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## A BILL FOR AN ACT

RELATING TO HOMELESSNESS.

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

1           SECTION 1. The legislature finds that homelessness is a  
2 critical issue in the State. The State and counties have tried  
3 to address this systemic issue, but it is still ongoing and  
4 prevalent. According to a recent survey, the homeless  
5 population has increased by thirty per cent on Oahu since 2009,  
6 including a 3.4 per cent increase from 2013 to 2014. This  
7 translates into over 4,700 homeless people on Oahu.  
8 Furthermore, from nationwide estimates, the national homeless  
9 population decreased from 2010 to 2014, while Hawaii's homeless  
10 population increased eighteen per cent over the same time period  
11 to potentially 6,900 or more people.

12           The city and county of Honolulu recently allocated over \$45  
13 million for fiscal year 2015 to help address the homeless issue,  
14 and it remains to be seen what impact this funding will have on  
15 the number of homeless people. Additionally, the city and  
16 county has enacted "sit-lie" laws for Waikiki and other areas,



1 and has pursued a compassionate disruption policy for cleaning  
2 up the streets.

3 Although a number of homeless people here are transplants  
4 and not residents of the State, others are local residents with  
5 family members residing here as well. One way the State may  
6 help address the issue is by helping these families with  
7 homeless family members, by providing financial assistance to  
8 families that provide care for a homeless family member. The  
9 assistance would not be permanent and is intended to provide  
10 support to allow the homeless family member to reintegrate into  
11 the community.

12 , The purpose of this Act is to help address the homeless  
13 issue in the State by assisting households that provide  
14 temporary care for a homeless family member.

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

18 "Part \_\_\_\_\_

19 **§346-A Definitions.** For the purposes of this part:

20 "Care" refers to those situations where a person has agreed  
21 to assume and has been entrusted with the responsibility to



1 provide a homeless care residence to a homeless family or  
2 household member, as those terms are defined in section 346-A.

3 "Family or household member" means, with respect to a  
4 certain individual, another individual related by blood to that  
5 individual or spouses or reciprocal beneficiaries, former  
6 spouses or former reciprocal beneficiaries, or persons who have  
7 a child in common.

8 "Homeless" means:

9 (1) An individual who lacks a fixed, regular, and adequate  
10 night-time residence; or

11 (2) An individual who has a primary night residence that  
12 is:

13 (A) A supervised and publicly or privately operated  
14 shelter designed to provide temporary living  
15 accommodations;

16 (B) An institution that provides temporary residence  
17 for individuals intended to be institutionalized;  
18 or

19 (C) A public or private place not designed for or  
20 ordinarily used as sleeping accommodations for  
21 human beings.



1 This term does not include any individual imprisoned or  
2 otherwise detained under an act of Congress or a state law.

3 "Homeless care residence" means a private residence,  
4 including a home, apartment, unit, or townhouse, as those terms  
5 are defined in section 502C-1, at which care may be provided for  
6 a homeless family of household member , as those terms are  
7 defined in 346-A.

8 "Provider" means the person who is issued the license or  
9 certificate of registration, as the case may be, by the  
10 department to provide care in a homeless care residence.

11 **§346-B Registration for Homeless Care Residence.** No  
12 person shall operate or maintain a homeless care residence  
13 unless registered to do so by the department of human services  
14 under this chapter. The registration shall be valid for one  
15 year unless sooner revoked and shall require annual  
16 registration.

17 **§346-C Rules for registration.** (a) No later than January  
18 1, 2016, the department shall adopt rules pursuant to chapter 91  
19 establishing minimum requirements to ensure the health and  
20 safety of any family member or household member provided care in



1 a homeless care residence. The rules may specify, but shall not  
2 be limited to, minimum requirements concerning:

3 (1) The number of persons which may be cared for at one  
4 time;

5 (2) The health of the provider and the person(s) cared for  
6 by the provider;

7 (3) Fire and sanitation standards; and

8 (4) Protection of persons who are provided care from abuse.

