
A BILL FOR AN ACT

RELATING TO HOME SCHOOLING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that an estimated two
2 million children are being home-schooled nationwide. In a
3 positive home-school environment, parents can create strong
4 bonds with their children and adapt teaching methods that best
5 suit the ways their children learn. Family relationships can be
6 enhanced between children and parents, as well as among
7 siblings. Home-educated children are doing well on measures of
8 social, emotional, and psychological development. Research
9 measures include peer interaction, self-concept, leadership
10 skills, family cohesion, participation in community service, and
11 self-esteem.

12 The legislature understands that according to the National
13 Center for Education Statistics, an estimated seven thousand
14 children are home-schooled in Hawaii; however, the State does
15 not have laws in place to prevent abusive parents from using
16 home schooling to isolate their children and hide maltreatment.
17 The legislature recognizes that a growing body of data points to



1 the need to enact protections for at-risk home-schooled children
2 in order to prevent them from becoming the "invisible children
3 of Hawaii."

4 The legislature further finds that in the right settings,
5 home schooling can offer a positive and child-centered
6 educational environment that encourages children to thrive and
7 achieve. This type of home schooling should be encouraged.
8 However, when abusive or neglectful parents are in charge, the
9 consequences can be severe. As seen in the tragic case of Peter
10 Kema, Jr., also known as "Peter Boy", the consequences can
11 include death.

12 The legislature is also aware that in a 2014 study of child
13 torture, Barbara Knox of the University of Wisconsin found that
14 forty-seven per cent of the school-aged child torture cases
15 examined involved children who had been enrolled in school and
16 then subsequently removed to be home-schooled. Knox wrote that
17 this home schooling "appears to have been designed to further
18 isolate the child" and "typically occurred after the closure of
19 a previously opened child protective services case."

20 Additionally, the legislature notes that the Coalition for
21 Responsible Home Education operates the Homeschooling's



1 Invisible Children database, which catalogues cases of severe
2 and fatal child abuse in home-school settings in order to
3 identify themes that contribute to this abuse. An analysis of
4 the cases in the database has revealed a number of themes that
5 mirror past and current criminal cases involving abuse and child
6 neglect in Hawaii. The following is a summary of these themes:

7 (1) Recent abuse reports: In many of the cases in the
8 Homeschooling's Invisible Children database, the
9 parents withdraw a child from school and place the
10 child in a home school after a teacher or other school
11 official demonstrates their willingness to report
12 suspected abuse.

13 (2) Social isolation: In some cases in the
14 Homeschooling's Invisible Children database, children
15 are so severely isolated that neighbors report that
16 they did not know a child of that age lived in the
17 home. In other cases, children may not have access to
18 an adult they can trust.

19 (3) Food deprivation: When children attend school, they
20 have access to school lunch programs and adults who
21 will notice if a child is constantly hungry. Forty-



1 seven per cent of the cases in the Homeschooling's
2 Invisible Children database involve food restriction
3 or starvation.

4 (4) Medical neglect: Children who are home schooled are
5 typically not required to see a doctor. As a result,
6 medical problems may go unnoticed for years. Twenty-
7 four per cent of the cases in the Homeschooling's
8 Invisible Children database involve medical neglect.
9 If "Peter Boy" Kema's parents would have taken him to
10 be seen by a doctor, he might still be alive today.

11 Lastly, the legislature notes that some egregious cases
12 from other states are factually comparable to recent Hawaii
13 cases involving child neglect and abuse in a home-schooling
14 environment:

15 (1) Sixteen-year-old Calista Springer of Michigan was
16 forced to wear a dog collar and was chained to her
17 bed. Calista died in a house fire in 2008 because she
18 was unable to free herself from the collar. She had
19 attended public school until she was thirteen years
20 old. Her teachers could tell that something was
21 wrong, and reported their concerns to child services.



