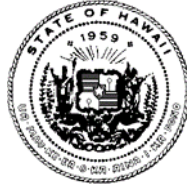


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KA HOPE LUNA HO'OKELE

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KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
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March 2, 2023

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

FROM: Cathy Betts, Director

SUBJECT: **SB 129 SD1– RELATING TO MINORS.**

Hearing: March 3, 2023, 10:00 AM
Conference Room 211 & Via Videoconference, State Capitol

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

PURPOSE: This bill requires providers of no-cost emergency shelter and related services to maintain separation for unrelated adults and minor children. Makes permanent the amendments to the definition of "provider" to include organizations that are not child placing organizations or child caring institutions that meet certain criteria. Effective 12/31/2050.

The SD1 amended the measure by:

- (1) Deleting language that would have required providers supplying shelter to be licensed and be in compliance with zoning and safety regulations with regard to a provider's obligation to contact the parents of the minor seeking emergency shelter;
- (2) Deleting language that would have required the Department of Human Services to make every effort to ensure every island has a shelter for unaccompanied minors;

- (3) Clarifying that providers shall maintain separation for unrelated adults and minor children;
- (4) Deleting section 3 of the measure, which would have required the Department of Human Services to amend its administrative rules to allow certain non-licensed child placing organization to be pre-qualified for a certificate of approval;
- (5) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS appreciates the Legislature's attention to addressing homelessness, especially as it relates to minors. Organizations that provide shelter and other services to minors should be regulated by an oversight agency.

Act 23, Session Laws of Hawaii (SLH) 2021 (Act 23), Act 130, SLH 2022, and emergency proclamations that suspend Chapter 346, Hawaii Revised Statutes (HRS), the latest being Governor Green's Emergency Proclamation signed January 23, 2023, that is in effect until March 20, 2023, influences how DHS can currently respond to the challenge of providing minimum oversight while allowing innovative services to develop.

Act 23, Session Laws of Hawaii 2021, temporarily amended section 346-17.6, HRS, to include,

"Provider" includes an organization that is not a child-placing organization or child-caring institution that:

- (1) Conducts criminal history clearances, child abuse and neglect (CA/N) registry checks, background, employment, and any other checks as may be required by state or federal law on an annual basis for all employees and volunteers;
- (2) Maintains separate sleeping areas for unrelated adults and minor children;
- (3) Serves no more than five minor children per day;
- (4) Keeps a current register of all minors admitted; and
- (5) Coordinates with the department to provide shelter or other services for a minor child."

This is the language subject to be repealed per Act 23, which this measure intends to make permanent. The added language allows providers who meet the criteria to provide no-cost shelter to minors for up to 30 days without parental consent. However, Act 23 did not require providers to seek to become child placing organizations or child caring institutions regulated by

DHS. At the time of Act 23's passage, DHS considered that it would amend its administrative rules to include the additional providers authorized in Act 23.

However, with additional analysis, Child Welfare Services (CWS) concluded that providers caring for homeless minors should meet the same standards as those providing services to other minors and meet the standards of child caring institutions. Then last session, Act 130, SLH 2022, Safe Spaces for Youth law passed that took a broader state-wide approach to sheltering minors.

DHS promotes that all children should be off the street and living in safe environments, and DHS advocates that children experiencing homelessness reside with nurturing families or in licensed facilities. The licensure of shelters and Child-Caring Institutions (CCIs) works to ensure children's safety, health, and well-being. For example, licensure mandates adequate sleeping space for children and the completion of criminal background checks on all adults in the facility. DHS supports its policy of licensure of any CCI or shelter caring for minors.

In Hawaii's current law, section 346-16, HRS, defines a CCI and a Child Placing Organization (CPO) as follows:

"Child caring institution" means any institution other than an institution of the State, maintained for the purpose of receiving six or more minor children for care and maintenance, not of common parents, apart from their parents or guardians on a twenty-four-hour basis for monetary payment.

and

"Child placing organization" means any person, agency, or organization, except family courts and the department of human services, engaged in the investigation, placement, and supervision of children in foster care.

Based on these definitions, all institutions caring for six or more children are CCIs, whether or not they are licensed, and all organizations that place children in foster care are CPOs regardless of licensure. Notably, section 346-17, HRS, specifies that CPOs and CCIs must meet department standards that entail licensure as follows,

- (a) No child placing organization shall engage in the investigation, placement, and supervision of minor children in foster care unless it meets the standards of conditions, management, and competence set by the department of human services.

- (b) No child caring institution shall receive minor children for care and maintenance unless it meets the standards of conditions, management, and competence to care for and educate children set by the department.

Additionally, federal law requires shelters that receive federal funding (grantees) are required to be licensed. Code of Federal Regulations (CFR), Title 45, Part 1351 Runaway and Homeless Youth, Subpart A, §1351 (45 CFR 1351) states:

Grantees shall ensure that all shelters that they operate are licensed and determine that any shelters to which they regularly refer clients have evidence of current licensure, in states or localities with licensure requirements. Grantees shall promptly report to HHS instances in which shelters are cited for failure to meet licensure or related requirements or lose licensure. For grantee-operated facilities, failure to meet any applicable state or local legal requirements as a condition of operation may be grounds for grant termination.