9 (b) It is the intent of the legislature that the:

10 (1) The minimum requirements shall:

11 (A) Be as simple and clear as possible; and

12 (B) Be germane to the provision of care to persons in  
13 a private home as opposed to a homeless facility  
14 or institution, require as little recordkeeping  
15 by the provider as possible, and require  
16 information and reports if necessary, from the  
17 provider which the department intends to  
18 scrutinize carefully and not cursorily.

19 (c) The department shall establish minimum requirements,  
20 compliance with which shall be assessed objectively by officers



1 and employees of the department, providers, and those cared for  
2 by providers.

3       **§346-D Procedures for registration.** (a) A person desiring  
4 to have the person's home registered as a homeless care  
5 residence shall make application to the department. Upon  
6 receipt of the application, the department shall conduct a study  
7 of the applicant's qualifications, home, and proposed operation.  
8 The department shall issue a certificate of registration to the  
9 applicant which authorizes the applicant to operate a homeless  
10 care residence if the department is satisfied that the premises  
11 and proposed operation will be in compliance with the minimum  
12 requirements established under section 346-C and subject to the  
13 criminal history checks established under section 846-2.7.

14       The provider shall operate and maintain the premises of the  
15 homeless care facility in accordance with the minimum  
16 requirements established under section 346-C so long as  
17 registered.

18       (b) The department may establish reasonable fees for the  
19 issuance or renewal of certificates of registration according to  
20 rules adopted pursuant to chapter 91.



1           **§346-E Visitation and inspection of homeless care**

2 **residence; revocation of registration.** (a) The department shall  
3 visit and inspect the premises and operation of a homeless care  
4 residence to determine compliance with the minimum requirements  
5 established under section 346-C:

6           (1) At least once during each six-month period; and

7           (2) Upon receipt of a complaint that the premises or  
8           operation of the home is in violation of the minimum  
9           requirements established under section 346-C.

10           (b) If the visitation and inspection reveal that the  
11 premises or operation of the home is in violation of a minimum  
12 requirement, the department shall immediately suspend or revoke  
13 the registration. Upon suspension or revocation, the home shall  
14 no longer be a registered homeless care residence.

15           A person whose registration has been suspended or revoked  
16 may appeal the suspension or revocation in accordance with  
17 chapter 91, but the appeal shall not stay the suspension or  
18 revocation. If the appeal is made under chapter 91, the appeal  
19 of the suspension or revocation, and not the suspension or  
20 revocation itself, shall be deemed the contested case.



1           The department shall suspend the registration if the  
2 violation of the minimum requirement is the first violation of  
3 the provider and the violation does not warrant the revocation  
4 of the registration. The department shall revoke the  
5 registration if the provider has violated any minimum  
6 requirement or requirements to such an extent or of a nature  
7 that the provider is unfit to be trusted with the operation of a  
8 homeless care residence or if the provider has had the  
9 provider's registration suspended at least once previously.

10           (c) The department may reinstate a suspended registration  
11 or restore a revoked registration if it deems that the person is  
12 willing and able to comply with the rules adopted under section  
13 346-C. A suspended registration may be reinstated upon the  
14 department's satisfaction that the violation has been or will be  
15 corrected. A revoked registration shall be restored only after  
16 new application is made and reviewed under this subpart.

17           **§346-F Waiver.** The State shall not be liable for any  
18 loss, damage, injury, or death arising from the homeless family  
19 or household member's use of the homeless care residence or the  
20 provider's operation of the homeless care residence.





1           **§346-G Penalty.** Any person violating any provision of  
2 this part or any rule made pursuant thereto shall be fined as  
3 follows:

4           (1) Up to \$1,000 for a first violation; and

5           (2) Up to \$3,000 for the second violation and each  
6 succeeding violation.

7           **§346-H Participation Limit.** A homeless family or  
8 household member who receives care by a provider shall be  
9 limited to a maximum of twelve months of participation under the  
10 program. This twelve month limit shall apply to consecutive or  
11 nonconsecutive months and shall apply even if care is received  
12 from a succession of different providers.

