

DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 17, 2018

TO: The Honorable Senator Josh Green, Chair  
Senate Committee on Human Services

The Honorable Senator Clarence K. Nishihara, Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2528 HD1– RELATING TO HUMAN SERVICES**

Hearing: Monday, March 19, 2018, 3:00 p.m.  
Conference Room 016, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) is in strong support of HB2528 HD1 as it is consistent with the administration's proposed HB2365.

**PURPOSE:** The purposes of this bill are to:

1. Improve the safety of children in regulated child care settings, by amending section 346-152.5(a), Hawaii Revised Statutes (HRS), to require adult relatives who provide care for a child whose family receives a child care subsidy from the department to complete a criminal history record check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154, HRS;
2. Amends section 346-153, HRS, to clarify: (a) when information regarding investigations may be withheld by the department, (b) that information about an investigation of a complaint may be withheld by the department for not more than ten working days from the date the investigation report is completed, and (c) that no information shall be released until the criminal

investigation has been completed and the director has determined that no legal proceeding will be jeopardized by its release. Further, the bill allows the child care licensing program to share information and cooperate with investigations conducted by child protective services and law enforcement; and

3. Amends section 346-156, HRS, to clarify that the department may take both administrative and judicial action to enforce child care licensing provisions of chapter 346. It increases fines that may be imposed by making the amounts imposed daily, and sets a higher limit for violations of providing child care without a license or registration as required by sections 346-161 and 346-171, HRS. It also provides flexibility for the department to enforce regulations using administrative orders.

The House Committee on Health and Human Services amended the measure, per Standing Committee Report Number 648-18, by:

- “(1) Requiring grandparents, great grandparents, aunts, uncles, and siblings aged eighteen or older living in a separate residence to be required to undergo a criminal history record check, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check in order to provide child care for a child whose family receives a child care subsidy from the Department of Human Services;
- (2) Clarifying that the Department of Human Services' licensing program is not prohibited from sharing information and cooperating with Child Protective Services and law enforcement on investigations;
- (3) Allowing the Department of Human Services to withhold information about an investigation for not more than ten working days after the investigation report is completed;
- (4) Clarifying that penalties may apply to entities, agencies, or organizations violating provisions of the part;
- (5) Changing the fine structure from escalating fines to cumulative daily fines for violations;

- (6) Removing the criminal penalty of a class C felony for intentional, knowing, or reckless violations;
- (7) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (8) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.”

The proposed amendment of section 346-152.5(a), HRS, improves safety provisions of children in legally exempt child care settings, by requiring adult relatives of a child whose family receives a child care subsidy from the department to complete a criminal history record check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154, HRS, and includes fingerprint-based national and state criminal records checks.

DHS conducts comprehensive background checks including state and federal fingerprint checks, state and national sex offender registry checks, child abuse and neglect registry check, and adult abuse perpetrator checks. DHS reviews a person’s background checks to determine whether the person is suitable to provide care at a licensed or registered child care facility or home as well as legally exempt providers and household members caring for a child whose family receives a child care subsidy from DHS.

The Hawaii Criminal Justice Data Center at the Department of Attorney General and the Federal Bureau of Investigation require fingerprint samples in order to release arrest record information to the department.

The proposed amendments to section 346-153, HRS, clarify that the department may withhold information from the public about an investigation for not more than ten working days from the date the investigation report is completed and until such time as it has been determined that related legal proceedings will not be compromised with the release of information. The department's Child Care Licensing program will continue to share relevant information with Child Welfare Services (CWS) and law enforcement agencies when the Child Care Licensing program is investigating a complaint or report of injury to a child in a regulated child care setting.

The proposed amendments to section 346-156, HRS, will provide more tools to the department to enforce violations quickly and with increased penalties to more effectively stop, deter, and prevent a person from engaging in illegal child care. This bill will authorize the department to take administrative action against a person who violates part VIII of chapter 346, in addition to initiating civil actions in court. Currently, the department must pursue any fine penalties against a person engaging in illegal child care in Circuit Court which has a higher burden of proof than an administrative hearing.

Furthermore, this bill changes the penalty structure so that a fine may be imposed for each day of a violation, and makes the fine higher for a person, entity, or organization who operates a child care facility without a license or registration in violation of section 346-161 or 346-171, HRS. The department would assess the severity of the violation and intent to knowingly continue to operate child care illegally to determine the amount of the fine that would be pursued.

The amendments to section 346-156, HRS, may increase the need for resources for the department's Administrative Appeals Office and the Department of the Attorney General to conduct administrative hearings and prosecute violations in court.

Lastly, regarding Section 6, please effectuate the date to read "effective upon approval."

