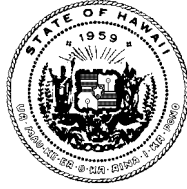


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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
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February 5, 2019

TO: The Honorable Representative Joy A. San Buenaventura, Chair
House Committee on Human Services and Homelessness

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1225 - RELATING TO CHILD CARE HOMES**

Hearing: Wednesday, February 6, 2019, 8:30 a.m.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure and offers comments.

PURPOSE: This measure proposes to establish a new category of a regulated group child care home, requiring certification of a group child care home; clarifies that in any family child care home or group child care home that caregivers are not required to be members of the household and a sign may be posted facing the street; increase the maximum number of children from six to ten for a family child care home and from twelve to sixteen for a group child care home; and specify the required caregiver-child ratio in a family child care home.

The department's concerns are as follows:

1. Section 346-151, Hawaii Revised Statutes (HRS), defines family child care home to include requirements for caregiver-child ratios dependent on the number of children in care. However, section 346-151, HRS, does not have any definitions established for the terms 'caregiver-child ratio' or 'part-time.' If the second, part-time caregiver is assisting in the family child care home only 1 hour a week, the

family child care home would be allowed to care for seven to eight children in the proposed measure. Sections 346-171 through 346-175, HRS, set forth the requirements for registration of a family child care home. Section 346-172(a)(1) specifies, “The department shall adopt rules establishing minimum requirements to ensure the health and safety of children provided care in a family child care home. The rules may specify, but shall not be limited to, minimum requirements concerning: ... (1) The number of children which may be cared for at one time and the ratio of adult to children; ...” Section 346-172(a)(1) is the more appropriate statute to specify the minimum ratio of adults to children in registered family child care homes or allow the department to establish the minimum requirements for the ratio of adults to children and any limitations of ages and number of children allowable in its administrative rules rather than in the statute to accommodate any changes to best practice and standards of care.

2. Section 346-151, HRS, defines group child care homes as “a facility, which may be an extended or modified private home, at which care is provided for seven to twelve children.” The measure proposes to add a new definition under section 346-151, HRS, of “certified group child care home”. The requirement for licensure or registration is not defined under the definitions specified in section 346-151, HRS. Sections 346-161 through 346-166, HRS, set forth the requirements for licensure of a group child care home and a group child care center. It is not clear if the intent of the measure is to establish a separate category that is different from the existing licensed group child care home or to amend the requirements for group child care homes to be different than the current licensure requirements. If the measure is adopted as written, Hawaii would have registered family child care home, certified group child care home, licensed group child care home, and licensed group child care center.
3. The department notes that Oregon, after which the measure appears to be modeled, does not have a category for licensed group child care homes. Oregon’s category of certified family child care home is the equivalent to Hawaii’s licensed

group child care home. Hawaii's licensed group child care homes already have administrative rules for health and safety requirements established under Hawaii Administrative Rules (HAR) [Chapter 17-892.1](#), Licensing of Group Child Care Centers and Group Child Care Homes, which includes staff-child ratio requirements and educational and experience requirements for individuals working at licensed group child care homes and group child care centers. Therefore, adding a third category of certified group child care homes would be confusing and likely duplicative.

4. The proposed amendments to sections 46-15.35, 501-231, and 502-111, HRS, may have impact to county ordinances and infrastructure requirements, and the department defers to the respective counties.
5. The proposed measure does not include corresponding amendments to section 502C-1, HRS. If changes are to be made, they may have impact to county ordinances and infrastructure requirements, and the department defers the respective counties.

If the concern is that the County requirements are very stringent and create barriers to becoming a licensed group child care home, the legislature may want to consider establishing a taskforce that includes all of counties. The taskforce would study and review whether waiving any of the county requirements would have impact on infrastructure, while ensuring that the health and safety of children in care will not be placed at risk.

The department acknowledges that there is limited existing capacity statewide for group child care centers and group child care homes to find facility space and meet the zoning, building, electrical, plumbing, fire requirements to operate, and obtain liability insurance coverage. However, not requiring such county inspections while increasing the number of children in care by a family child care home or group child care home must be considered in balance with ensuring the health and safety of children in care.

Thank you for the opportunity to provide comments on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 1225, RELATING TO CHILD CARE HOMES.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES AND HOMELESSNESS

DATE: Wednesday, February 6, 2019 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Clare E. Connors, Attorney General, or
James W. Walther, Deputy Attorney General

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General appreciates the intent of this measure and provides the following comments.

The purpose of this bill is to change the structure of how group child care homes are regulated. Among other things, this bill creates a requirement for a group child care home to be certified by the Department of Human Services and sets out the standards for certification. (Page 2, line 9, to page 9, line 18.) The bill also adds a definition of "certified group child care home" to section 346-151, Hawaii Revised Statutes (HRS), and amends the definitions of "family child care home" and "group child care home" in section 346-151, HRS, to increase the number of children allowed to be cared for in a family child care home from "no more than six" to "no more than ten," and to increase the number of children allowed to be cared for in a group child care home from "seven to twelve" to "seven to sixteen". (Page 11, line 15, to page 12, line 15.)

The creation of a certification requirement for a group child care home conflicts internally with section 346-161, HRS, which provides that: "No person shall operate, maintain, or conduct a group child care home . . . unless licensed to do so by the department of human services . . ." This conflict creates a legal ambiguity as to which law - licensing or certification - the Department of Human Services would use to regulate a group child care home. This conflict could be resolved by eliminating the

separate requirement for either licensing or certification, so that only one of those regulatory schemes applies to a group child care home.

The amendments to the definitions in section 346-151, HRS, also create legally ambiguous internal conflicts. First, the definition of "certified group child care home" conflicts with the requirement for licensure of a group child care home pursuant to section 346-161, HRS. Second, the definition of "family child care home" as amended would allow for "three to no more than ten children" and the definition of "group child care home" as amended would allow for "seven to sixteen children." The ambiguity arises because the definitions overlap for those homes with seven to ten children, and it is not clear which definition governs. These conflicts could be resolved by eliminating the definition of "certified group child care home," and by aligning the number of children allowed in the definition of "family child care home" and "group child care home" so that the numbers are consistent. For example, the number of children in a family child care home could be "three to no more than ten," and the number of children in a group child care home could be "eleven to no more than sixteen."

HB-1225

Submitted on: 2/5/2019 8:24:13 AM

Testimony for HSH on 2/6/2019 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments: