



GOV. MSG. NO. 1141

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 20, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

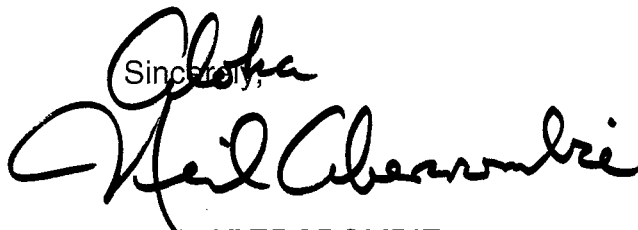
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 20, 2012, the following bill was signed into law:

HB2539 HD1

RELATING TO ADULT ABUSE PERPETRATOR
CHECKS FOR CHILD CARE PROVIDERS.
Act 041 (12)

Aloha
Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on APR 20 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 041

H.B. NO. 2539
H.D. 1

A BILL FOR AN ACT

RELATING TO ADULT ABUSE PERPETRATOR CHECKS FOR CHILD CARE PROVIDERS.

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

1 SECTION 1. Section 346-152.5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 " ~~[+]§346-152.5[+]~~ Criminal history [and] record checks,
4 child abuse record checks, and adult abuse perpetrator checks
5 for persons exempt pursuant to section 346-152. To be eligible
6 to provide child care and to receive a child care subsidy from
7 the department, persons exempt pursuant to section 346-152 shall
8 be required to agree to a criminal history record check ~~[and]~~, a
9 child abuse record check, and an adult abuse perpetrator check
10 in the same manner as a prospective applicant or licensed
11 provider in accordance with section 346-154; provided that the
12 following relatives of the child who requires care:
13 grandparents, great-grandparents, aunts, uncles, and siblings
14 aged eighteen or older living in a separate residence shall be
15 required to agree to a criminal history record check conducted
16 through files maintained by the Hawaii criminal justice data



1 center [~~and~~], a child abuse record check[~~-~~], and an adult abuse
2 perpetrator check.

3 For the purposes of this section, "adult abuse perpetrator
4 check" means a search to determine whether an individual is
5 known to the department as a perpetrator of abuse as defined in
6 section 346-222, by means of a search of the individual's name
7 and birth date in the department's adult protective services
8 file."

9 SECTION 2. Section 346-154, Hawaii Revised Statutes is
10 amended to read as follows:

11 "§346-154 Criminal history [~~and~~] checks, child abuse
12 record checks[~~-~~], and adult abuse perpetrator checks. (a) The
13 department shall develop standards to ensure the reputable and
14 responsible character of an applicant to operate a child care
15 facility, prospective employees of the applicant, and new
16 employees of the provider after registration or licensure, which
17 shall include criminal history record checks in accordance with
18 section 846-2.7 [~~and~~], child abuse record checks[~~-~~], and adult
19 abuse perpetrator checks.

20 For the purposes of this section, "adult abuse perpetrator
21 check" means a search to determine whether an individual is
22 known to the department as a perpetrator of abuse as defined in



1 section 346-222, by means of a search of the individual's name
2 and birth date in the department's adult protective services
3 file.

4 (b) An applicant to operate a child care facility shall:

5 (1) Be subject to criminal history record checks in
6 accordance with section 846-2.7;

7 (2) Submit to the department under penalty of law,
8 statements signed by the applicant and prospective
9 employees of the applicant indicating whether the
10 applicant or any of the prospective employees has ever
11 been confirmed to have abused or neglected a child[~~7~~]
12 or vulnerable adult, including threatened harm; and

13 (3) Provide consent to the department to conduct a
14 criminal history record check in accordance with
15 section 846-2.7 [~~and~~], a child abuse record check, and
16 an adult abuse perpetrator check, and to obtain
17 criminal history [~~and~~] information, child abuse record
18 information, and adult abuse perpetrator information
19 for verification.

20 (c) A provider shall:

21 (1) Be subject to criminal history record checks in
22 accordance with section 846-2.7;



- 1 (2) Submit to the department a statement signed by any
2 employee hired after the initial licensure or
3 registration that requires the employee to indicate
4 under penalty of law, whether the employee has ever
5 been confirmed to have abused or neglected a child~~[7]~~
6 or vulnerable adult, including threatened harm; and
- 7 (3) Provide consent to the department or its designee to
8 conduct a criminal history record check in accordance
9 with section 846-2.7 ~~[and]~~, a child abuse record
10 check, and an adult abuse perpetrator check, and to
11 obtain criminal history ~~[and]~~ information, child abuse
12 record information and adult abuse perpetrator check
13 information for verification.
- 14 (d) The department or its designee shall obtain criminal
15 history record information through the Hawaii criminal justice
16 data center in accordance with section 846-2.7, and child abuse
17 record information and adult abuse perpetrator check information
18 from the department in accordance with departmental procedures
19 on the applicant and any prospective employee of the applicant,
20 including any new employee retained after the applicant is
21 issued a registration or license under this part, which shall



1 include an annual name inquiry into the state criminal history
2 record files.

3 (e) The department may deny an application for a license
4 or registration to operate a child care facility if:

5 (1) The applicant or any prospective employee has been
6 convicted of a crime other than a minor traffic
7 violation involving a fine of \$50 or less, or ever
8 been confirmed to have abused or neglected a child[7]
9 or vulnerable adult, including threatened harm; and

10 (2) The department finds that the criminal history or
11 child abuse record or adult abuse perpetrator check
12 record of that applicant or prospective employee
13 indicates that the applicant or prospective employee
14 may pose a risk to the health, safety, or well-being
15 of children.

16 (f) The department may request the provider to terminate
17 the employment of a new employee or may suspend or revoke the
18 license or registration of the provider who employs a new
19 employee if:

20 (1) The employee has been convicted of a crime other than
21 a minor traffic violation involving a fine of \$50 or
22 less, or ever been confirmed to have abused or

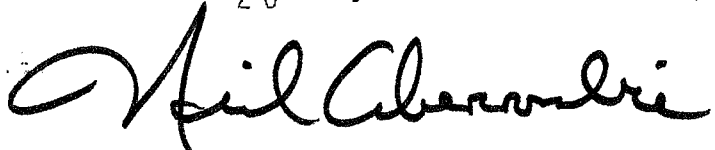


1 neglected a child or vulnerable adult, including
2 threatened harm; and
3 (2) The department finds that the criminal history or
4 child abuse record or adult abuse perpetrator check
5 record of the new employee indicates that the new
6 employee may pose a risk to the health, safety, or
7 well-being of children."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 20 day of APR, 2012


GOVERNOR OF THE STATE OF HAWAII