13           **§346-I Homeless Care Residence Cap.** The total number of  
14 homeless care residences that are actively participating in the  
15 program, providing care for a homeless family or household  
16 member, and in receipt of funds shall be capped at one hundred  
17 residences per month, with the number to be determined on the  
18 first day of each month.

19           **§346-J Rules.** Rules adopted pursuant to this part shall  
20 be adopted in accordance with chapter 91."



1 SECTION 3. Section 237-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§237-24 Amounts not taxable. This chapter shall not  
4 apply to the following amounts:

- 5 (1) Amounts received under life insurance policies and  
6 contracts paid by reason of the death of the insured;
- 7 (2) Amounts received (other than amounts paid by reason of  
8 death of the insured) under life insurance, endowment,  
9 or annuity contracts, either during the term or at  
10 maturity or upon surrender of the contract;
- 11 (3) Amounts received under any accident insurance or  
12 health insurance policy or contract or under workers'  
13 compensation acts or employers' liability acts, as  
14 compensation for personal injuries, death, or  
15 sickness, including also the amount of any damages or  
16 other compensation received, whether as a result of  
17 action or by private agreement between the parties on  
18 account of the personal injuries, death, or sickness;
- 19 (4) The value of all property of every kind and sort  
20 acquired by gift, bequest, or devise, and the value of  
21 all property acquired by descent or inheritance;



- 1 (5) Amounts received by any person as compensatory damages  
2 for any tort injury to the person, or to the person's  
3 character reputation, or received as compensatory  
4 damages for any tort injury to or destruction of  
5 property, whether as the result of action or by  
6 private agreement between the parties (provided that  
7 amounts received as punitive damages for tort injury  
8 or breach of contract injury shall be included in  
9 gross income);
- 10 (6) Amounts received as salaries or wages for services  
11 rendered by an employee to an employer;
- 12 (7) Amounts received as alimony and other similar payments  
13 and settlements;
- 14 (8) Amounts collected by distributors as fuel taxes on  
15 "liquid fuel" imposed by chapter 243, and the amounts  
16 collected by such distributors as a fuel tax imposed  
17 by any Act of the Congress of the United States;
- 18 (9) Taxes on liquor imposed by chapter 244D on dealers  
19 holding permits under that chapter;
- 20 (10) The amounts of taxes on cigarettes and tobacco  
21 products imposed by chapter 245 on wholesalers or



- 1 dealers holding licenses under that chapter and  
2 selling the products at wholesale;
- 3 (11) Federal excise taxes imposed on articles sold at  
4 retail and collected from the purchasers thereof and  
5 paid to the federal government by the retailer;
- 6 (12) The amounts of federal taxes under chapter 37 of the  
7 Internal Revenue Code, or similar federal taxes,  
8 imposed on sugar manufactured in the State, paid by  
9 the manufacturer to the federal government;
- 10 (13) An amount up to, but not in excess of, \$2,000 a year  
11 of gross income received by any blind, deaf, or  
12 totally disabled person engaging, or continuing, in  
13 any business, trade, activity, occupation, or calling  
14 within the State; a corporation all of whose  
15 outstanding shares are owned by an individual or  
16 individuals who are blind, deaf, or totally disabled;  
17 a general, limited, or limited liability partnership,  
18 all of whose partners are blind, deaf, or totally  
19 disabled; or a limited liability company, all of whose  
20 members are blind, deaf, or totally disabled;



1           (14) Amounts received by a producer of sugarcane from the  
2           manufacturer to whom the producer sells the sugarcane,  
3           where:

4           (A) The producer is an independent cane farmer, so  
5           classed by the Secretary of Agriculture under the  
6           Sugar Act of 1948 (61 Stat. 922, chapter 519) as  
7           the Act may be amended or supplemented;