1 Her parents withdrew her from school and began home
2 schooling to prevent her teachers from making
3 additional reports;

4 (2) Ten-year-old Emani Moss of Georgia died in 2013.
5 Several years before she was home-schooled, Emani was
6 temporarily removed from her home due to a confirmed
7 abuse report. She was eventually returned to her home
8 and, in late 2010, the abuse case was closed. In May
9 2012, a teacher reported welts on Emani's back but
10 child services determined that the marks fell within
11 the legal limits of parental discipline in Georgia.
12 Subsequent to this report, Emani's parents removed her
13 from school to home-school her instead. Emani's
14 emaciated and burnt body was found in a trash can
15 outside of her family's home. The medical examiner
16 determined that she died of starvation;

17 (3) Ten-year-old Janiya Thomas of Florida was
18 home-schooled with no additional monitoring, despite
19 numerous past child services reports. Her body was
20 found in a freezer in October 2015. At that time, she
21 had been dead for more than a year. No one had



1 noticed, because there was no requirement that anyone
2 visit her in person or check up on her in any way; and
3 (4) Three recent cases of child neglect and abuse in
4 Hawaii county include victims who were all school-aged
5 and starved. All three of the cases involved
6 households where alarms or locks were put on the
7 refrigerators. The children in these homes were
8 pulled out of public schools, ostensibly for the
9 purpose of home schooling, when in fact the real
10 reason was to conceal abuse.

11 Accordingly, the purpose of this Act is to establish
12 protections for home-schooled children and to ensure that home
13 schooling is used to genuinely educate children, rather than to
14 conceal abuse that is being perpetrated at home.

15 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
16 amended by adding a new section to part IV to be appropriately
17 designated and to read as follows:

18 "§302A-A Home-schooling education program; requirements.

19 (a) Upon receipt of the department's OCISS Form 4140 titled
20 "Exceptions to Compulsory Education" or a letter of intent to
21 home-school pursuant to section 302A-1132(a)(5), the appropriate



1 complex area superintendent, or the complex area
2 superintendent's authorized agent, shall submit the names of all
3 adults and children residing in the household of the proposed
4 home school to the child welfare services branch of the
5 department of human services for background checks, which shall
6 include for each person a criminal history record check in
7 accordance with section 846-2.7, a sex offender registry check,
8 a child abuse record check, and an adult abuse perpetrator
9 check. The child welfare services branch shall have seven
10 calendar days to complete these checks and furnish the results
11 to the requestor.

12 (b) No child shall begin a home-schooling education
13 program until the child welfare services staff of the department
14 of human services has completed all required background checks
15 and determined that no concerns exist with respect to the
16 backgrounds of the persons connected with the proposed home
17 school. Upon completion of the background checks, the child
18 welfare services branch shall notify the appropriate complex
19 area superintendent, or the complex area superintendent's
20 authorized agent, if any of the following concerns exist:



- 1 (1) A proposed home-school child or another child in the
2 proposed home-school household has been the subject of
3 a confirmed child welfare services branch report or
4 received general protective services;
- 5 (2) The parent of proposed home-school child or another
6 person in the proposed home-school household has been
7 the subject of a confirmed report of the child welfare
8 services staff of the department of human services;
- 9 (3) The parent of a proposed home-school child has been
10 convicted of a crime involving violence or the threat
11 of violence; or
- 12 (4) A person residing in the home with the proposed home-
13 school child is required to register as a covered
14 offender pursuant to chapter 846E.
- 15 (c) Upon receipt of a confirmation from the child welfare
16 services staff of the department of human services that none of
17 the concerns specified in subsection (b) exist, and after the
18 requesting school is notified of this confirmation, the
19 principal of the requesting school and the requesting school's
20 complex area superintendent, or the complex area



1 superintendent's authorized agent, may approve the department of
2 education's appropriate form or letter of intent to home-school.

3 (d) Upon receipt of a confirmation from the child welfare
4 services staff of the department of human services that one or
5 more of the concerns specified in subsection (b) does exist, and
6 after the requesting school is notified of this confirmation,
7 the principal of the requesting school and the requesting
8 school's complex area superintendent, or the complex area
9 superintendent's agent, shall notify the parent or guardian of
10 the proposed home-school child that the request for an exception
11 to compulsory education or the letter of intent to home-school
12 has been denied, as applicable. Upon receipt of the denial:

13 (1) The parent or guardian of the proposed home-school
14 child may petition the family court pursuant to
15 section 587A-12 to request a hearing at which to
16 present evidence that home schooling is appropriate
17 for the child in question.

