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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  
13 \$45,000,000 for fiscal year 2015 to help address the homeless  
14 issue, and it remains to be seen what impact this funding will  
15 have on the number of homeless people. Additionally, the city  
16 and county has enacted "sit-lie" laws for Waikiki and other



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

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

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 "Department" means the department of human services.

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

9 "Homeless" means:

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

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

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

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

19 or



1           (C) A public or private place not designed for or  
2                   ordinarily used as sleeping accommodations for  
3                   human beings.

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

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

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

14           **§346-B Registration for homeless care residence.** No  
15 person shall operate or maintain a homeless care residence  
16 unless registered to do so by the department under this part.  
17 The registration shall be valid for one year unless sooner  
18 revoked and shall require annual registration.

19           **§346-C Rules for registration.** (a) No later than January  
20 1, 2017, the department shall adopt rules pursuant to chapter 91  
21 establishing minimum requirements to ensure the health and



1 safety of any family member or household member provided care in  
2 a homeless care residence. The rules may specify, but shall not  
3 be limited to, minimum requirements concerning:

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

6 (2) The health of the provider and the persons cared for  
7 by the provider;

8 (3) Fire and sanitation standards; and

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

11 (b) It is the intent of the legislature that the minimum  
12 requirements shall:

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

14 (B) Be germane to the provision of care to persons in  
15 a private home as opposed to a homeless facility  
16 or institution;

17 (C) Require as little recordkeeping by the provider  
18 as possible; and

19 (D) Require information and reports if necessary,  
20 from the provider that the department intends to  
21 scrutinize carefully and not cursorily.



1           (c) The department shall establish minimum requirements,  
2 compliance with which shall be assessed objectively by officers  
3 and employees of the department, providers, and those cared for  
4 by providers.

5           **§346-D Procedures for registration.** (a) A person  
6 desiring to have the person's home registered as a homeless care  
7 residence shall make application to the department. Upon  
8 receipt of the application, the department shall conduct a study  
9 of the applicant's qualifications, home, and proposed operation.  
10 The department shall issue a certificate of registration to the  
11 applicant that authorizes the applicant to operate a homeless  
12 care residence if the department is satisfied that the premises  
13 and proposed operation will be in compliance with the minimum  
14 requirements established under section 346-C and subject to the  
15 criminal history record checks established under section 846-  
16 2.7.

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



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

4 §346-E Visitation and inspection of homeless care  
5 residence; revocation of registration. (a) The department  
6 shall visit and inspect the premises and operation of a homeless  
7 care residence to determine compliance with the minimum  
8 requirements established under section 346-C:

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

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

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

18 A person whose registration has been suspended or revoked  
19 may appeal the suspension or revocation in accordance with  
20 chapter 91, but the appeal shall not stay the suspension or  
21 revocation. If on appeal is made under chapter 91, the appeal



1 of the suspension or revocation, and not the suspension or  
2 revocation itself, shall be deemed the contested case.

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

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

19 **§346-F Waiver.** The State shall not be liable for any  
20 loss, damage, injury, or death arising from the homeless family





1 or household member's use of the homeless care residence or the  
2 provider's operation of the homeless care residence.

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

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

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

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

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



1           §346-J Rules. The department shall adopt rules pursuant  
2 to chapter 91 for the purposes of this part."

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

5           "§237-24 Amounts not taxable. This chapter shall not  
6 apply to the following amounts:

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



- 1           (4) The value of all property of every kind and sort  
2           acquired by gift, bequest, or devise, and the value of  
3           all property acquired by descent or inheritance;
- 4           (5) Amounts received by any person as compensatory damages  
5           for any tort injury to the person, or to the person's  
6           character reputation, or received as compensatory  
7           damages for any tort injury to or destruction of  
8           property, whether as the result of action or by  
9           private agreement between the parties (provided that  
10          amounts received as punitive damages for tort injury  
11          or breach of contract injury shall be included in  
12          gross income);
- 13          (6) Amounts received as salaries or wages for services  
14          rendered by an employee to an employer;
- 15          (7) Amounts received as alimony and other similar payments  
16          and settlements;
- 17          (8) Amounts collected by distributors as fuel taxes on  
18          "liquid fuel" imposed by chapter 243, and the amounts  
19          collected by such distributors as a fuel tax imposed  
20          by any Act of the Congress of the United States;



- 1           (9) Taxes on liquor imposed by chapter 244D on dealers  
2           holding permits under that chapter;
- 3           (10) The amounts of taxes on cigarettes and tobacco  
4           products imposed by chapter 245 on wholesalers or  
5           dealers holding licenses under that chapter and  
6           selling the products at wholesale;
- 7           (11) Federal excise taxes imposed on articles sold at  
8           retail and collected from the purchasers thereof and  
9           paid to the federal government by the retailer;
- 10          (12) The amounts of federal taxes under chapter 37 of the  
11          Internal Revenue Code, or similar federal taxes,  
12          imposed on sugar manufactured in the State, paid by  
13          the manufacturer to the federal government;
- 14          (13) An amount up to, but not in excess of, \$2,000 a year  
15          of gross income received by any blind, deaf, or  
16          totally disabled person engaging, or continuing, in  
17          any business, trade, activity, occupation, or calling  
18          within the State; a corporation all of whose  
19          outstanding shares are owned by an individual or  
20          individuals who are blind, deaf, or totally disabled;  
21          a general, limited, or limited liability partnership,



