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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. The legislature finds that because of the  
2 State's high cost of living, there are many households where  
3 both parents are working to make ends meet. This economic  
4 reality for most families means that children, some as young as  
5 three months old, are placed with child care providers. Parents  
6 rely upon these child care providers to provide quality care  
7 with the attention that their child needs on a daily basis.

8           The legislature further finds that misrepresentations made  
9 to parents by child care providers could lead to disaster. In  
10 Albany, New York, a couple left their three-month old daughter  
11 in the care of a licensed in-home day care provider. The  
12 provider lied about the number of children for whom she cared on  
13 a daily basis. She told the child's parents that she was caring  
14 for four children when an investigation later showed she was  
15 actually caring for eight children. The provider placed the  
16 infant in a swing and left her unattended for twenty minutes.  
17 During that time, the infant threw up her food and choked on her



1 own vomit. She was rushed to a local hospital, placed on life  
2 support, and was tragically diagnosed as brain dead.

3 In a similar Florida case, the parents of a three month old  
4 boy left him with a child care professional for two hours. It  
5 was a trial run; they were deciding if this day care  
6 professional was one they could trust. When the parents  
7 returned, they found their son face down in a crib, in a pool of  
8 his own vomit, dead. The state of Florida had licensed this  
9 facility to care for six children, but the provider had taken in  
10 thirteen children that day. On the day that the infant died,  
11 all thirteen children were left at the mercy of a poorly trained  
12 staff person who was not CPR certified, while the owner ran  
13 errands.

14 These two cases are reflective of the nightmares that  
15 parents go through--losing a child from a preventable disaster.  
16 While the department of human services has authority to  
17 investigate and penalize providers for misrepresentations of the  
18 number of children cared for, the legislature finds that  
19 additional deterrence is needed.

20 The purpose of this Act is to criminalize false  
21 representations made by child care providers.



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

4 "§346- Misrepresentation by a provider of a child care  
5 facility. (1) A person commits the offense of  
6 misrepresentation by a provider of a child care facility if,  
7 being a provider of a child care facility, the person makes any  
8 wilful and intentional misrepresentation, by act or omission, to  
9 a parent or guardian of a child either placed in the care of the  
10 facility or being considered for such placement, any employee of  
11 the department of human services, or any law enforcement officer  
12 including, but not limited to:

- 13 (a) The number of children in the child care facility in  
14 violation of a license or registration required under  
15 chapter 346;  
16 (b) The area of the home or facility used to provide child  
17 care; or  
18 (c) The credentials and qualifications of any child care  
19 provider, assistant, employee, or volunteer of the  
20 child care facility.



1 For purposes of this section, a "provider" means an individual,  
2 organization, or agency that maintains or operates a child care  
3 facility.

4 (2) Misrepresentation by a child care provider is a  
5 misdemeanor."

6 SECTION 3. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun, before its effective date.

9 SECTION 4. New statutory material is underscored.

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

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**Report Title:**

Child Care; Misrepresentation by Providers

**Description:**

Creates penalties for child care facility providers who misrepresent material information about their child care center operations to the guardians or parents of a prospective or active child at the center, an employee of the department of human services, or any law enforcement officer.