Thank you for the opportunity to testify on this measure.

**HB-2528-HD-1**

Submitted on: 3/16/2018 10:21:24 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Adriana Loomis	Testifying for Alliance of Concerned Parents & Daycare Providers	Support	No

Comments:

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children daycare providers can have per day in their home daycare. Please create two new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. Those would be added to the licenses that state already has, one for up to 6 children and one for up to 12 children per day.

Please make it possible for daycare providers on all islands to hire assistants that have background checks and proper credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules.

Please do not add judiciary responsibilities to the people at the Dept. of Human Services.

Thank you very much.

Adriana Loomis

Member of the Alliance of Concerned Parents & Daycare Providers

**HB-2528-HD-1**

Submitted on: 3/18/2018 10:30:35 AM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shelah Woodruff	Testifying for Alliance of Concerned Parents and Daycare Provider	Comments	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Mahalo,

Shelah Woodruff

Member of the Alliance of Concerned Parents and Daycare Providers

**HB-2528-HD-1**

Submitted on: 3/18/2018 9:41:30 AM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katie Pickman	Individual	Comments	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,

Katie Pickman

**HB-2528-HD-1**

Submitted on: 3/16/2018 10:38:02 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pualani Ramos	Individual	Comments	Yes

Comments:

Dear Committee Members,

Thank you for hearing this testimony regarding HB2528.

I am a Hawaii state certified preschool teacher and a certified Waldorf Early Childhood Educator. I have run a preschool from my home for the past 17 years: The Green Preschool in Kailua. The license for my business is as a licensed “daycare” provider. I am also a member of the Alliance for Concerned Parents and Daycare Providers whose main purpose is to make positive changes to Hawaii’s daycare licensing rules.

I want to put forward some friendly amendments to HB2528 which will greatly increase the consumer safety measures this bill is intended to promote.

Quality education is at the heart of what I do. The idea for my little school is based on the many at home preschools in the metropolitan Portland, OR area. These amendments I am making are based on the home daycare licensing rules in the state of Oregon which are contemporary.

There are 2 main problems with the present licensing rules which represent safety concerns.

The first problem is that the main license that is available to home daycare providers allows for only 6 children to be cared for in the home per day. This number is not adequate to encourage professionals to become licensed daycare providers.

There is also a license for 12 children in the home, but this license is very difficult to get as it involves working with not only the Department of Human Services, but the Planning Department as well. It requires applying for costly permits which may not even be granted. I believe it requires the business to be located in a “commercial area” which defeats the purpose of working from an intimate home environment. Eight people have this license on the island of Oahu. There are some 400 providers on Oahu who have the license for 6 children per day.

One of the friendly amendments I hope you will add to HB2528 is to allow for 2 other licenses to be available to home daycare providers: one for 9 children a day and one for 15 children a day. Therefore increments of children allowed in a home daycare would



be: 6, 9, 12 and 15. Adequate adult to child ratios would be mandatory as well as background checks and appropriate training and qualifications for all those working with the children.

To streamline and provide optimum oversight for these new licenses, I suggest that all licenses be administered solely by the Department of Human Services with some coordination with the Planning Department and Neighborhood Boards.

Allowing for more children per day in home daycare will provide incentives for early childhood educators to offer quality programs in their homes, like Oregon where “little schools” provide an excellent option for parents and children; quality care and education in a small group environment. Young children benefit greatly from being with a small group of children as opposed to large preschools and daycares that have classes of 20 students or more.

These new licensing rules would provide incentives for present daycare providers to improve their qualifications and skills so that they can increase the number of children they care for and

therefore increase their income. In Hawaii, having 6 children in the home per day is not adequate income for one person. The assumption that all daycare in the home is “family daycare” has been one of the driving forces for abuse and neglect that we have presently witnessed in Hawaii.

These changes would also provide incentive for all providers to license with the state.

There are a number of renegade providers out there who without proper oversight are operating in unsafe conditions, which is a liability to all concerned; the children in these home daycares, the parents who send their children there and the state of Hawaii.

Allowing the number of children in home daycare to rise to appropriate numbers is one friendly amendment I hope you will add to HB2528.

The other main problem concerning home daycare on the island of Oahu is that because of an ordinance of the City and County of Honolulu, passed in 2003 (Sec.21-5.340 (b) ), home daycare providers cannot hire appropriate help.

Only family members are allowed to care for children in a “home daycare” setting on Oahu. This caused disastrous affects in the recent abuse case involving a young child who was abused in a daycare home, but because all of those present were family members, no one would testify as to who was responsible.

I have approached my City Counsel representative about this issue and they are “studying it”. They have been studying it for a long time.

I believe the purpose of this ordinance on Oahu had to do with parking concerns. I think the safety of children should supersede parking concerns. This ordinance does not apply to neighbor islands.

Another friendly amendment to HB2528 should be to allow home daycare providers on ALL islands to hire appropriate help. This amendment should be part of the requirements included in the amendment regarding appropriate numbers of children in care as outlined above. State law supersedes City and County rules. This unsafe rule can be fixed expeditiously by adding it as a friendly amendment to HB2528.

I object to the part of HB2528 that allows for the Department of Human Services to have judiciary oversight of those in violation of the present (out dated and dangerous) licensing rules.

I also object to the suggested heavy fines that would be imposed on daycare providers that are not in compliance with the present rules.

Rescinding a provider's license until they can become compliant, takes away their livelihood and is punishment enough. HB2056 would have made abuse in a daycare home a class C felony. Abuse of children belongs in the judiciary realm.

Over all, I think it is far better to provide appropriate incentives for daycare providers to operate within reasonable licensing rules than it is to punish them into being in compliance with outdated rules that don't provide adequate safety oversight.

The putative part of this bill will only encourage good providers to stop providing and add to the growing numbers of those who operate without any license.

I hope you will strike these items from the bill.

Thank you for hearing my testimony. I sincerely hope you will add the friendly amendments I have put forward here to HB2528.

Mahalo nui, Pualani Ramos

**HB-2528-HD-1**

Submitted on: 3/18/2018 10:32:48 AM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Heather Wawrzenski	Individual	Comments	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,

Heather Wawrzenski

Member of the Alliance of Concerned Parents and Daycare Providers



**HB-2528-HD-1**

Submitted on: 3/18/2018 12:13:11 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jada Whitmore	Individual	Support	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,

Jada Whitmore

Member of the Alliance of Concerned Parents and Daycare Providers

**HB-2528-HD-1**

Submitted on: 3/18/2018 1:57:23 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ian Forster	Individual	Comments	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,

Ian Forster

Member of the Alliance of Concerned Parents and Daycare Providers

**HB-2528-HD-1**

Submitted on: 3/18/2018 2:13:48 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cristina Curp	Testifying for Member of the Alliance of Concerned Parents and Daycare Providers	Comments	No

Comments:

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528.

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,

Cristina Curp

Member of the Alliance of Concerned Parents and Daycare Providers





**HB-2528-HD-1**

Submitted on: 3/18/2018 2:46:47 PM

Testimony for HMS on 3/19/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Hernandez de Carl	Testifying for The Green Preschool Kailua	Support	No

Comments:

To Whom It May Concern:

I am in support of this legislation because it serves to protect the best interests of children. Any mandate that enhances security measures and ensures that the most qualified person is working with children is in the best of our community. This is common sense legislation.

Thank you,

Mary Hernandez de Carl

March 18, 2018

Dear Committee Members,

Thank you for receiving this testimony regarding friendly amendments to HB2528. I understand it is late, but I did not receive notification of this bill until two days ago, and assumed I would have until Monday to submit testimony, not Sunday afternoon.

I have been in the field of Early Childhood in Hawaii since 1981. I have been a Family Childcare Provider since Oct. 2014. Previously, I directed and taught in the Montessori Country School in Pahoehoe, HI from 1983 to 2014. In 2014 we made the difficult decision to close the preschool due to an imminent lava threat. I purchased 1/3 of the school inventory in hopes of providing childcare for several of the families who were suddenly without childcare. I had the space (my full downstairs), materials, and a Masters degree in ECE, but soon learned I could only get licensed to care for 6 children in my home. I contacted Senator Rudderman and the Executive Director of DHS, seeking an exemption, with no success. I also looked into becoming a licensed group childcare home, but the requirements for more than 6 children were the same as a licensed "childcare center" and I was unable to meet that criteria living in my country subdivision;

Please amend the bill to include changes to the number of children day care providers can have per day in their home daycares. Please create 2 new licenses to add to the two that already exist: one license for up to 9 children per day and one license for up to 15 children per day. These would be added to the licenses the state already has: a license for up to 6 children per day and a license for up to 12 children per day.

Please be sure to make it possible for daycare providers on all islands to be allowed to hire assistants that have background checks and appropriate credentials.

Please strike from the bill the sections that impose heavy fines on daycare providers for non-compliance of the present licensing rules. Please do not add judiciary responsibilities to the people at the Department of Human Services.

Mahalo,  
Marie G. Rieck

Member of the Alliance of Concerned Parents and Daycare Providers