The department is concerned that as drafted the bill implies that providers added by Act 23 who regularly provide services to minors, should not have to comply with other existing laws and administrative rules. The source of funding an agency receives should not create an exception to meeting child caring institution standards; if the agency provides extended care for children, it should follow all licensing standards for the safety, health, and well-being of children in its care.

DHS offers three types of licenses for caring for minor children, based on standards set forth in chapter Title IV-E of the federal Social Security Act: (1) Resource Caregiver homes (RCGs) are the least restrictive, most family-like settings and can house up to five unrelated minors or up to six minors to accommodate sibling groups; (2) Child Caring Institutions (CCIs) are for short-term stays and can accommodate 6-25 minors; (3) Child Placing Organizations (CPOs) support or oversee RCG homes. Hawaii does not have a specific type of license for youth homeless shelters, though the youth shelters with whom Child Welfare Services (CWS) contracts fall under the CCI definition and mandatory licensure. Licensure is part of the safety net to make our communities safer; CWS is willing and available to work with providers to become licensed.

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

SB-129-SD-1

Submitted on: 2/28/2023 7:20:07 PM

Testimony for JDC on 3/3/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Testifying for Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 continues to support measures like SB129. It is time to take care of the minors and not the agencies that try to stall this type of legislation. Please pass SB129.

Mike Golojuch, Sr., Secretary/Board Member



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Judith F. Clark, Executive
Director

Network Membership

Bay Clinic

Big Brothers Big Sisters Hawai`i

*Big Island Substance Abuse
Council*

Bobby Benson Center

Child and Family Service

Coalition for a Drug-Free Hawai`i

Collins Consulting, LLC

Domestic Violence Action Center

EPIC `Ohana, Inc.

Family Programs Hawai`i

Family Support Hawai`i

Friends of the Children's Justice

Center of Maui

Get Ready Hawai`i

Hale Kipa, Inc.

Hale `Opio Kaua`i, Inc.

Hawai`i Children's Action

Network

Hawai`i Health & Harm

Reduction Center

Ho`ola Na Pua

Ho`okele Coalition of Kaua`i

Ka Hale Pomaika`i

Kahi Mohala

Kokua Kalihi Valley

Kaua`i Planning and Action

Alliance

Maui Youth and Family Services

Na Pu`uwai Molokai Native

Hawaiian Health Care

Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together

PHOCUSED

PFLAG – Kona, Big Island

Planned Parenthood of the

Great Northwest, Hawaii

Alaska, Kentucky, Indiana

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community

Center

The Catalyst Group

March 1, 2023

To Senator Donovan Dela Cruz, Chair,
And members of the Committee on Ways and Means

TESTIMONY IN SUPPORT OF SB 129 SD 1 RELATING TO MINORS

Hawaii Youth Services Network (HYSN) fully supports SB 129 SD 1 Relating to Minors.

HYSN has coordinated a statewide runaway and homeless youth partnership since 1981. HYSN is currently working with the Office of Youth Services to implement Act 130. We look forward to continuing to work with the Department of Human Services and the runaway and homeless youth providers to ensure the safety and well-being of our vulnerable youth.

We fully support the amendments to the bill to require physical segregation of minors and adults.

Thank you for this opportunity to testify.

Sincerely,

Judith F. Clark, MPH
Executive Director

Opportunity Youth Action Hawai‘i

Senate Committee on Ways and Means

Hearing Time: 10:00 AM, March 03, 2023

Re: SB 129 SD1, Relating to Minors

Aloha Chair Dela Cruz, and members of the Committee:

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **support** of SB 129 SD1, relating to minors. This bill will require providers of no-cost emergency shelter and related services to maintain separation for unrelated adults and minor children; and make permanent the amendments to the definition of "provider" to include organizations that are not child placing organizations or child caring institutions that meet certain criteria.

The current law which temporarily and explicitly allowed unlicensed facilities to shelter youth on an emergency basis will end in June if the legislature doesn't take action. The 2021 law expanded the longstanding "youth right to housing" framework, allowing minors to be sheltered on a short-term, emergency basis. The significance of providing homeless youth with emergency shelter cannot be overstated as shelter is a foundation of stability and access to essential resources, fostering positive life outcomes and mitigating the potential for future adversities. According to a recent street youth study, over three fourths of homeless youth in our state have experienced physical, emotional, or sexual abuse. About a quarter of homeless youth reported that their reason for becoming homeless is physical abuse or parental substance abuse. For many young people, being returned immediately to their families or foster care is less than optimal, leaving them with no meaningful choice but homelessness. For children, homelessness reflects a most extreme loss of family and caretaking. We must be able to help them.

Our collective, the Opportunity Youth Action Hawai‘i (OYAH), works to support young people under age 25 who are disconnected from school and work, referred to as "opportunity youth." This developmental time period is extremely consequential to the individual growth and overall life chances of our children. Although SB 129 specifically pertains to minors, we also support the legislature's ongoing efforts to address the needs of opportunity youth more broadly.

The Opportunity Youth Action Hawai‘i hui is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support SB 129, SD1.