

A Bill for an Act Relating to Homelessness.

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

SECTION 1. The purpose of this Act is to address homelessness.

The legislature finds that homeless families and individuals deserve shelter and the general public deserves safe and clean sidewalks, parks, schools, and other public facilities. Achieving both objectives requires a strategy of making available emergency and transitional shelters that appeal to homeless families and individuals and enforcing state and county trespass and anti-nuisance statutes and ordinances. The shelters are intended to make space available to homeless families and individuals displaced from public sidewalks, parks, schools, and other public facilities by the enforcement of statutes and ordinances that prohibit camping or habitation in those areas.

This Act is intended to address the first part of the strategy: to make available more emergency and transitional shelter space funded in a cost-effective manner. More specifically, this Act:

- (1) Provides that emergency shelters shall comply with certain minimum requirements that meet basic needs and preferences of homeless families and individuals. By doing so, the legislature intends that the shelters be more appealing to homeless families and individuals;
- (2) Requires homeless shelter stipend payments to be made based on performance measures that are actually achieved. The legislature intends that this requirement incentivize emergency and transitional shelter providers to actually provide shelter to more homeless families and individuals;
- (3) Repeals the automatic annual adjustment of the homeless stipend amount. The legislature intends that any adjustment of the stipend amount shall be subject to the contract between the department of human services and the provider agency;
- (4) Revises existing provisions on the establishment and collection of shelter and service payments by a provider agency from homeless families and individuals; and
- (5) Requires each provider agency to submit a financial audit to the department at least annually.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part XVII to be appropriately designated and to read as follows:

**“§346- Emergency shelter; minimum requirements.** (a) This section shall apply to every emergency shelter operated by a provider agency that is under contract with the department to receive homeless shelter stipends for providing shelter and services to homeless families or individuals at the emergency shelter.

(b) The department shall require an emergency shelter to comply with the following:

- (1) The shelter shall have the number of showers and bathrooms that the department deems appropriate and sufficient for the number of homeless families or individuals that use the shelter and the capacity of the shelter. The showers and bathrooms may be part of the shelter building or portable and unattached to the shelter building;

- (2) The shelter shall have partitioned space for each homeless family or individual that provides separation from other homeless families or individuals in the shelter. The minimum area of the partitioned space and height of the partition shall be determined by the department and may differ among transitional shelters, according to the number of homeless families or individuals that use the shelter and the capacity of the shelter. A shelter that provides separate rooms or portable dwelling units for homeless families or individuals, including converted shipping containers or school classrooms, shall be deemed to exceed this minimum requirement; and
- (3) The shelter shall provide storage for the personal possessions of each homeless family or individual served by the shelter. The storage shall be securable by the homeless family or individual. The type and number of the storage equipment, space, or area shall be determined by the department.
- (c) The department may require an emergency shelter to comply with any other requirements that the department deems appropriate or necessary. The requirements established by the department may vary among emergency shelters.
- (d) A provider agency contracted to operate or manage an emergency shelter not owned by the department shall comply with the minimum requirements of subsection (b). The provider agency shall bear all costs of compliance, unless the department provides or contributes state funding assistance; provided that the state funding assistance shall be:
  - (1) In addition to homeless shelter stipends paid to the provider agency under section 346-374;
  - (2) Subject to the availability of legislative appropriations; and
  - (3) Recoverable, in whole or part, by the department if the provider agency does not perform satisfactorily under or for the duration of the term of its contract with the department to operate or manage the shelter.
- (e) Any emergency shelter owned by the department shall comply with the minimum requirements under subsection (b), regardless of whether the department contracts with a provider agency to manage or operate the emergency shelter.”

SECTION 3. Section 346-361, Hawaii Revised Statutes, is amended as follows:

- 1. By amending the definition of “emergency shelter” to read:  
 ““Emergency shelter” means a homeless facility designed to provide temporary shelter and appropriate and available services to homeless families or individuals for a specified period of time~~[-]~~ who are not able to stay in a transitional shelter or reside in a dwelling unit.”
- 2. By amending the definition of “homeless shelter stipend” to read:  
 ““Homeless shelter stipend” means a payment to a provider agency ~~[or to]~~ from the department ~~[on behalf of]~~ to provide temporary shelter and appropriate services for a homeless family or individual ~~[to assist with the costs of operating]~~ at a homeless facility [and providing appropriate services.] operated or managed by the provider agency.”
- 3. By amending the definition of “transitional shelter” to read:  
 ““Transitional shelter” means a homeless facility designed to provide temporary shelter and appropriate and available services for a maximum of twenty-four months to homeless families or individuals ~~[for up to twenty-four~~

