

HB2530 HD 1

Measure Title: RELATING TO CHILD CARE.

Report Title: Licensed Child Care Providers; Liability Insurance;
Department of Human Services

Description: Deletes the Department of Human Services' obligation to determine required liability insurance coverage amounts for regulated child care providers. Extends the implementation and enforcement date of liability insurance requirements for regulated child care providers contained in Act 161, Session Laws of Hawaii 2017, until July 1, 2019. (HB2530 HD1)

Companion: [SB2539](#)

Package: None

Current Referral: HMS, CPH

Introducer(s): MIZUNO



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

March 27, 2018

TO: The Honorable Senator Rosalyn M. Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2530 HD1 – RELATING TO CHILD CARE**

Hearing: Wednesday, March 28, 2018, 9:15 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) is in strong support of HB2530 HD1 as it is consistent with the administration's proposals HB2360 and SB2787. The Senate Committee on Human Services consolidated SB2787 into SB2875 SD1. This measure is the remaining vehicle to amend Act 161, Session Laws of Hawaii (SLH) 2017, mandating that child care providers maintain liability insurance coverage. DHS respectfully requests two additional amendments, 1) to address privacy interests of child care providers, and 2) to effectuate the effective date to "effective upon approval."

PURPOSE: The purpose of HB2530 HD1 is to amend section 346-157, Hawaii Revised Statute (HRS), to remove the requirement that DHS determine the amount of liability insurance coverage required by regulated child care providers; amend sections 3 and 5 of Act 161, Session Laws of Hawaii (SLH) 2017, to remove a reporting requirement, and extends the implementation and enforcement of Act 161, SLH 2017, until July 1, 2019.

The primary focus of the DHS child care licensing program is on the health and safety of all children in child care. The intent of Act 161, SLH 2017, was to strengthen minimum standards of child care to improve health and safety of children by requiring child care providers to obtain and maintain liability insurance coverage. Prior to Act 161, SLH 2017, DHS was prohibited from requiring regulated child care providers to obtain and

maintain liability insurance coverage. Act 161, SLH 2017, is currently in effect, that is regulated child care providers are required to have liability insurance coverage. However, Act 161 delays enforcement of this provision by DHS.

DHS submitted its report to the twenty-ninth Hawaii State Legislature 2018 in accordance with section 3 of Act 161, SLH 2017. The information DHS obtained through meetings with insurance industry providers, indicates that a variety of insurance products, coverage, exclusions, and premiums are available for purchase. Injury from sexual molestation is excluded from all coverage.

DHS also conducted outreach efforts through its contractor to conduct surveys and convene in-person meetings statewide. Child care providers also contacted members of the Legislature, DHS child care licensing offices, and the Child Care Program Office to ask questions and express their concerns regarding the provisions of Act 161, SLH 2017. Feedback from child care providers indicated that current insurers may not renew existing homeowner policies if child care is being provided on the premises. Child care providers also indicated that home-based child care providers were considering not being registered with DHS due to the new insurance requirement of Act 161, SLH 2017.

DHS expressed concern last session that one potential impact of requiring liability coverage would be a reduction of the number of child care providers willing to provide services, as previously maintaining liability coverage was not required. As of the end of December 2017, Hawaii has about 350 independent home-based child care providers which is a 12 percent decrease of the number of homes that were regulated at the end of December 2016.

Information obtained from other states that require liability insurance coverage indicates that most states only require providers to produce evidence of insurance, and minimum coverage amounts are not established within the child care regulatory requirements. Child care providers did raise privacy concerns as to the amount of information they are required to provide to parents as part of maintaining insurance coverage. DHS agreed with proposed language in SB2875 SD1 that addressed child care provider's privacy concerns.

DHS supports the amendment to remove the requirement that DHS determine the amount of liability insurance coverage that shall be required for child care providers. DHS agrees that it is not the appropriate entity to determine the amount of coverage to be maintained by independent small businesses, as DHS does not have expertise in the field of establishing liability insurance coverage.

The issue to balance child safety, which is not necessarily addressed by maintaining liability insurance coverage, and providing parents additional assurance or confidence that their child is in a high quality care, requires further study to determine the best way to provide access to affordable child care, access to affordable insurance coverage, and maintain safe, child care throughout the state.

DHS supports the amendment that the effective date of Act 161 be extended to be effective and enforced July 1, 2019 or later.

DHS also supports additional changes to Act 161 (2017), as included in SB2875 SD1, by amending subsection (c) of 346-157, HRS, repealing the language that requires child care providers to disclose a summary of information relating to liability insurance coverage to parents and guardians applying for child care at a child care facility, as follows:

(c) The department, as a condition of continued licensure, temporary permission, or registration, shall require all providers to disclose in writing to each parent or guardian [÷

~~(1) Applying to have a child cared for at the provider's facility, summary information including the insurer's name and contact information, coverage amounts, and effective dates for the provider's liability insurance coverage at the time of application; or]~~

~~(2) Within]within seven working days of any change, cancellation, or termination of liability insurance coverage, that the coverage has been changed, canceled, or terminated while the parent's or guardian's child is cared for at the provider's facility."~~

Lastly, DHS request the effective date be effectuated by amending section 6 to read "effective upon approval."

