

SB 1226

Measure Title:	RELATING TO CHILD CARE.
Report Title:	Child Care; Criminal History Record Checks; Records; Deficiencies and Complaints; Reports of Death or Injury; Release of Information; Penalties; Administrative and Judicial Action
Description:	Requires criminal history record checks of adult relatives who provide care for a child whose family receives a child care subsidy from the Department of Human Services. 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. Addresses the release of information pending an investigation. Increases penalties and clarifies that the Department of Human Services may take administrative and judicial action to enforce child care licensing requirements. (SD1)
Companion:	HB1000
Package:	Governor
Current Referral:	HMS, CPH/JDC
Introducer(s):	KOUCHI (Introduced by request of another party)

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

February 25, 2019

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

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 1226 SD1 - RELATING TO CHILD CARE**

Hearing: Wednesday, February 27, 2019, 9:30 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) is in strong support of this administrative bill that proposes different strategies that will improve the safety of Hawai'i's system of child care.

PURPOSE: The purpose of this bill is to require criminal history checks of adult relatives who provide care for a child whose family receives a child care subsidy from the Department of Human Services, 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, 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 addresses the release of information pending an investigation. The Committee on Human Services made technical amendments.

The proposed amendment of section 346-152.5(a), Hawaii Revised Statutes (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, which includes fingerprint-based criminal history record checks.

DHS conducts comprehensive background checks including state and federal fingerprint and criminal history 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; background checks are also completed for 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 to release arrest record information to the department.

Second, regarding information sharing with other investigating agencies, 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 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 investigates a complaint or report of injury to a child in a regulated child care setting.

Third, 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.

Lastly, 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 will 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 bill.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Commerce, Consumer Protection, and Health
Honorable Rosalyn H. Baker, Chair
Honorable Stanley Chang, Vice Chair

Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Glenn Wakai, Vice Chair

RE: Testimony Commenting on S.B. 1226 S.D. 1, Relating to Child Care
Hearing: February 27, 2019 at 9:30 a.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. 1226 S.D. 1**.

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.

Parents, guardians, and other members of the public considering options among child care facilities should know whether complaints have been filed against that facility. If unaware of complaints, individuals may place a child in a DHS-licensed facility only to learn later that the child was exposed to potential risk because DHS was still investigating the complaints.

Thank you for the opportunity to provide comments on S.B. 1226 S.D. 1.

SB-1226-SD-1

Submitted on: 2/24/2019 11:18:03 AM

Testimony for CPH on 2/27/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Skjold	Individual	Support	No

Comments:

Aloha,

I fully support the expansion of background checks for people working with children and the elderly. I would like to point out that the State government has implemented policies and fees that make background checks unnecessarily costly for agencies and especially non-profits who have many staff and volunteers who work with children. This is especially true for tutoring, school-based, and sports programs.

The Attorney General's office now charges TWO fees - \$5 and then a \$10 just to see if someone has a record that may be a danger to a child.

As a State we should make protecting youth from predators the highest priority and significantly reduce fees for those agencies to comply. Other States have created a low cost annual fee to register and be allowed unlimited background checks. The fees and policies of the AG's office in this area are working against the goal of this law and may risk the safety of youth for agencies, non-profits, and sports programs with very limited budgets.

This would best be addressed along with expanding the requirements for background checks.

Please support this bill and thank you for considering how to reduce the barriers other State Agencies may be putting in the way of implementation.

Mahalo for your time.

Suzanne Skjold

February 3, 2019

To: Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
And members of the Committee on Commerce, Consumer Protection, and Health

Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair
And members of the Committee on Judiciary

Testimony For SB 1226 Relating To Child Care

Hearing Date: February 27, 2019

Hearing Place: 229

My name is Taylor Suwa and I am currently obtaining a Master's Degree in Social Work through the University of Hawaii at Manoa. I am submitting independent testimony in support of SB1226 which would require criminal history record checks of adult relatives who provide care for a child whose family receives a child care subsidy from the Department of Human Services.

We can assume that any child involved with the Department of Human Services have experienced some sort of trauma in their lives, to whatever extent that may be. As an aspiring social worker and future parent, I believe that it is always better to be safe than sorry. We must limit the opportunities that may add to the risk or threat of putting more harm on our children. Though we may hope that family members and relatives may in best state to care for and have the best interest for their other family members, this is unfortunately not always the case.

As we would with any prospective adoptive of foster care parent(s), there is value in taking the precautions steps needed to ensure the safety of our children. To remind you all of the shocking statistics – approximately 90% of child abuse is by someone they know, love, or trust. Of those molesting a child under six, 50% of those were family members.

It must be a priority to advocate for child safe policies and strategies – something that SB 1226 can provide. Starting with a simple background check can determine any history or risk factors that could raise red flags before any harm has occurred. We must focus on prevention effort before having to intervene when the damage has already been done.

Thank you for this opportunity to testify,

Taylor Suwa