1 all of whose partners are blind, deaf, or totally  
2 disabled; or a limited liability company, all of whose  
3 members are blind, deaf, or totally disabled;

4 (14) Amounts received by a producer of sugarcane from the  
5 manufacturer to whom the producer sells the sugarcane,  
6 where:

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

11 (B) The value or gross proceeds of the sale of the  
12 sugar, and other products manufactured from the  
13 sugarcane, are included in the measure of the tax  
14 levied on the manufacturer under section 237-  
15 13(1) or (2);

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



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

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

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 [~~-~~]; and

19 (19) Money paid by the State to providers of care for a  
20 family or household member in a homeless care  
21 residence.



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

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

4 (1) The department of health or its designee on operators  
5 of adult foster homes for individuals with  
6 developmental disabilities or developmental  
7 disabilities domiciliary homes and their employees, as  
8 provided by section 321-15.2;

9 (2) The department of health or its designee on  
10 prospective employees, persons seeking to serve as  
11 providers, or subcontractors in positions that place  
12 them in direct contact with clients when providing  
13 non-witnessed direct mental health or health care  
14 services as provided by section 321-171.5;

15 (3) The department of health or its designee on all  
16 applicants for licensure or certification for,  
17 operators for, prospective employees, adult  
18 volunteers, and all adults, except adults in care, at  
19 health care facilities as defined in section 321-15.2;

20 (4) The department of education on employees, prospective  
21 employees, and teacher trainees in any public school





- 1 in positions that necessitate close proximity to  
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees  
4 who may be in positions that place them in close  
5 proximity to children in recreation or child care  
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor  
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and  
10 prospective employees involved in liquor  
11 administration, law enforcement, and liquor control  
12 investigations;
- 13 (8) The department of human services on operators and  
14 employees of child caring institutions, child placing  
15 organizations, and foster boarding homes as provided  
16 by section 346-17;
- 17 (9) The department of human services on prospective  
18 adoptive parents as established under section  
19 346-19.7[+], and on providers of homeless care  
20 residences as provided by section 346-A;



- 1       (10) The department of human services on applicants to  
2       operate child care facilities, prospective employees  
3       of the applicant, and new employees of the provider  
4       after registration or licensure as provided by section  
5       346-154;
- 6       (11) The department of human services on persons exempt  
7       pursuant to section 346-152 to be eligible to provide  
8       child care and receive child care subsidies as  
9       provided by section 346-152.5;
- 10      (12) The department of health on operators and employees of  
11      home and community-based case management agencies and  
12      operators and other adults, except for adults in care,  
13      residing in community care foster family homes as  
14      provided by section 321-15.2;
- 15      (13) The department of human services on staff members of  
16      the Hawaii youth correctional facility as provided by  
17      section 352-5.5;
- 18      (14) The department of human services on employees,  
19      prospective employees, and volunteers of contracted  
20      providers and subcontractors in positions that place  
21      them in close proximity to youth when providing



- 1 services on behalf of the office or the Hawaii youth  
2 correctional facility as provided by section 352D-4.3;
- 3 (15) The judiciary on employees and applicants at detention  
4 and shelter facilities as provided by section 571-34;
- 5 (16) The department of public safety on employees and  
6 prospective employees who are directly involved with  
7 the treatment and care of persons committed to a  
8 correctional facility or who possess police powers  
9 including the power of arrest as provided by section  
10 353C-5;
- 11 (17) The board of private detectives and guards on  
12 applicants for private detective or private guard  
13 licensure as provided by section 463-9;
- 14 (18) Private schools and designated organizations on  
15 employees and prospective employees who may be in  
16 positions that necessitate close proximity to  
17 children; provided that private schools and designated  
18 organizations receive only indications of the states  
19 from which the national criminal history record  
20 information was provided pursuant to section 302C-1;



- 1       (19) The public library system on employees and prospective  
2           employees whose positions place them in close  
3           proximity to children as provided by section  
4           302A-601.5;
- 5       (20) The State or any of its branches, political  
6           subdivisions, or agencies on applicants and employees  
7           holding a position that has the same type of contact  
8           with children, vulnerable adults, or persons committed  
9           to a correctional facility as other public employees  
10          who hold positions that are authorized by law to  
11          require criminal history record checks as a condition  
12          of employment as provided by section 78-2.7;
- 13       (21) The department of health on licensed adult day care  
14          center operators, employees, new employees,  
15          subcontracted service providers and their employees,  
16          and adult volunteers as provided by section 321-15.2;
- 17       (22) The department of human services on purchase of  
18          service contracted and subcontracted service providers  
19          and their employees serving clients of the adult  
20          protective and community services branch, as provided  
21          by section 346-97;



