[or children]~~. ~~[Such]~~ A denial ~~[may]~~ shall occur only after appropriate investigation, notification of results and planned action, and opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91.

(e) The department may deny a person's application to adopt a child if either of the prospective adoptive parents or any adult residing in the prospective adoptive home has a history of confirmed child abuse or neglect, or both, revealed by the child abuse and neglect registry check, and if the department finds by reason of the nature and circumstances of the abuse or neglect, or both, that either of the prospective adoptive parents or any adult residing in the prospective adoptive home poses a risk to the health, safety, or well-being of the child. A denial shall occur only after an appropriate investigation, notification of results and planned action, and an opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91.

~~[(e)]~~ (f) The department may authorize or contract for home studies of prospective adoptive parents for children under the department's custody by experienced social workers with specialized adoption experience."

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

SECTION 4. This Act shall take effect upon approval.

(Approved April 27, 2007.)