

# S.B. NO. 2801

JAN 25 2012

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## A BILL FOR AN ACT

RELATING TO ADULT ABUSE PERPETRATOR CHECKS FOR CHILD CARE PROVIDERS.

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

1           SECTION 1. Section 346-152.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+]~~ §346-152.5 ~~[+]~~ Criminal history ~~[and]~~ record checks,  
4 child abuse record checks, and adult abuse perpetrator checks  
5 for persons exempt pursuant to section 346-152. To be eligible  
6 to provide child care and to receive a child care subsidy from  
7 the department, persons exempt pursuant to section 346-152 shall  
8 be required to agree to a criminal history record check ~~[and]~~, a  
9 child abuse record check, and an adult abuse perpetrator check  
10 in the same manner as a prospective applicant or licensed  
11 provider in accordance with section 346-154; provided that the  
12 following relatives of the child who requires care:  
13 grandparents, great-grandparents, aunts, uncles, and siblings  
14 aged eighteen or older living in a separate residence shall be  
15 required to agree to a criminal history record check conducted  
16 through files maintained by the Hawaii criminal justice data

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1 center [~~and~~], a child abuse record check[~~-~~], and an adult abuse  
2 perpetrator check.

3 For the purposes of this section, "adult abuse perpetrator  
4 check" means a search to determine whether an individual is  
5 known to the department as a perpetrator of abuse as defined in  
6 section 346-222, by means of a search of the individual's name  
7 and birth date in the department's adult protective services  
8 file."

9 SECTION 2. Section 346-154, Hawaii Revised Statutes is  
10 amended to read as follows:

11 "**§346-154 Criminal history [~~and~~] checks, child abuse**  
12 **record checks[~~-~~], and adult abuse perpetrator checks.** (a) The  
13 department shall develop standards to ensure the reputable and  
14 responsible character of an applicant to operate a child care  
15 facility, prospective employees of the applicant, and new  
16 employees of the provider after registration or licensure, which  
17 shall include criminal history record checks in accordance with  
18 section 846-2.7 [~~and~~], child abuse record checks[~~-~~], and adult  
19 abuse perpetrator checks.

20 For the purposes of this section, "adult abuse perpetrator  
21 check" means a search to determine whether an individual is  
22 known to the department as a perpetrator of abuse as defined in  
23 section 346-222, by means of a search of the individual's name

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1 and birth date in the department's adult protective services  
2 file.

3 (b) An applicant to operate a child care facility shall:

4 (1) Be subject to criminal history record checks in  
5 accordance with section 846-2.7;

6 (2) Submit to the department under penalty of law,  
7 statements signed by the applicant and prospective  
8 employees of the applicant indicating whether the  
9 applicant or any of the prospective employees has ever  
10 been confirmed to have abused or neglected a child[7]  
11 or vulnerable adult, including threatened harm; and

12 (3) Provide consent to the department to conduct a  
13 criminal history record check in accordance with  
14 section 846-2.7 [~~and~~], a child abuse record check, and  
15 an adult abuse perpetrator check, and to obtain  
16 criminal history [~~and~~] information, child abuse record  
17 information, and adult abuse perpetrator information  
18 for verification.

19 (c) A provider shall:

20 (1) Be subject to criminal history record checks in  
21 accordance with section 846-2.7;

22 (2) Submit to the department a statement signed by any  
23 employee hired after the initial licensure or

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1 registration that requires the employee to indicate  
2 under penalty of law, whether the employee has ever  
3 been confirmed to have abused or neglected a child[7]  
4 or vulnerable adult, including threatened harm; and

5 (3) Provide consent to the department or its designee to  
6 conduct a criminal history record check in accordance  
7 with section 846-2.7 [~~and~~], a child abuse record  
8 check, and an adult abuse perpetrator check, and to  
9 obtain criminal history [~~and~~] information, child abuse  
10 record information and adult abuse perpetrator check  
11 information for verification.

12 (d) The department or its designee shall obtain criminal  
13 history record information through the Hawaii criminal justice  
14 data center in accordance with section 846-2.7, and child abuse  
15 record information and adult abuse perpetrator check information  
16 from the department in accordance with departmental procedures  
17 on the applicant and any prospective employee of the applicant,  
18 including any new employee retained after the applicant is  
19 issued a registration or license under this part, which shall  
20 include an annual name inquiry into the state criminal history  
21 record files.

22 (e) The department may deny an application for a license  
23 or registration to operate a child care facility if:

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1 (1) The applicant or any prospective employee has been  
2 convicted of a crime other than a minor traffic  
3 violation involving a fine of \$50 or less, or ever  
4 been confirmed to have abused or neglected a child[7]  
5 or vulnerable adult, including threatened harm; and

6 (2) The department finds that the criminal history or  
7 child abuse record or adult abuse perpetrator check  
8 record of that applicant or prospective employee  
9 indicates that the applicant or prospective employee  
10 may pose a risk to the health, safety, or well-being  
11 of children.

12 (f) The department may request the provider to terminate  
13 the employment of a new employee or may suspend or revoke the  
14 license or registration of the provider who employs a new  
15 employee if:

16 (1) The employee has been convicted of a crime other than  
17 a minor traffic violation involving a fine of \$50 or  
18 less, or ever been confirmed to have abused or  
19 neglected a child or vulnerable adult, including  
20 threatened harm; and

21 (2) The department finds that the criminal history or  
22 child abuse record or adult abuse perpetrator check  
23 record of the new employee indicates that the new

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1            employee may pose a risk to the health, safety, or  
2            well-being of children."

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

5            SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

8

BY REQUEST

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**Report Title:**

Child Care; Adult Abuse Perpetrator Checks

**Description:**

Allows the Department of Human Services to conduct adult abuse perpetrator checks on providers, license exempt pursuant to section 346-152, Hawaii Revised Statutes, who care for children receiving child care subsidies from the department, applicants who want to operate a child care facility, prospective employees of the applicant, licensed child care providers, and new employees of the registered or licensed provider.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO ADULT ABUSE PERPETRATOR CHECKS FOR CHILD CARE PROVIDERS.

PURPOSE: Allows the Department of Human Services to conduct adult abuse perpetrator checks on child care providers who are exempt from licensing and registration pursuant to section 346-152, Hawaii Revised Statutes, who care for children that receive child care subsidies from the department, and on prospective applicants, and licensed child care providers.

MEANS: Amend sections 346-152.5 and 346-154, Hawaii Revised Statutes.

JUSTIFICATION: Allowing the Department of Human Services to conduct adult abuse perpetrator checks for child care providers will assist in screening out individuals who have a history of maltreatment of vulnerable individuals.

Impact on the public: The health and safety of children in child care will be further ensured.

Impact on the department and other agencies: Allows the department to conduct a more thorough check on the character of the individuals who are working directly with children in licensed and legally exempt settings.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 302.



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OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.