



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

February 8, 2018

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

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2792 – RELATING TO CHILD CARE**

Hearing: Monday, February 12, 2018, 3:00 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) is in strong support of this administration bill.

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 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.

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 their 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 deter, prevent, and stop 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.

Thank you for the opportunity to testify on this measure.

THE CIVIL BEAT
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Senate Committee on Human Services
Honorable Josh Green, Chair
Honorable Stanley Chang, Vice Chair

RE: Testimony Commenting on S.B. 2792, Relating to Child Care
Hearing: February 12, 2018 at 3:00 p.m.

Dear Chairs and Members of the Committees:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit **comments** regarding **S.B. 2792**.

The Law Center raises a concern about section three of the bill. The proposed amendment would delay public access to complaints about child care facilities for an indeterminate time while DHS conducts an investigation. Existing law already protects complainant privacy and allows the DHS Director to withhold information if it would interfere with a criminal investigation. So it is unclear what public policy is served by denying public access to complaints for a prolonged period.

Thank you for the opportunity to provide comments on S.B. 2792.

SB-2792

Submitted on: 2/9/2018 8:13:42 PM

Testimony for HMS on 2/12/2018 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAII

TO THE COMMITTEE ON HUMAN SERVICES

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Monday, February 12, 2018

3:00 p.m.

Hawaii State Capitol, Conference Room 016

RE: Testimony in Support of SB 2792, RELATING TO CHILD CARE

To the Honorable Josh Green, Chair; the Honorable Stanley Chang, Vice-Chair and the Members of the Committee on Human Services:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No.2792, relating to improving the safety of children in care.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2792 and support its passage.

Senate Bill No. 2792 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it (1) requires criminal history checks of adult relatives who provide care for a child whose family receives a child care subsidy from the Department of Human Service; (2) clarifies that the Department of Human Services may take both administrative and judicial action to enforce child care licensing provisions of chapter 346, Hawaii Revised Statutes; (3) clarifies the role and response of the child care licensing program when it receives a report of death or injury of a child in a child care setting; and (4) addresses the release of information pending an investigation.

The DPH Platform states that "[w]e believe that all families should have an equal opportunity to build their assets and become self-sufficient, and we support a strong safety net of programs that will afford them the opportunity to do so. We must protect our children, our future, from violence and neglect and provide them with a safe and healthy environment in which to grow and thrive. . . .We support legislation that best practice policies that prioritize the safety, security, and well-being of our foster children, who are our most vulnerable keiki in our community. This is the paramount consideration when making decisions regarding the time frame, criteria, and justification for reunification and family placement. We will always respect family and families bonds, but reunification with every biological family is not always the safest, most secure or in the best interests of every child. This is especially true in aggravated circumstances cases involving drug use is history, physical abuse, sexual abuse and unstable housing. We strongly support the efforts of parents and all people to recover and reorganize their lives for the better, but our ultimate concern must also be for the short and long term safety and wellbeing of our foster children." (Platform of the DPH, P. 4, Lines 184-187, 193-201 (2016)).

Given that Senate Bill No. 2792 improves the safety of children in care, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

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