18 (2) If the family court determines there is clear and
19 convincing evidence that home schooling is
20 appropriate, the child's parent or guardian shall
21 submit a certified copy of the court's ruling to the



1 appropriate complex area superintendent or the complex
2 area superintendent's authorized agent; provided that
3 the court may impose on the petitioner any special
4 conditions the court deems necessary to ensure
5 adequate oversight of the child to be home-schooled,
6 including monthly visits by the child welfare services
7 staff of the department of human services and monthly
8 progress reports to the court.

9 (3) If the family court determines there is clear and
10 convincing evidence that home schooling is not
11 presently appropriate, the court shall transmit to the
12 appropriate complex area superintendent or the complex
13 area superintendent's authorized agent a certified
14 copy of the court's ruling; provided that the court
15 may inform the petitioner of the petitioner's ability
16 to submit another petition in the future following
17 verified completion of parenting classes, anger
18 management classes, or any other appropriate
19 interventions, and may set a future hearing date to
20 reconsider whether home schooling is appropriate for
21 the child in question.



1 and birth date in the department's adult protective services
2 file."

3 SECTION 4. Section 302A-1132, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Unless excluded from school or excepted from
6 attendance, all children who will have arrived at the age of at
7 least five years on or before July 31 of the school year, and
8 who will not have arrived at the age of eighteen years, by
9 January 1 of any school year, shall attend either a public or
10 private school for, and during, the school year, and any parent,
11 guardian, or other person having the responsibility for, or care
12 of, a child whose attendance at school is obligatory shall send
13 the child to either a public or private school. Attendance at a
14 public or private school shall not be compulsory in the
15 following cases:

16 (1) Where the child is physically or mentally unable to
17 attend school (deafness and blindness excepted), of
18 which fact the certificate of a duly licensed
19 physician shall be sufficient evidence;

20 (2) Where the child, who has reached the fifteenth
21 anniversary of birth, is suitably employed and has



1 been excused from school attendance by the
 2 superintendent or the superintendent's authorized
 3 representative, or by a family court judge;

4 (3) Where, upon investigation by the family court, it has
 5 been shown that for any other reason the child may
 6 properly remain away from school;

7 (4) Where the child has graduated from high school;

8 (5) Where the child is enrolled in an appropriate
 9 alternative educational program as approved by the
 10 superintendent or the superintendent's authorized
 11 representative in accordance with the plans and
 12 policies of the department, or notification of intent
 13 to [~~home-school~~] home-school has been submitted to the
 14 principal of the public school that the child would
 15 otherwise be required to attend in accordance with
 16 department rules adopted to achieve this result; [~~or~~]
 17 provided that the home-schooled child's educational
 18 program shall comply with section 302A-A; or

19 (6) Where:

20 (A) The child has attained the age of sixteen years;

21 (B) The principal has determined that:

1 (i) The child has engaged in behavior [~~which~~
2 that is disruptive to other students,
3 teachers, or staff; or
4 (ii) The child's non-attendance is chronic and
5 has become a significant factor that hinders
6 the child's learning; and
7 (C) The principal of the child's school, and the
8 child's teacher or counselor, in consultation
9 with the child and the child's parent, guardian,
10 or other adult having legal responsibility for or
11 care of the child, develops an alternative
12 educational plan for the child. The alternative
13 educational plan shall include a process that
14 shall permit the child to resume school.
15 The principal of the child's school shall file the
16 plan made pursuant to subparagraph (C) with the
17 child's school record. If the adult having legal
18 responsibility for or care of the child disagrees with
19 the plan, then the adult shall be responsible for
20 obtaining appropriate educational services for the
21 child."