~~months, pursuant to rule,] qualified by the pertinent provider agency or department to stay in the transitional shelter.”~~

SECTION 4. Section 346-371, Hawaii Revised Statutes, is amended to read as follows:

~~“[§346-371] Annual [performance audits.] financial audit.~~ (a) The department shall require any provider agency that dispensed shelter or assistance for any homeless facility or any other program for the homeless authorized by this part to submit to the department a financial audit ~~[and report]~~ when requested, but ~~[no later than every three years.]~~ at least annually. The audit shall be conducted by a certified public accounting firm. This audit ~~[and report]~~ shall contain information specific to the funds received under state homeless program contracts. The audit shall include recommendations to address any problems found.

(b) Continuing contracts with provider agencies to participate in any program for the homeless authorized by this part shall require that the provider agency address the recommendations made by the ~~[auditing agency,]~~ audit, subject to exceptions as set by the department.

(c) Failure to carry out the recommendations made by the ~~[auditing agency]~~ audit may be grounds for the department to bar a provider agency from further contracts for programs authorized by this part until the barred provider has addressed all deficiencies.”

SECTION 5. Section 346-374, Hawaii Revised Statutes, is amended to read as follows:

~~“[§346-374] Homeless shelter stipends. [(a) The stipend limits per shelter unit of zero bedrooms shall be adjusted by the department annually on the first day of July pursuant to standards established by rule, which may consider changes in the cost of operating homeless facilities, the fair market rents, the consumer price index, or other relevant factors. A “shelter unit of zero bedrooms” means a living unit that is a studio unit or a single room occupancy unit. The homeless shelter stipend at transitional shelters for larger shelter units shall be proportional to the difference in unit size.~~

~~(b) (a) The department may make or may contract to make homeless shelter stipend payments [on behalf of one or more homeless families or individuals] to a provider agency operating or managing an emergency or transitional shelter [or, if the department itself operates and manages a homeless facility, to the department in amounts and under circumstances as provided by rule. The contract may specify a minimum total amount of homeless shelter stipends to be received by a provider agency for making its shelter and services available to eligible homeless families or individuals]. Under each contract, the department shall pay homeless shelter stipends only for performance measures actually achieved by the provider agency, such as the number of homeless families or individuals actually provided with shelter and appropriate services at the emergency or transitional shelter. The contract also may include provisions for the automatic adjustment of the homeless shelter stipend amounts, depending on factors agreed to by the department and provider agency.~~

~~[(e) (b) In making homeless shelter stipend payments to a provider agency, the department may establish minimum services to be provided by the provider agency to homeless families or individuals at the provider agency’s shelter. The department may also direct provider agencies to establish and manage a savings account program as described in subsection [(d)] (c). Additionally, the des-~~

partment may direct provider agencies to subcontract for outreach services from other private agencies specializing in programs for the unsheltered homeless.

~~[(d) Provider agencies and]~~ (c) When authorized under a contract with the department, a provider agency may establish and collect shelter and services payments from homeless families or individuals in addition to the amount received in homeless shelter stipend payments [pursuant to rule]. To the extent possible, the shelter and service payment amounts established and collected by a homeless facility, other than an emergency shelter, shall be based on the homeless families' and individuals' ability to pay. If collection of payments based on ability to pay is too difficult, costly, or inefficient for the provider agency, the payment amounts may be based on other criteria authorized under the contract or waived partially or entirely.

Provider agencies and the department may also set aside a portion of the payments in a savings account to be made available to homeless families or individuals when these families and individuals vacate the shelter.

(d) Any state funding assistance provided to a provider agency for compliance with the minimum requirements under section 346- (b) shall be in addition to homeless shelter stipends paid to the provider agency."

SECTION 6. (a) For the purpose of this section, "emergency shelter", "provider agency", and "transitional shelter" mean the same as defined under section 346-361, Hawaii Revised Statutes.

(b) Each contract that takes effect after June 30, 2017, between the department of human services and a provider agency for the operation or management of an emergency or transitional shelter shall comply with this Act. This requirement shall apply whether the contract is entered into, renewed, or extended before or after June 30, 2017.

(c) Beginning July 1, 2016, the department of human services shall work with provider agencies to implement this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2017; provided that section 6 shall take effect on July 1, 2016.

(Became law on July 11, 2016, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.