8           (B) The value or gross proceeds of the sale of the  
9           sugar, and other products manufactured from the  
10          sugarcane, are included in the measure of the tax  
11          levied on the manufacturer under section 237-  
12          13(1) or (2);

13          (C) The producer's gross proceeds of sales are  
14          dependent upon the actual value of the products  
15          manufactured therefrom or the average value of  
16          all similar products manufactured by the  
17          manufacturer; and

18          (D) The producer's gross proceeds of sales are  
19          reduced by reason of the tax on the value or sale  
20          of the manufactured products;



1           (15) Money paid by the State or eleemosynary child-placing  
2                           organizations to foster parents for their care of  
3                           children in foster homes;

4           (16) Money paid by the State to providers of care for a  
5                           family or household member in a homeless care  
6                           residence.

7           ~~[(16)]~~ (17) Amounts received by a cooperative housing  
8                           corporation from its shareholders in reimbursement of  
9                           funds paid by the corporation for lease rental, real  
10                          property taxes, and other expenses of operating and  
11                          maintaining the cooperative land and improvements;  
12                          provided that the cooperative corporation is a  
13                          corporation:

14                        (A) Having one and only one class of stock  
15   outstanding;

16                        (B) Each of the stockholders of which is entitled  
17   solely by reason of the stockholder's ownership  
18   of stock in the corporation, to occupy for  
19   dwelling purposes a house, or an apartment in a  
20   building owned or leased by the corporation; and



1 (C) No stockholder of which is entitled (either  
2 conditionally or unconditionally) to receive any  
3 distribution not out of earnings and profits of  
4 the corporation except in a complete or partial  
5 liquidation of the corporation;

6 [~~17~~] (18) Amounts received by a managed care support  
7 contractor of the TRICARE program that is established  
8 under title 10 United States Code chapter 55, as  
9 amended, for the actual cost or advancement to third  
10 party health care providers pursuant to a contract  
11 with the United States; and

12 [~~18~~] (19) Amounts received by a contractor of the Patient-  
13 Centered Community Care program that is established by  
14 the United States Department of Veterans Affairs  
15 pursuant to title 38 United States Code section 8153,  
16 as amended, for the actual costs or advancements to  
17 third party health care providers pursuant to a  
18 contract with the United States. "

19 SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:

21 "(b) Criminal history record checks may be conducted by:



- 1           (1) The department of health or the department's designee  
2                    on operators of adult foster homes or developmental  
3                    disabilities domiciliary homes and their employees, as  
4                    provided by section 333F-22;
- 5           (2) The department of health or the department's designee  
6                    on prospective employees, persons seeking to serve as  
7                    providers, or subcontractors in positions that place  
8                    them in direct contact with clients when providing  
9                    non-witnessed direct mental health services as  
10                  provided by section 321-171.5;
- 11          (3) The department of health or the department's designee  
12                    on all applicants for licensure for, operators for,  
13                    prospective employees, and volunteers at one or more  
14                    of the following: skilled nursing facility,  
15                    intermediate care facility, adult residential care  
16                    home, expanded adult residential care home, assisted  
17                    living facility, home health agency, hospice, adult  
18                    day health center, special treatment facility,  
19                    therapeutic living program, intermediate care facility  
20                    for individuals with intellectual disabilities,  
21                    hospital, rural health center and rehabilitation





1 agency, and, in the case of any of the above  
2 facilities operating in a private residence, on any  
3 adult living in the facility other than the client as  
4 provided by section 321-15.2;

5 (4) The department of education on employees, prospective  
6 employees, and teacher trainees in any public school  
7 in positions that necessitate close proximity to  
8 children as provided by section 302A-601.5;

9 (5) The counties on employees and prospective employees  
10 who may be in positions that place them in close  
11 proximity to children in recreation or child care  
12 programs and services;

13 (6) The county liquor commissions on applicants for liquor  
14 licenses as provided by section 281-53.5;

15 (7) The county liquor commissions on employees and  
16 prospective employees involved in liquor  
17 administration, law enforcement, and liquor control  
18 investigations;

19 (8) The department of human services on operators and  
20 employees of child caring institutions, child placing  
21 organizations, and foster boarding homes as provided



- 1           by section 346-17[~~7~~], and on providers of homeless  
2           care residences as provided by section 346-A;
- 3           (9) The department of human services on prospective  
4           adoptive parents as established under section  
5           346-19.7;
- 6           (10) The department of human services on applicants to  
7           operate child care facilities, prospective employees  
8           of the applicant, and new employees of the provider  
9           after registration or licensure as provided by section  
10          346-154;
- 11          (11) The department of human services on persons exempt  
12          pursuant to section 346-152 to be eligible to provide  
13          child care and receive child care subsidies as  
14          provided by section 346-152.5;
- 15          (12) The department of health on operators and employees of  
16          home and community-based case management agencies and  
17          operators and other adults, except for adults in care,  
18          residing in foster family homes as provided by section  
19          321-484;



- 1           (13) The department of human services on staff members of  
2                   the Hawaii youth correctional facility as provided by  
3                   section 352-5.5;
- 4           (14) The department of human services on employees,  
5                   prospective employees, and volunteers of contracted  
6                   providers and subcontractors in positions that place  
7                   them in close proximity to youth when providing  
8                   services on behalf of the office or the Hawaii youth  
9                   correctional facility as provided by section 352D-4.3;
- 10          (15) The judiciary on employees and applicants at detention  
11                   and shelter facilities as provided by section 571-34;
- 12          (16) The department of public safety on employees and  
13                   prospective employees who are directly involved with  
14                   the treatment and care of persons committed to a  
15                   correctional facility or who possess police powers  
16                   including the power of arrest as provided by section  
17                   353C-5;
- 18          (17) The board of private detectives and guards on  
19                   applicants for private detective or private guard  
20                   licensure as provided by section 463-9;



- 1           (18) Private schools and designated organizations on  
2                   employees and prospective employees who may be in  
3                   positions that necessitate close proximity to  
4                   children; provided that private schools and designated  
5                   organizations receive only indications of the states  
6                   from which the national criminal history record  
7                   information was provided pursuant to section 302C-1;
- 8           (19) The public library system on employees and prospective  
9                   employees whose positions place them in close  
10                  proximity to children as provided by section  
11                  302A-601.5;
- 12          (20) The State or any of its branches, political  
13                  subdivisions, or agencies on applicants and employees  
14                  holding a position that has the same type of contact  
15                  with children, vulnerable adults, or persons committed  
16                  to a correctional facility as other public employees  
17                  who hold positions that are authorized by law to  
18                  require criminal history record checks as a condition  
19                  of employment as provided by section 78-2.7;
- 20          (21) The department of health on licensed adult day care  
21                  center operators, employees, new employees,



1 subcontracted service providers and their employees,  
2 and adult volunteers as provided by section 321-496;

3 (22) The department of human services on purchase of  
4 service contracted and subcontracted service providers  
5 and their employees serving clients of the [adult  
6 protective and community services branch], as provided  
7 by section 346-97;

8 (23) The department of human services on foster grandparent  
9 program, senior companion program, and respite  
10 companion program participants as provided by section  
11 346-97;

12 (24) The department of human services on contracted and  
13 subcontracted service providers and their current and  
14 prospective employees that provide home and community-  
15 based services under section 1915(c) of the Social  
16 Security Act, title 42 United States Code section  
17 1396n(c), or under any other applicable section or  
18 sections of the Social Security Act for the purposes  
19 of providing home and community-based services, as  
20 provided by section 346-97;