1 SECTION 5. Section 587A-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§587A-5 Jurisdiction. Pursuant to section 571-11(9), the
4 court shall have exclusive original jurisdiction:

5 (1) In a child protective proceeding concerning any child
6 who is or was found within the State at the time
7 specified facts and circumstances occurred, are
8 discovered, or are reported to the department. These
9 facts and circumstances constitute the basis for the
10 court's finding that the child's physical or
11 psychological health or welfare is subject to imminent
12 harm, has been harmed, or is subject to threatened
13 harm by the acts or omissions of the child's family;
14 [and]

15 (2) In any prior child protective proceeding under chapter
16 587, the former Child Protective Act[-]; and

17 (3) In any proceeding involving a request to home-school a
18 child that has been denied under section 302A-A."

19 SECTION 6. Section 846-2.7, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Criminal history record checks may be conducted by:



- 1 (1) The department of health or its designee on operators
2 of adult foster homes for individuals with
3 developmental disabilities or developmental
4 disabilities domiciliary homes and their employees, as
5 provided by section 321-15.2;
- 6 (2) The department of health or its designee on
7 prospective employees, persons seeking to serve as
8 providers, or subcontractors in positions that place
9 them in direct contact with clients when providing
10 non-witnessed direct mental health or health care
11 services as provided by section 321-171.5;
- 12 (3) The department of health or its designee on all
13 applicants for licensure or certification for,
14 operators for, prospective employees, adult
15 volunteers, and all adults, except adults in care, at
16 healthcare facilities as defined in section 321-15.2;
- 17 (4) The department of education on employees, prospective
18 employees, and teacher trainees in any public school
19 in positions that necessitate close proximity to
20 children as provided by section 302A-601.5;



- 1 (5) The counties on employees and prospective employees
2 who may be in positions that place them in close
3 proximity to children in recreation or child care
4 programs and services;
- 5 (6) The county liquor commissions on applicants for liquor
6 licenses as provided by section 281-53.5;
- 7 (7) The county liquor commissions on employees and
8 prospective employees involved in liquor
9 administration, law enforcement, and liquor control
10 investigations;
- 11 (8) The department of human services on operators and
12 employees of child caring institutions, child placing
13 organizations, and foster boarding homes as provided
14 by section 346-17;
- 15 (9) The department of human services on prospective
16 adoptive parents as established under section
17 346-19.7;
- 18 (10) The department of human services or its designee on
19 applicants to operate child care facilities, household
20 members of the applicant, prospective employees of the
21 applicant, and new employees and household members of



- 1 the provider after registration or licensure as
2 provided by section 346-154, and persons subject to
3 section 346-152.5;
- 4 (11) The department of human services on persons exempt
5 pursuant to section 346-152 to be eligible to provide
6 child care and receive child care subsidies as
7 provided by section 346-152.5;
- 8 (12) The department of health on operators and employees of
9 home and community-based case management agencies and
10 operators and other adults, except for adults in care,
11 residing in community care foster family homes as
12 provided by section 321-15.2;
- 13 (13) The department of human services on staff members of
14 the Hawaii youth correctional facility as provided by
15 section 352-5.5;
- 16 (14) The department of human services on employees,
17 prospective employees, and volunteers of contracted
18 providers and subcontractors in positions that place
19 them in close proximity to youth when providing
20 services on behalf of the office or the Hawaii youth
21 correctional facility as provided by section 352D-4.3;



- 1 (15) The judiciary on employees and applicants at detention
2 and shelter facilities as provided by section 571-34;
- 3 (16) The department of public safety on employees and
4 prospective employees who are directly involved with
5 the treatment and care of persons committed to a
6 correctional facility or who possess police powers
7 including the power of arrest as provided by section
8 353C-5;
- 9 (17) The board of private detectives and guards on
10 applicants for private detective or private guard
11 licensure as provided by section 463-9;
- 12 (18) Private schools and designated organizations on
13 employees and prospective employees who may be in
14 positions that necessitate close proximity to
15 children; provided that private schools and designated
16 organizations receive only indications of the states
17 from which the national criminal history record
18 information was provided pursuant to section 302C-1;
- 19 (19) The public library system on employees and prospective
20 employees whose positions place them in close



