

ACT 83

S.B. NO. 1226

A Bill for an Act Relating to Child Care.

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

SECTION 1. Access to safe, affordable, and nurturing child care is a critical need for Hawaii's children and working parents. The purpose of this Act is to amend provisions of chapter 346, Hawaii Revised Statutes, to:

- (1) Improve the safety of children in Hawaii's regulated and legally exempt child care settings by repealing certain limitations placed on criminal history record checks of adult relatives who provide care for a child whose family receives a child care subsidy from the department of human services;
- (2) Clarify that when the child care licensing program receives a report of death or injury of a child in a child care setting, the program is not prohibited from sharing information and cooperating with child welfare services and law enforcement;
- (3) Clarify when investigation information will be released to the public; and
- (4) Clarify that the department of human services may take both administrative and judicial action to enforce child care licensing requirements and increase penalties by making the penalties apply on a daily basis.

SECTION 2. Section 346-152.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~[To be eligible]~~ In order to provide child care for a child whose family receives a child care subsidy from the department, persons exempt pursuant to section 346-152 shall be required to agree to:

- (1) A criminal history record check, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154; ~~[provided that the criminal history record check shall be limited to a criminal history record check conducted through files maintained by the Hawaii criminal justice data center for the following relatives of the child who requires care: grandparents, great-grandparents, aunts, uncles, and siblings aged eighteen or older living in a separate residence;]~~
- (2) Completion of a pre-service or orientation training and ongoing training in health and safety topics; and
- (3) Any monitoring inspection visits by the department or its designee to determine compliance with minimum health and safety standards at the location where child care is being provided for a child whose

family receives a child care subsidy from the department, including investigations by the department when the department has received a report of health and safety concerns.”

SECTION 3. Section 346-153, Hawaii Revised Statutes, is amended to read as follows:

“§346-153 Records of deficiencies and complaints; release to public. (a) For every child care facility, the department shall maintain records for the current and previous two years of: results of its inspections; notifications to providers of deficiencies; corrective action taken; complaints of violations of rules adopted under this part; results of its investigations; resolution of complaints; and suspensions, revocations, reinstatements, restorations, and reissuances of licenses, temporary permits, and registrations issued under this part.

(b) Notwithstanding any other law to the contrary, the records described in this section shall be available for inspection in the manner set forth in chapter 92F and may be posted by the department on a public website; provided that with respect to records of family child care homes and group child care homes, sensitive personal information, including home addresses, or information provided to the department with the understanding that it would not be publicly divulged shall be deleted or obliterated prior to making the records available to the public. Nothing in this section shall authorize the department to release to the public the names of or any other identifying information on complainants. Nothing in this section shall prohibit the department’s child care licensing program from sharing information and cooperating with the department’s child protective services and law enforcement on investigations.

(c) The department may withhold information ~~[on a]~~ regarding an investigation of a complaint [for which an investigation is being conducted] of a violation for not more than ten working days [following the date of filing of the complaint;] after the date the investigation report is completed; provided that if an investigation relates to an alleged criminal offense, no information shall be released until the criminal investigation has been completed and the director has determined that no legal proceeding will be jeopardized by its release.”

SECTION 4. Section 346-156, Hawaii Revised Statutes, is amended to read as follows:

“§346-156 Penalty[-]; remedies. (a) Any person, entity, agency, or organization violating any provision of this ~~[chapter]~~ part or any rule made pursuant thereto shall be fined ~~[as follows:~~

- (1) ~~Up~~ up to \$1,000 for ~~[the first]~~ each day of violation; ~~and~~
- (2) ~~Up~~ provided that the fine may be up to \$3,000 for ~~[the second violation and each succeeding violation.]~~ each day for a violation of section 346-161 or 346-171.

(b) The department may enforce this part in either administrative proceedings or judicial proceedings, or both.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 7, 2019.)