
A BILL FOR AN ACT

RELATING TO DEVELOPMENTAL DISABILITIES ADULT FOSTER HOMES.

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

1 SECTION 1. Section 321-11.2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§321-11.2 Adult foster homes. (a) The department of
4 health is authorized to certify adult foster homes for
5 individuals with developmental [~~disabilities~~] or intellectual
6 disabilities requiring [~~such~~] care beyond the individual's
7 eighteenth birthday. "Adult foster home" means a private family
8 home providing care on a twenty-four hour basis [~~for~~] to adults
9 with developmental or intellectual disabilities. To be
10 certified, an adult foster home shall [~~have~~]:

11 (1) House not more than two adults with developmental or
12 intellectual disabilities at the same time [~~, who are~~
13 ~~unrelated to the foster family.~~]; and

14 (2) Not have a certified caregiver who is:

15 (A) A legal guardian of a foster adult;

16 (B) A trustee of a foster adult; or

17 (C) Related to a foster adult.



1 For the purposes of this subparagraph, "related"
 2 means related by blood, related by marriage, or
 3 have a legal relationship between the certified
 4 caregiver and the foster adult.

5 The director of health may waive the two-adult limit for
 6 certification of that home as an adult foster home; provided
 7 that the number of adults with developmental or intellectual
 8 disabilities in the certified home shall not exceed three adults
 9 with developmental or intellectual disabilities.

10 **(b)** To accommodate residents of a foster boarding home for
 11 children with developmental or intellectual disabilities who
 12 reach the age of eighteen years, where the home is defined as a
 13 foster boarding home under section 346-16 and certified as a
 14 foster boarding home for children under section 346-17, the
 15 director of health may waive the two-adult limit for
 16 certification of that home as an adult foster home[7]; provided
 17 that:

18 (1) ~~[the]~~ The total number of foster children with
 19 developmental or intellectual disabilities and adults
 20 with developmental or intellectual disabilities in
 21 such a dually certified home shall not exceed ~~[five]~~
 22 three; and

1 (2) ~~[nø]~~ No new adults and children may be admitted into
2 the home ~~[while there are any foster children residing~~
3 ~~in the home]~~.

4 This subsection shall not affect the validity of the
5 certification of any adult foster home that is defined as a
6 foster boarding home under section 346-16, certified as a foster
7 boarding home for children under section 346-17, and in
8 existence as of the effective date of this Act.

9 ~~[(b)]~~ (c) The rules of the department of human services
10 adopted under authority of section 346-17, which prescribe the
11 standards of conditions and competence of operation of child
12 foster boarding homes shall apply to adult foster homes.
13 Notwithstanding chapter 91, to the contrary, the rules shall be
14 considered adopted by the department of health on July 1, 1986,
15 for the purpose of regulating adult foster care homes and shall
16 be valid until the department of health adopts rules pursuant to
17 chapter 91. The department of health shall adopt rules pursuant
18 to chapter 91 necessary for the purposes of this section.

19 ~~[(e)]~~ (d) Rate of payment for adult foster homes is to be
20 determined on the same basis as domiciliary care homes as
21 provided under section 346-53."



1 SECTION 2. Section 346-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§346-17 Child placing organizations, child caring
4 institutions, and foster boarding homes; authority over,
5 investigation of, and standards for. (a) No child placing
6 organization shall engage in the investigation, placement, and
7 supervision of minor children in foster care unless it meets the
8 standards of conditions, management, and competence set by the
9 department of human services.

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

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

16 (1) It meets with the standards of conditions, management,
17 and competence set by the department; and

18 (2) The foster boarding home applicant successfully
19 completes foster parent training; provided that after
20 July 1, 1999, new special licensed or relative foster
21 home care providers licensed for a specific child or
22 children shall successfully complete foster parent



1 training within the first year following placement of
2 the first child into the new special licensed or
3 relative foster home.

4 (d) The department shall adopt rules pursuant to chapter
5 91 relating to:

6 (1) Standards for the organization and administration of
7 child placing organizations;

8 (2) Standards of conditions, management, and competence
9 for the care and training of minor children in child
10 caring institutions and foster boarding homes; and

11 (3) Standards of conditions and competence of operation of
12 foster boarding homes as may be necessary to protect
13 the welfare of children.

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

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

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



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

5 (3) Provide consent to the department or its designee to
6 obtain criminal history record and child abuse and
7 neglect registry information.

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

10 (g) Upon approval of the organization, institution, or
11 foster boarding home, the department or its authorized agents
12 shall issue a certificate of approval that shall continue in
13 force for one year or for two years if the organization,
14 institution, or foster boarding home meets the criteria
15 established by the department, unless sooner revoked for cause.

16 The certificate shall be renewed by the department or its
17 authorized agents, after annual or biennial investigation, if
18 the investigation discloses that the organization, institution,
19 or foster boarding home continues to meet the standards set by
20 the department. The certificate of approval shall be a permit
21 to operate the child placing organization, child caring
22 institution, or foster boarding home, and no person or



1 organization shall operate or maintain the organization,
2 institution, or foster boarding home without the certificate.

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

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

10 (j) The department or its designee shall request:

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

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



1 (k) The department may deny a certificate of approval if
2 an operator, employee, or new employee of a child care
3 institution or child placing organization's facility, or any
4 adult residing in a foster boarding home, was convicted of a
5 crime other than a minor traffic violation involving a fine of
6 \$50 or less and if the department finds that the criminal
7 history record or child abuse registry history of an operator,
8 employee, new employee, or adult residing in a foster boarding
9 home poses a risk to the health, safety, or well-being of the
10 children in care.

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

17 (m) The department shall not certify as a foster boarding
18 home any existing adult foster home that has been certified by
19 the director of health pursuant to section 321-11.2."

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

22 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Developmental Disabilities Foster Homes

Description:

Prohibits legal guardians, trustees, and relatives from continuing to care for individuals with intellectual or developmental disabilities in a certified foster home. Defines "related" as related by blood or marriage or having a legal relationship between a certified caregiver and a foster adult. Permits minors with intellectual or developmental disabilities to age in place under certain conditions. Clarifies that certified adult foster homes dually certified as foster boarding homes shall not exceed a total of three individuals with intellectual or developmental disabilities. Does not impact the validity of certification of adult foster homes that are dually certified as foster boarding homes and in existence as of the effective date of this Act. Takes effect on 1/1/2050. (SD2)

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