- 1 proximity to children as provided by section
2 302A-601.5;
- 3 (20) The State or any of its branches, political
4 subdivisions, or agencies on applicants and employees
5 holding a position that has the same type of contact
6 with children, vulnerable adults, or persons committed
7 to a correctional facility as other public employees
8 who hold positions that are authorized by law to
9 require criminal history record checks as a condition
10 of employment as provided by section 78-2.7;
- 11 (21) The department of health on licensed adult day care
12 center operators, employees, new employees,
13 subcontracted service providers and their employees,
14 and adult volunteers as provided by section 321-15.2;
- 15 (22) The department of human services on purchase of
16 service contracted and subcontracted service providers
17 and their employees serving clients of the adult
18 protective and community services branch, as provided
19 by section 346-97;
- 20 (23) The department of human services on foster grandparent
21 program, senior companion program, and respite



1 companion program participants as provided by section
2 346-97;

3 (24) The department of human services on contracted and
4 subcontracted service providers and their current and
5 prospective employees that provide home and community-
6 based services under section 1915(c) of the Social
7 Security Act, title 42 United States Code section
8 1396n(c), or under any other applicable section or
9 sections of the Social Security Act for the purposes
10 of providing home and community-based services, as
11 provided by section 346-97;

12 (25) The department of commerce and consumer affairs on
13 proposed directors and executive officers of a bank,
14 savings bank, savings and loan association, trust
15 company, and depository financial services loan
16 company as provided by section 412:3-201;

17 (26) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a
19 nondepository financial services loan company as
20 provided by section 412:3-301;



- 1 (27) The department of commerce and consumer affairs on the
2 original chartering applicants and proposed executive
3 officers of a credit union as provided by section
4 412:10-103;
- 5 (28) The department of commerce and consumer affairs on:
- 6 (A) Each principal of every non-corporate applicant
7 for a money transmitter license;
- 8 (B) Each person who upon approval of an application
9 by a corporate applicant for a money transmitter
10 license will be a principal of the licensee; and
- 11 (C) Each person who upon approval of an application
12 requesting approval of a proposed change in
13 control of licensee will be a principal of the
14 licensee,
- 15 as provided by sections 489D-9 and 489D-15;
- 16 (29) The department of commerce and consumer affairs on
17 applicants for licensure and persons licensed under
18 title 24;
- 19 (30) The Hawaii health systems corporation on:
- 20 (A) Employees;
- 21 (B) Applicants seeking employment;



1 (C) Current or prospective members of the corporation
2 board or regional system board; or

3 (D) Current or prospective volunteers, providers, or
4 contractors,

5 in any of the corporation's health facilities as
6 provided by section 323F-5.5;

7 (31) The department of commerce and consumer affairs on:

8 (A) An applicant for a mortgage loan originator
9 license, or license renewal; and

10 (B) Each control person, executive officer, director,
11 general partner, and managing member of an
12 applicant for a mortgage loan originator company
13 license or license renewal,

14 as provided by chapter 454F;

15 (32) The state public charter school commission or public
16 charter schools on employees, teacher trainees,
17 prospective employees, and prospective teacher
18 trainees in any public charter school for any position
19 that places them in close proximity to children, as
20 provided in section 302D-33;



- 1 (33) The counties on prospective employees who work with
2 children, vulnerable adults, or senior citizens in
3 community-based programs;
- 4 (34) The counties on prospective employees for fire
5 department positions which involve contact with
6 children or vulnerable adults;
- 7 (35) The counties on prospective employees for emergency
8 medical services positions which involve contact with
9 children or vulnerable adults;
- 10 (36) The counties on prospective employees for emergency
11 management positions and community volunteers whose
12 responsibilities involve planning and executing
13 homeland security measures including viewing,
14 handling, and engaging in law enforcement or
15 classified meetings and assisting vulnerable citizens
16 during emergencies or crises;
- 17 (37) The State and counties on employees, prospective
18 employees, volunteers, and contractors whose position
19 responsibilities require unescorted access to secured
20 areas and equipment related to a traffic management
21 center;



- 1 (38) The State and counties on employees and prospective
2 employees whose positions involve the handling or use
3 of firearms for other than law enforcement purposes;
- 4 (39) The State and counties on current and prospective
5 systems analysts and others involved in an agency's
6 information technology operation whose position
7 responsibilities provide them with access to
8 proprietary, confidential, or sensitive information;
- 9 (40) The department of commerce and consumer affairs on:
- 10 (A) Applicants for real estate appraiser licensure or
11 certification as provided by chapter 466K;
- 12 (B) Each person who owns more than ten per cent of an
13 appraisal management company who is applying for
14 registration as an appraisal management company,
15 as provided by section 466L-7; and
- 16 (C) Each of the controlling persons of an applicant
17 for registration as an appraisal management
18 company, as provided by section 466L-7;
- 19 (41) The department of health or its designee on all
20 license applicants, licensees, employees, contractors,
21 and prospective employees of medical cannabis



1 dispensaries, and individuals permitted to enter and
2 remain in medical cannabis dispensary facilities as
3 provided under sections 329D-15(a)(4) and
4 329D-16(a)(3);

5 (42) The department of commerce and consumer affairs on
6 applicants for nurse licensure or license renewal,
7 reactivation, or restoration as provided by sections
8 457-7, 457-8, 457-8.5, and 457-9;

9 (43) The county police departments on applicants for
10 permits to acquire firearms pursuant to section 134-2
11 and on individuals registering their firearms pursuant
12 to section 134-3;

13 (44) The department of commerce and consumer affairs on:

14 (A) Each of the controlling persons of the applicant
15 for licensure as an escrow depository, and each
16 of the officers, directors, and principals who
17 will be in charge of the escrow depository's
18 activities upon licensure; and

19 (B) Each of the controlling persons of an applicant
20 for proposed change in control of an escrow
21 depository licensee, and each of the officers,



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1 directors, and principals who will be in charge
2 of the licensee's activities upon approval of
3 such application,
4 as provided by chapter 449;

5 (45) The department of taxation on current or prospective
6 employees or contractors who have access to federal
7 tax information in order to comply with requirements
8 of federal law, regulation, or procedure, as provided
9 by section 231-1.6;

10 (46) The department of labor and industrial relations on
11 current or prospective employees or contractors who
12 have access to federal tax information in order to
13 comply with requirements of federal law, regulation,
14 or procedure, as provided by section 383-110;

15 (47) The department of human services on current or
16 prospective employees or contractors who have access
17 to federal tax information in order to comply with
18 requirements of federal law, regulation, or procedure,
19 as provided by section 346-2.5;

20 (48) The child support enforcement agency on current or
21 prospective employees, or contractors who have access



1 to federal tax information in order to comply with
2 federal law, regulation, or procedure, as provided by
3 section 576D-11.5; [~~and~~]

4 (49) The department of human services on members of a
5 proposed home school household, pursuant to section
6 302A-A and 346- ; and

7 [~~(49)~~] (50) Any other organization, entity, or the State,
8 its branches, political subdivisions, or agencies as
9 may be authorized by state law."

10 SECTION 7. The office of curriculum, instruction, and
11 student support of the department of education shall amend its
12 OCISS Form 4140 titled "Exceptions to Compulsory Education" to
13 include a new section on background checks. The new section
14 shall include fields for the following information:

15 (1) The date that the school received a request for home
16 schooling from the parent or guardian of a proposed
17 home-school child;

18 (2) The date that the school forwarded to the child
19 welfare services branch of the department of human
20 services a request for home schooling along with a
21 request to conduct the required background checks;



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1 (3) The date that the school received a report from the
2 child welfare services branch regarding the result of
3 the background checks; and

4 (4) The date that the school notified the parent or
5 guardian of the proposed home-school child of the
6 result of the background checks and the school's
7 approval or denial of the request for home schooling.

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

10 SECTION 9. This Act shall take effect upon its approval.

11

INTRODUCED BY: *Airly Evans*
JAN 22 2018



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Report Title:

Education; Home Schooling; DOE; DHS; Family Court

Description:

Establishes protections for home-schooled children. Among other things, requires the Department of Education to request the child welfare services staff of the Department of Human Services to conduct background checks on all persons connected to a proposed home school and authorizes the Department of Human Services to conduct these background checks. Provides a process whereby a parent or guardian whose request to home-school a child has been denied may petition the family court to determine whether home schooling is appropriate.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

