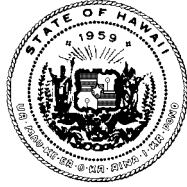


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June 28, 2020

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2894 SD1 HD1 - RELATING TO CHILD CARE**

Hearing: June 29, 2020, 2:00 p.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services is in strong support of this administrative bill. The bill further clarifies the child care statutes to ensure the department can enforce regulations when individuals or organizations are operating child care without a license or registration from the department. DHS requests that the effective date be changed to be "effective upon approval."

This measure is the only remaining vehicle to address these needed changes.

**PURPOSE:** This bill clarifies certain requirements regarding licensure of child care facilities, including exemptions from licensure, health and safety standards, and investigations of violations. Effective 12/31/2059. (HD1)

The proposed amendments will provide needed clarity to existing statutes to improve the department's enforcement of violations and to more effectively prevent, deter, and stop a person or organization from engaging in illegal child care operations.

The current exemptions under section 346-152(a), HRS, do not specify any restrictions to the degree of relationship for relatives or any restrictions for programs that provide exclusively for a specialized training or skill development. Under this bill, the department

seeks to amend the statutory exemptions to clarify the statutes to ensure that caregivers and organizations operating child care are regulated by the department when required to ensure the health and safety of Hawaii's system of child care and to allow for enforcement by the department when child care is provided outside of the allowable exemptions.

The proposed amendments to section 346-152(c), HRS, clarifies that any exempt providers under section 346-152, HRS, are subject to minimum health and safety requirements or standards when they provide child care for a child whose family receives a child care subsidy from the department, since the child care subsidy is not paid to the child care provider and is in fact paid to the family eligible for subsidies.

The proposed amendments to section 346-152(d), HRS, clarifies the statute to allow for greater efficiency in enforcement by the department for any person or child care facility asserting an exemption under section 346-152, HRS; the proposed change shifts the burden of proof to the person or facility asserting the exemption to provide verification that the care being provided falls within an exemption.

The proposed amendments to section 346-152.3, HRS, clarifies that the investigation conducted by the department shall be for determining whether a violation of Part VIII of Chapter 346, HRS, has occurred or is occurring and that the department may file a petition for a search warrant with the district court. The district court may issue a search warrant to the department and the appropriate law enforcement agency, which could include county police, the Department of the Attorney General, or even federal law enforcement, if necessary, to conduct an investigation.

Finally, the bill proposes "housekeeping" amendments as Act 276 (SLH 2019) amended section 346-152(a), HRS, by adding a new exemption for classrooms administered by the Executive Office on Early Learning and inserting the new exemption as a new paragraph (4). This bill proposes to move the added language of Act 276 (SLH 2019) to become part of paragraph (3) and renumber the subsequent exemptions paragraphs to appear as they were previously. The department has issued letters to child care providers citing the statute, as it existed prior to the 2019 amendments, for exemptions sought by the individual or organization; consequently there may be confusion as the exemption paragraphs that were

previously referenced may no longer reference the correct section paragraph because of the amendment by Act 276, SLH 2019.

Thank you for the opportunity to provide testimony on this bill.