Thank you for the opportunity to testify on this measure.

HB-2530-HD-1

Submitted on: 3/26/2018 8:53:41 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

Debora Ann Kaikala
95-250 Lealea Place
Mililani, Hawaii 96789-1310

March 27, 2018

To: Chair Senator Rosalyn Baker & Vice Chair Senator Jill Tokuda

From: Debora Ann Kaikala - Oahu Family Childcare Business Association

Subject HB 2530 HD1 RELATING TO CHILD CARE

Hearing: Monday March 28, 2018

Aloha! My name is Debora Ann Kaikala, I have been a licensed child care provider for 23 years. For the, passed 11 years I have been licensed as, Le'ale'a Na Kamali'i LLC, A Group Home Demonstration Project. I am also the President for the Oahu Family Child Care Business Association.

We are in support of HB 2530. Though it will have a great impact with homeowner insurance policies. We support the repeal language that requires child care providers to disclosed a "summary" of information relating to liability insurance coverage to parents and guardians applying for child care at a child care facility. We believe that if we expose the amount that it will open it up to undesirable law suits. Providers should have the option to disclose the amount if they choose too.

Child care is not for everyone. It takes a lot of patience, love and commitment to care for young children. Health and Safety should be the most important objective in this field.

With DHS changes to training, it will help a lot of providers to become educated on the importance of each child's health, safety and development. Providers need to be able to have mentors to help them with any issues that they might have in relating to child care. We need mentors! We lack the support.

The impact is not about liability insurance. As business owners it's common sense to have some type of, liability coverage. Many providers have some type of liability coverage for their business. The Problem is Homeowners insurance. How can we care for children in our home, if our homeowners will not allow us to care for our license capacity of Six (6) children in Home and twelve (12) in a Group Home. No more than 4 children allowed by most homeowner insurance policies and it will not cover the liability providers need. Insurance companies are not taking the risk for any liabilities; therefore, policies are being canceled.

With this in mind, We are asking if we can come up with some type of solution to exempt homeowners from any liabilities that occur while we are conducting child care in our home or rental as long as we can show that we have a business liability insurance coverage. I have done research with other states and found that homeowners were exempt from any liabilities from an insured business child care home. Thank you for the opportunity to testify.

Debora Ann Kaikala

HB-2530-HD-1

Submitted on: 3/25/2018 10:46:08 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tyler Asato	Testifying for Keiki Ohana Daycare	Support	No

Comments:

I support this bill that removes the requirement that Department of Health Services determines the amount of insurance coverage required by regulated child care providers. I would like legislation to exempt homeowners insurance from this bill. I am a provider's child and I am concerned what this might do to my mother business, and how this will affect our family, because she may lose her homeowners insurance. Thank you for this opportunity to testify on this measure.

HB-2530-HD-1

Submitted on: 3/25/2018 10:03:06 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Vera Marie Asato	Testifying for Keiki Ohana Daycare	Support	No

Comments:

Yes, I do feel that the DHS shouldn't be the one to specify the amount of coverage for our privately own childcare business. Each providers should have that amount determine in according to what they feel is appropriate for their business. I don't feel that we should disclose information regarding the insurers' name and contact information coverage, amounts and effective dates for the providers liability insurance coverage to be disclose to parents. To me I feel that this is personal information. I can see having to give it to DHS for licensing purpose. I've spoke to parent that have children in my care and they don't feel why they need to get that information. Just knowing that we do have coverage and it is required for licensing seem sufficient enough for the children that I have in my care. What other business in Hawaii is subject to this kind of treatment? Also having 7 working day to inform parents of any changes, cancellation or termination of liability insurance to parents is not enough time. We home childcare providers work mostly alone for 10 plus hours a day. 7 working days is to short. Also it should be just to DHS not parents.

I also would like my Home Owners Insurance to be except from this bill. My husband I work so hard I order to afford a home in Hawaii. If I loss my insurance where will I live. If this becomes an issue that I'm going to loss my home owners insurance. I'm going to have to close my doors in order to save my home. What will I do for job? I'm still figuring it out. I love doing home childcare and I'm hoping legislation can support all the providers out their still doing Home Childcare keep their business open for parents who need to work. We provide a very liable serve for the community in order for parent to work.

I also understand that it would be best if I could be their in person. I could like to but being that my business is home childcare. When I take off last minute, it puts a hardship on parent to find childcare last minute for their children. Some parents don't have back up. Therefore they would have to take off work. I have one parent who goes to school. She would have to skip class. I'm already taking off on Thursday for a mandatory Food and Safety training. This training is only offered Tuesday - Friday. Which means I have to close my business in order be in compliance with DHS rules.

Thank you for the opportunity to testify on this measure.

