



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Senate Committee on Health and Human Services

S.B. 2853, Relating to Developmental Disabilities Adult Foster Homes

Testimony of Gary L. Gill
Acting Director of Health

February 3, 2014

1 **Department's Position:** The Department is in support of S.B. 2853 as this bill aims to clarify the
2 requirements of certification of Adult Foster Homes for individuals with developmental or
3 intellectual disabilities.

4 **Fiscal Implications:** There is no cost implication to the Department.

5 **Purpose and Justification:** S.B. 2853 will amend HRS §321-11.2(a), Hawaii Revised Statutes, to
6 provide clarity of the requirements of certification to obtain a certification for an Adult Foster Home,
7 and to create an exception for dual certification with a foster boarding home for children to foster the
8 child's ability to age in place after attaining the age of eighteen (18). The Department supports the
9 definition of "related" being added in HRS §321-11.2 Section 1 (a) (2). This definition provides
10 much needed clarity for existing and potential certified caregivers to understand the requirements for
11 certification. The Department does not require a related family member to obtain certification;
12 therefore, if someone or some family is willing to become a guardian or obtain a legal form of
13 trusteeship of an individual with developmental or intellectual disabilities and have the person live
14 with them, the Department views this situation similar to a related family member.
15 Thank you for this opportunity to testify.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
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February 3, 2014

The Honorable Josh Green, Chair
Senate Committee on Health
and
The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services
Twenty-Seventh Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Green and Senator Chun Oakland and Members of the Committees:

SUBJECT: SB 2853 – Relating to Developmental Disabilities Adult Foster Homes

The State Council on Developmental Disabilities (DD) **SUPPORTS THE INTENT OF SB 2853**. This bill allows a definition of "related" to include relationships by blood, by marriage, legal guardians, and trustees of the foster adult. Legal guardians, trustees, and relatives may not continue to care for individuals with intellectual/developmental disabilities (I/DD) as a foster home; permits minors with I/DD to age in place under certain conditions; clarifies that certified adult foster homes with dual certification not exceed a total of three individuals with I/DD; and prohibits adult foster homes from dual certification.

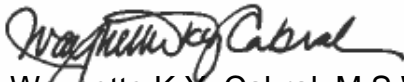
Essentially SB 2853 amends Section 321-11.2(a), Hawaii Revised Statutes by clarifying the conditions for certification of adult foster homes for individuals with I/DD. We are pleased that the bill permits a foster boarding home for minors with I/DD to be dually certified to enable the individual to age in place and remain in the home. We agree that the total number of foster children with I/DD and adults with I/DD in a dually certified home shall not have more than two individuals. However, with the Director of Health's approval, not more than three individuals would be permitted (Act 212, HRS 2013).

With respect to the intent of clarifying who a certified caregiver cannot be on Page 1, lines 13-18, the Council is concerned about current caregivers who are a legal guardian, a trustee or related to the foster adult, and whether these proposed provisions would jeopardize the foster adult's current living situation. We believe it is not the intent of this measure. To address the possibility of any unintended consequences, we respectfully ask the Legislature to consider a provision to grandfather existing caregivers who are a legal guardian, a trustee or related to the foster adult.

The Honorable Josh Green, Chair
The Honorable Suzanne Chun Oakland, Chair
February 3, 2014
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Thank you for the opportunity to submit testimony in **support of the intent of SB 2853.**

Sincerely,



Waynette K.Y. Cabral, M.S.W.
Executive Administrator



J. Curtis Tyler III
Chair



HAWAII DISABILITY RIGHTS CENTER

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THE SENATE THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2014

Committee on Health Committee on Human Services Testimony in Opposition to S.B. 2853 Relating to Developmental Disabilities Adult Foster Homes

**Monday, February 3, 2014, 1:20 P.M.
Conference Room 229**

Chair Green, Chair Chun-Oakland and Members of the Committees:

The Hawaii Disability Rights Center testifies in strong opposition to this bill. This bill appears to be improperly motivated by a desire to overturn the placement of two children who were represented by this office. Both of these children were regarded as “high end” children, which means that they presented very difficult behaviors along with severe intellectual or cognitive disabilities. They were children who were very hard to place in a foster home. One of the children experienced multiple placements. The other was in an institutional placement prior to the time he was placed with his current caregiver.

Against this backdrop, the adult foster home in question agreed to accept these children. This was and is perfectly legal inasmuch as nothing in the law prevents a home from being certified to care for both, so long as other health and safety requirements of both the Department of Health and the Department of Human Services are met. In fact both Departments have fairly stringent requirements that must be met. Despite the fact that this caregiver met all the requirements and clearly was creating a wholesome family environment for these children, the Department of Health, via a combination of delay and bureaucratic inertia did its best to attempt to delay and derail the placement of these children. Our office intervened on behalf of these children and eventually negotiated a successful outcome whereby all required licenses and certifications were obtained.



In light of that, we were rather shocked to see this attempt by the Administration to overturn the statutes in question and involve the legislature with its continued efforts to force these children to vacate the home. In view of the difficulty of finding a community placement for these children and in light of the limited capacity that exists in our community, a more enlightened Department of Health might have been thankful that there are individuals who are willing to step forward and act as caregivers. Instead, their response has been the opposite and they have tried to thwart this successful placement every chance they have had. This bill represents just the latest attempt in that line and we urge the legislature to reject it.

Nor do we see this as a valid public policy proposal. Each case needs to be assessed on its individual merits. Quality caregivers are at a premium and if an individual has a house and a heart that is big enough to take care of adults and children with developmental disabilities, they should be encouraged and not banned.

Finally, if the Department genuinely viewed this proposal purely as a policy initiative, it would have at least included a provision to "grandfather" existing dually certified homes. If the legislature is at all inclined to advance this measure we most strenuously would urge the inclusion of a grandfather clause so that the children we represent do not need to be uprooted and displaced.

Thank you for the opportunity to testify in opposition to this measure.