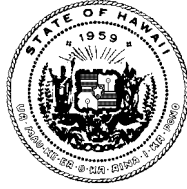


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March 12, 2024

To: The Honorable Senator Joy San Buenaventura, Chair
Senate Committee on Health and Human Services

FROM: Cathy Betts, Director

SUBJECT: **HB 2426 HD2 - Relating To Relative Resource Caregivers.**

Hearing: March 15, 2024, Time 1:00 p.m.
Conference Room 225, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administrative measure. The Department respectfully requests an amendment to effectuate the effective date to be "effective upon approval."

PURPOSE: This bill clarifies 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. Effective 7/1/3000.
(HD2)

The Committee on Human Services (HD1) 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.

The Committee on Judiciary and Hawaiian Affairs (HD2) amended this measure by:

- (1) 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.

Lastly, the Department requests the measure be amended to be "effective upon approval."

'Thank you for the opportunity to provide testimony in support of this measure.



**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. 2, RELATING TO RELATIVE RESOURCE CAREGIVERS.

BEFORE THE:

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Friday, March 15, 2024 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 225 and Videoconference

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

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General (Department¹) supports this bill in the interest of greater government transparency and efficient administration. The Department requests a technical change to the bill to clarify the intent of the bill sufficiently for the Department of Human Services (DHS) to implement the bill as intended.

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 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:

¹ For purposes of this testimony, "Department" refers to the Department of the Attorney General, except when it is used in the lower case in quoted statutory material from section 587A-10, HRS, where it refers to the Department of Human Services.

[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 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 Department requests a technical change to clarify the wording in the amendments to section 587A-10, HRS, in section 1 of the bill. Specifically, we request that the bill be amended on page 1, at lines 3-11, to read as follows:

"(a) The department shall provide ~~[the]~~ a child's relative an application to be licensed as the child's resource family within fifteen days of the relative's request to provide foster placement for the child. The department shall issue a license only if the relative submits an application and meets the licensing standards for a child-specific license established in rules adopted by the department pursuant to chapter 91 and the child is placed with the relative. If the application is submitted and:

The Department respectfully requests that the Committee pass this bill with the requested technical change.

Human Services Committee

HB2426 hearing March 15, 2024

Senator San Buenaventura and committee,

This bill identifies challenges of relatives with HRS587A-10 and the department provides a solution. The Hawaii Coalition for Child Protective Reform has notified the department of ongoing challenges that the department does not inform parents of the opportunity to have relatives apply for placement and a solution was not addressed.

The Parent Guide to Child Welfare has a full-page relating to kinship placement. The HCCPR notified the department in 2021 that not only were parents failing to get the booklet but that the Guide does not state that HRS587A-10 requires the department to provide the denial of placement in writing. An additional reminder was sent to the Director and the Program Development Office in February 2023 that the Parent Guide needed revision.

It is disappointing that the department couldn't see fit to address our concerns. The HCCPR recommends that the bill be amended to (a) The department shall provide [the] a child's ~~relative~~ parent an application for relatives who may wish to be licensed as the child's resource family. ~~to to be licensed as the child's resource family within fifteen days of the relative's request to provide foster placement for the child.~~