



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2426, H.D. 1, RELATING TO RELATIVE RESOURCE CAREGIVERS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, February 15, 2024 **TIME:** 2:02 p.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Lynne M. Youmans, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Attorney General supports this bill in the interest of greater government transparency and efficient administration.

This bill revises section 587A-10(a), Hawaii Revised Statutes (HRS), to clarify when a relative seeking to be a foster placement for a child can appeal a denial of their application to be licensed as the child's resource family through the Department of Human Services' (DHS) administrative appeals process. The bill also clarifies that a DHS decision to place a foster child in another licensed foster placement rather than the licensable home of the applying relative can only be reviewed by the Family Court because of the Family Court's exclusive jurisdiction to decide a child's placement.

Section 587A-10(a), HRS, codified the State's commitment to consideration of relatives as placement for children in foster custody. The section requires the DHS to provide a child's relative with an application to be licensed as the child's resource family upon the relative's request. The current wording of the section also provides that:

[i]f the application is submitted and denied, the department shall provide the applicant with the specific reasons for the denial and an explanation of the procedures for an administrative appeal.

Section 587A-10(a), HRS. This provision has led to some confusion about when and whether a relative applying to be a potential foster placement can request

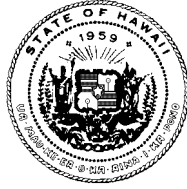
the DHS for an administrative hearing to challenge any decisions regarding placement of a child in their home.

This bill clarifies that a relative whose application was denied because the relative did not meet the licensing standards for a resource caregiver license can seek an administrative hearing to challenge that denial. The bill further clarifies that a relative who meets all of the licensing standards, but who was not issued a license because the child was never placed in the relative's care, cannot seek an administrative hearing. The licensing decisions of the DHS for potential placements are separate from the decision on where to place a specific child. Only the Family Court has jurisdiction to decide placement issues for children under its supervision, pursuant to section 571-11(3), HRS. A relative who meets the standards for licensing, but with whom the child was not placed, must challenge the placement issue in the Family Court.

This bill helps to make the process for a relative to become a resource caregiver more transparent and provides clarity on how to challenge a decision if a relative's application is denied.

The Attorney General respectfully requests that the Committee pass this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
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TRISTA SPEER
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February 15, 2024

To: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 2426 HD1 - Relating To Relative Resource Caregivers.**

Hearing: February 15, 2024, Time 2:02 p.m.
Conference Room 325, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administrative measure.

PURPOSE: The purpose of this bill is to clarify when a relative seeking to be a resource caregiver for a child is entitled to an administrative appeal for denial of a foster home license.

The Committee on Human Services amended this measure by:

- (1) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (2) Making technical, non-substantive amendments for the purposes of clarity, consistency, and style.

Currently, section 587A-10, HRS, requires the Department to provide "the specific reasons for the denial and an explanation of the procedures for an administrative appeal" when a relative is denied a license to be a child's resource caregiver.

This proposal clarifies the appropriate circumstances under which an administrative appeal may be utilized by a child's relative when their application for a foster home license has

been denied. If the application is denied due to failure to meet licensing standards, the applicant has the right to an administrative appeal.

However, an administrative review is not available when multiple relatives meet licensing standards and are suitable placement options, and the Department places the child with one suitable applicant. Applicants who meet licensing standards and are not selected often mistakenly request an administrative hearing on the issue of the child's placement when the child is placed in another suitable home. Under these circumstances, the Department's choice of one suitable candidate over another is not a denial to issue a license.

In these cases, the Department's or the court's choice of one suitable candidate over the other is unrelated to the licensing standards; for example, the chosen candidate's home may be closer to the child's school. While there may be more than one suitable placement, the Department's administrative rules only allow the Department to issue one license to the suitable applicant where the child is placed.

This amendment seeks to clarify that if the relative applicant meets licensing standards, but the child is not placed with them, they do not have the right to an administrative appeal but may seek judicial review by the family court. This clarification would prevent unnecessary administrative appeals, which consume time and resources and may lead to frustration and distrust of the Department and court processes among potential relative caregivers.

Thank you for the opportunity to provide comments.