- 1           (25) The department of commerce and consumer affairs on  
2                   proposed directors and executive officers of a bank,  
3                   savings bank, savings and loan association, trust  
4                   company, and depository financial services loan  
5                   company as provided by section 412:3-201;
- 6           (26) The department of commerce and consumer affairs on  
7                   proposed directors and executive officers of a  
8                   nondepository financial services loan company as  
9                   provided by section 412:3-301;
- 10          (27) The department of commerce and consumer affairs on the  
11                   original chartering applicants and proposed executive  
12                   officers of a credit union as provided by section  
13                   412:10-103;
- 14          (28) The department of commerce and consumer affairs on:  
15                   (A) Each principal of every non-corporate applicant  
16                         for a money transmitter license; and  
17                   (B) The executive officers, key shareholders, and  
18                         managers in charge of a money transmitter's  
19                         activities of every corporate applicant for a  
20                         money transmitter license,  
21                   as provided by sections 489D-9 and 489D-15;



- 1           (29) The department of commerce and consumer affairs on  
2                    applicants for licensure and persons licensed under  
3                    title 24;
- 4           (30) The Hawaii health systems corporation on:
- 5                    (A) Employees;
- 6                    (B) Applicants seeking employment;
- 7                    (C) Current or prospective members of the corporation  
8                        board or regional system board; or
- 9                    (D) Current or prospective volunteers, providers, or  
10                       contractors,
- 11                    in any of the corporation's health facilities as  
12                       provided by section 323F-5.5;
- 13           (31) The department of commerce and consumer affairs on:
- 14                    (A) An applicant for a mortgage loan originator  
15                        license; and
- 16                    (B) Each control person, executive officer, director,  
17                        general partner, and manager of an applicant for  
18                        a mortgage loan originator company license,  
19                        as provided by chapter 454F;
- 20           (32) The state public charter school commission or public  
21                    charter schools on employees, teacher trainees,



- 1 prospective employees, and prospective teacher  
2 trainees in any public charter school for any position  
3 that places them in close proximity to children, as  
4 provided in section 302D-33;
- 5 (33) The counties on prospective employees who work with  
6 children, vulnerable adults, or senior citizens in  
7 community-based programs;
- 8 (34) The counties on prospective employees for fire  
9 department positions which involve contact with  
10 children or vulnerable adults;
- 11 (35) The counties on prospective employees for emergency  
12 medical services positions which involve contact with  
13 children or vulnerable adults;
- 14 (36) The counties on prospective employees for emergency  
15 management positions and community volunteers whose  
16 responsibilities involve planning and executing  
17 homeland security measures including viewing,  
18 handling, and engaging in law enforcement or  
19 classified meetings and assisting vulnerable citizens  
20 during emergencies or crises;





- 1           (37) The State and counties on employees, prospective  
2           employees, volunteers, and contractors whose position  
3           responsibilities require unescorted access to secured  
4           areas and equipment related to a traffic management  
5           center;
- 6           (38) The State and counties on employees and prospective  
7           employees whose positions involve the handling or use  
8           of firearms for other than law enforcement purposes;
- 9           (39) The State and counties on current and prospective  
10          systems analysts and others involved in an agency's  
11          information technology operation whose position  
12          responsibilities provide them with access to  
13          proprietary, confidential, or sensitive information;
- 14        [+] (40) [+] The department of commerce and consumer affairs on  
15          applicants for real estate appraiser licensure or  
16          certification as provided by chapter 466K; and
- 17        [+] (41) [+] Any other organization, entity, or the State, its  
18          branches, political subdivisions, or agencies as may  
19          be authorized by state law."

20           SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



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

4 SECTION 7. This Act shall take effect upon its approval.  
5

INTRODUCED BY:

Ken Wood

RL McT...

Kindred Chingoma

Samuel Sking

Felix Pouch

Debra A. Roberts

Tom Brown

Bill O'Connell

Mark Hasher

Jim Smith

Richard King

JAN 29 2015



**Report Title:**

Homelessness; Homeless Care Residence

**Description:**

Establishes a homeless care residence program to provide financial assistance to households providing temporary housing and care to a homeless relative. Requires that providers undergo certification and inspection by the department of human services and caps program participation at twelve months.

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