- 1           (23) The department of human services on foster grandparent  
2                   program, senior companion program, and respite  
3                   companion program participants as provided by section  
4                   346-97;
- 5           (24) The department of human services on contracted and  
6                   subcontracted service providers and their current and  
7                   prospective employees that provide home and community-  
8                   based services under section 1915(c) of the Social  
9                   Security Act, title 42 United States Code section  
10                  1396n(c), or under any other applicable section or  
11                  sections of the Social Security Act for the purposes  
12                  of providing home and community-based services, as  
13                  provided by section 346-97;
- 14          (25) The department of commerce and consumer affairs on  
15                  proposed directors and executive officers of a bank,  
16                  savings bank, savings and loan association, trust  
17                  company, and depository financial services loan  
18                  company as provided by section 412:3-201;
- 19          (26) The department of commerce and consumer affairs on  
20                  proposed directors and executive officers of a



1           nondepository financial services loan company as  
2           provided by section 412:3-301;

3       (27) The department of commerce and consumer affairs on the  
4           original chartering applicants and proposed executive  
5           officers of a credit union as provided by section  
6           412:10-103;

7       (28) The department of commerce and consumer affairs on:

8           (A) Each principal of every non-corporate applicant  
9           for a money transmitter license; and

10          (B) The executive officers, key shareholders, and  
11           managers in charge of a money transmitter's  
12           activities of every corporate applicant for a  
13           money transmitter license,

14           as provided by sections 489D-9 and 489D-15;

15       (29) The department of commerce and consumer affairs on  
16           applicants for licensure and persons licensed under  
17           title 24;

18       (30) The Hawaii health systems corporation on:

19           (A) Employees;

20           (B) Applicants seeking employment;

21           (C) Current or prospective members of the corporation



1 board or regional system board; or  
2 (D) Current or prospective volunteers, providers, or  
3 contractors,  
4 in any of the corporation's health facilities as  
5 provided by section 323F-5.5;  
6 (31) The department of commerce and consumer affairs on:  
7 (A) An applicant for a mortgage loan originator  
8 license; and  
9 (B) Each control person, executive officer, director,  
10 general partner, and manager of an applicant for  
11 a mortgage loan originator company license,  
12 as provided by chapter 454F;  
13 (32) The state public charter school commission or public  
14 charter schools on employees, teacher trainees,  
15 prospective employees, and prospective teacher  
16 trainees in any public charter school for any position  
17 that places them in close proximity to children, as  
18 provided in section 302D-33;  
19 (33) The counties on prospective employees who work with  
20 children, vulnerable adults, or senior citizens in  
21 community-based programs;



- 1           (34) The counties on prospective employees for fire  
2                   department positions which involve contact with  
3                   children or vulnerable adults;
- 4           (35) The counties on prospective employees for emergency  
5                   medical services positions which involve contact with  
6                   children or vulnerable adults;
- 7           (36) The counties on prospective employees for emergency  
8                   management positions and community volunteers whose  
9                   responsibilities involve planning and executing  
10                  homeland security measures including viewing,  
11                  handling, and engaging in law enforcement or  
12                  classified meetings and assisting vulnerable citizens  
13                  during emergencies or crises;
- 14          (37) The State and counties on employees, prospective  
15                  employees, volunteers, and contractors whose position  
16                  responsibilities require unescorted access to secured  
17                  areas and equipment related to a traffic management  
18                  center;
- 19          (38) The State and counties on employees and prospective  
20                  employees whose positions involve the handling or use  
21                  of firearms for other than law enforcement purposes;





- 1       (39) The State and counties on current and prospective
- 2           systems analysts and others involved in an agency's
- 3           information technology operation whose position
- 4           responsibilities provide them with access to
- 5           proprietary, confidential, or sensitive information;
- 6       (40) The department of commerce and consumer affairs on
- 7           applicants for real estate appraiser licensure or
- 8           certification as provided by chapter 466K;
- 9       (41) The department of health or its designee on all
- 10          license applicants, licensees, employees, contractors,
- 11          and prospective employees of medical marijuana
- 12          dispensaries, and individuals permitted to enter and
- 13          remain in medical marijuana dispensary facilities as
- 14          provided under sections 329D-15(a)(4) and
- 15          329D-16(a)(3); and
- 16       (42) Any other organization, entity, or the State, its
- 17          branches, political subdivisions, or agencies as may
- 18          be authorized by state law."

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



# H.B. NO. 2498

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:

*[Handwritten signatures]*  
 [Signature 1]  
 [Signature 2]  
 [Signature 3]  
 [Signature 4]  
 [Signature 5]  
 [Signature 6]  
 [Signature 7]

JAN 26 2016



# H.B. NO. 2498

**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.*

