

ACT 201

S.B. NO. 1110

A Bill for an Act Relating to Child Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Criminal history and child abuse record checks for persons exempt pursuant to section 346-152. To be eligible to provide child care and to receive a child care subsidy from the department, persons exempt pursuant to section 346-152 shall be required to agree to a criminal history record check and a child abuse record check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154; provided that the following relatives of the child who requires care: grand-parents, great grand-parents, aunts, uncles, and siblings aged eighteen or older living in a separate residence shall be required to agree to a criminal history record check conducted through files maintained by the Hawaii criminal justice data center and a child abuse record check.”

SECTION 2. Section 346-151, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Child abuse record check” means an examination of an individual’s child abuse confirmation history through:

- (1) An initial name inquiry into the state child welfare record files;
- (2) Subsequent child abuse confirmation history checks for new hires and rehires; and
- (3) An annual name inquiry into state child welfare record files.

“Child care subsidy” means a payment made to low-income parents, guardians, or other responsible parties to pay for the care of a child under the age of thirteen years, or age thirteen years or older if the child has qualifying special needs as defined under federal law.”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by amending the title of part VIII to read as follows:

“[PART VIII.] CHILD CARE [FACILITIES]”

SECTION 4. Section 346-154, Hawaii Revised Statutes, is amended to read as follows:

“§346-154 Criminal history and child abuse record checks. (a) The department shall develop standards to ~~[assure]~~ ensure the reputable and responsible character of an applicant to operate a child care facility, prospective employees of the applicant, and new employees of the provider after registration or licensure, which shall include~~[.]~~ but not be limited to~~[.]~~ criminal history record checks~~[.]~~ and child abuse record checks.

(b) An applicant to operate a child care facility shall submit to the department ~~[statements signed]~~ under penalty of ~~[perjury]~~ false swearing, statements signed by the applicant and prospective employees of the applicant ~~[indicating]~~:

- (1) Indicating whether the applicant or any of the prospective employees has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child, including threatened harm; and ~~[providing]~~
- (2) Providing consent to the department to conduct a criminal history record check and a child abuse record check and to obtain criminal history and child abuse record information for verification. The applicant and prospective employee of the applicant shall be fingerprinted for the purpose of complying with the criminal history record check.

(c) A provider shall submit to the department ~~[a statement signed]~~ under penalty of ~~[perjury]~~ false swearing, a statement signed by any employee hired after the initial licensure or registration ~~[indicating]~~:

- (1) Indicating whether the employee has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child, including threatened harm; and ~~[providing]~~
- (2) Providing consent to the department to conduct a criminal history record check and a child abuse record check and to obtain criminal history and child abuse record information for verification. The employee shall be fingerprinted for the purpose of complying with the criminal history record check.

~~[(e)]~~(d) The department shall obtain criminal history record information through the Hawaii criminal justice data center and child abuse record information from the department on the applicant and any prospective employee of the applicant, including any new employee after the applicant is issued a registration or license under this part. The Hawaii criminal justice data center may assess the applicant, prospective employee, or new employee a reasonable fee for each criminal history record check conducted. The information obtained shall be used exclusively for the stated purpose for which it was obtained and shall be subject to applicable federal laws and regulations.

~~[(d)]~~(e) The department may deny an application for a license or registration to operate a child care facility if ~~[the]~~:

- (1) The applicant or any prospective employee has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child, including threatened harm; and [if the]
- (2) The department finds that the criminal history or child abuse record of that applicant or prospective employee may pose a risk to the health, safety, or well-being of children.

(f) The department may request the provider to terminate the employment of a new employee or may suspend or revoke the license or registration of the provider who employs a new employee if ~~[the]~~:

- (1) The employee has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, or ever been confirmed to have abused or neglected a child, including threatened harm; and [if the]
- (2) The department finds that the criminal history or child abuse record of the new employee may pose a risk to the health, safety, or well-being of children.”

SECTION 5. Section 346-156, Hawaii Revised Statutes, is amended to read as follows:

“~~[§346-156]~~ **Penalty.** Any person violating any provision of this chapter or any rule made pursuant thereto shall be fined ~~[not more than \$500.]~~ as follows:

- (1) Up to \$1,000 for the first violation; and
- (2) Up to \$3,000 for the second violation and each succeeding violation.”

SECTION 6. Section 346-163, Hawaii Revised Statutes, is amended to read as follows:

“**§346-163 Licenses and temporary permits.** If satisfied that the applicant meets the minimum standards established pursuant to section 346-162 and subject to the criminal history record checks and child abuse record checks of section 346-154, the department ~~[of human services]~~ shall grant the applicant a license for the operation of a group child care home or group child care center, as the case may be. The license shall be valid for:

- (1) One year for new applicants and for those who have been licensed for less than four years; and
- (2) Two years for those who have been licensed for four years or more, unless sooner revoked. Where the activities of the applicant fall within the licensing requirements of the department of education and this subpart, a license shall be required from both the department of education and the department of human services.

A temporary permit may be issued for a period of six months at the ~~[department of human services’]~~ department’s discretion to any applicant who is temporarily unable to conform to all of the minimum standards. Renewal of the temporary permit shall be left to the ~~[department of human services’]~~ department’s discretion; provided that the combined period of the initial and subsequently renewed permits shall not exceed twenty-four months. Licenses and permits shall be conspicuously posted on the licensed premises.”

SECTION 7. There is appropriated out of the criminal history record improvement revolving fund the sum of \$53,000 or so much thereof as may be necessary for fiscal year 2001-2002 to effectuate the purposes of this Act.

The sum appropriated shall be expended by the department of the attorney general for purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval; provided that section 7 shall take effect July 1, 2001.

(Approved May 31, 2001.)

Note

1. Edited pursuant to HRS §23G-16.5.