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# A BILL FOR AN ACT

RELATING TO CHILD CARE.

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

1           SECTION 1. The purpose of this Act is to amend provisions  
2 of chapter 346, Hawaii Revised Statutes, to clarify: (1) the  
3 exemptions from licensure or registration that are allowed and  
4 minimize the number of child care facilities that are operating  
5 in violation of the law; (2) that minimum health and safety  
6 requirements or standards as required by federal law may be  
7 imposed on any of the persons listed in section 346-152, Hawaii  
8 Revised Statutes, that provide child care for a child whose  
9 family receives a child care subsidy from the department; (3)  
10 that the burden of proof is upon the caregiver or facility to  
11 provide the department with verification of meeting a declared  
12 exemption under section 346-152, Hawaii Revised Statutes; (4)  
13 the information that may be investigated by the department to  
14 determine violations of part VIII of chapter 346 occurred or is  
15 occurring; (5) that the department may file a petition for a  
16 search warrant with the district court; and (6) that a search



1 warrant may be issued to the department and the appropriate law  
2 enforcement agency to conduct an investigation.

3 Lastly, Act 276, Session Laws of Hawaii 2019, amended  
4 section 346-152(a) by inserting a new paragraph (4), which \*  
5 resulted in renumbering paragraphs (4) through (12) so that  
6 those paragraphs are now numbered (5) through (13). Years of  
7 administrative correspondence to organizations and individuals  
8 containing the statutory citations to the exemptions are no  
9 longer aligned with the statute. This Act renumbers the  
10 paragraphs so that they appear as they were prior to Act 276,  
11 Session Laws of Hawaii 2019, to ease administration for the  
12 department.

13 SECTION 2. Section 346-152, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§346-152 Exclusions; exemptions. (a) Nothing in this  
16 part shall be construed to include:

17 (1) A person caring for children who is related to [~~the~~  
18 ~~caregiver~~] each child by blood, marriage, or  
19 adoption[+] as:

20 (A) An aunt, uncle, grandparent, great-grandparent,  
21 great-great grandparent, first cousin, niece,



- 1                    nephew, grandniece, grandnephew, great aunt, or
- 2                    great uncle;
- 3                    (B) A stepfather, stepmother, stepbrother, or
- 4                    stepsister; or
- 5                    (C) The spouse of a person named in subparagraph (A)
- 6                    or (B), even though the marriage is terminated by
- 7                    death, separation, or divorce;
- 8                    (2) A person, group of persons, or facility caring for a
- 9                    child less than six hours a week;
- 10                   (3) A kindergarten, school, or child care program licensed
- 11                   or certified by the department of education or the
- 12                   United States Department of Defense and located on
- 13                   federal property~~[7]~~, or a
- 14                   ~~[(4)A]~~ classroom administered by the executive office on
- 15                   early learning pursuant to section 302L-7;
- 16                   ~~[(5)]~~ (4) A program that provides exclusively for a
- 17                   specialized training or skill development for
- 18                   children~~[7]~~ who are eligible pupils in grades
- 19                   kindergarten through twelve in public or private
- 20                   schools, including but not limited to programs
- 21                   providing activities such as athletic sports, foreign



1 language, the Hawaiian language, dance, drama, music,  
2 or martial arts;

3 ~~[(6)]~~ (5) A multiservice organization or community  
4 association, duly incorporated under the laws of the  
5 State, that operates for the purpose of promoting  
6 recreation, health, safety, or social group functions  
7 for eligible pupils in public and private schools  
8 through seventeen years of age;

9 ~~[(7)]~~ (6) Programs for children four years of age and older  
10 that operate for no more than two consecutive calendar  
11 weeks in a three-month period;

12 ~~[(8)]~~ (7) A provider agency operating or managing a  
13 homeless facility or any other program for homeless  
14 persons authorized under part XVII;

15 ~~[(9)]~~ (8) After-school, weekend, and summer recess programs  
16 conducted by the department of education pursuant to  
17 section 302A-408;

18 ~~[(10)]~~ (9) Child care programs conducted by counties  
19 pursuant to section 302A-408; provide that each county  
20 adopts rules for its programs;



1       ~~[(11)]~~ (10) Any person who enters a home in a child caring  
2                   capacity and only cares for children who are of that  
3                   household;

4       ~~[(12)]~~ (11) A person caring for two or fewer children  
5                   unrelated to the caregiver by blood, marriage, or  
6                   adoption~~[+]~~ as described in paragraph (1); and

7       ~~[(13)]~~ (12) A child care program licensed by the Hawaii  
8                   council of private schools. A child care program  
9                   claiming an exemption under this paragraph shall  
10                  submit an application for the exemption on a form  
11                  provided by the department and shall provide to the  
12                  department evidence that the licensing standards of  
13                  the Hawaii council of private schools meet or exceed  
14                  the department's standards for a comparable program,  
15                  including a monitoring component. Upon application of  
16                  a child care program for the exemption under this  
17                  paragraph, the department shall have the discretion to  
18                  determine whether the licensing standards of the  
19                  Hawaii council of private schools meet or exceed the  
20                  department's standards.



1 (b) Staff members of programs taught solely in Hawaiian  
2 that promote fluency in the Hawaiian language shall be exempt  
3 from any rules requiring academic training or certification.

4 (c) Minimum health and safety requirements or standards as  
5 required by federal law may be imposed on any of the groups  
6 listed in this section that provide child care [~~services and are~~  
7 ~~reimbursed with federal funds.~~] for a child whose family  
8 receives a child care subsidy from the department.

9 (d) Any person or child care facility asserting an  
10 exemption under this section shall cooperate with the department  
11 in investigations relating to unlicensed or unregistered child  
12 care[~~],~~ has the burden of proof, and shall provide verification  
13 to the department that the person or child care facility falls  
14 within an exemption."

15 SECTION 3. Section 346-152.3, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[~~+~~] §346-152.3 Investigations. [~~+~~] (a) Upon receiving a  
18 report that a person or child care facility may be caring for  
19 [~~more than two children unrelated to the caregiver by blood,~~  
20 ~~marriage, or adoption, or providing care for a child for more~~  
21 ~~than six hours per week, without a child care license issued by~~



1 ~~the department,~~ children in violation of this part, the  
2 department may conduct an investigation for the [limited]  
3 purpose of determining ~~[the number of children in care who are~~  
4 ~~unrelated to the caregiver by blood, marriage, or adoption, and~~  
5 ~~the number of hours of care provided per week, in accordance~~  
6 ~~with the following provisions:]~~ whether a violation of this part  
7 has occurred or is occurring.

8       ~~[(1)]~~ (b) The department may request access to the  
9 location indicated in the report ~~[, or~~  
10 ~~(2) The]~~, and the department may file a ~~[complaint]~~  
11 petition for a search warrant with the district court in the  
12 circuit where the location is indicated in the report ~~[is, and~~  
13 ~~the]~~. The district court, upon probable cause, may issue a  
14 search warrant, directed to the department and the appropriate  
15 ~~[county police department,~~ law enforcement agency, if  
16 necessary, to conduct an investigation pursuant to this section  
17 ~~[between the hours of sunrise and sunset]."~~

18       SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20       SECTION 5. This Act shall take effect upon its approval.



**Report Title:**  
Child Care

**Description:**

Clarifies the allowable relationships the caregiver must have to be considered related to a child in care; clarifies that a program that provides exclusively for a specialized training or skill development shall be for children who are eligible pupils in grades kindergarten through twelve in public or private schools; clarifies that minimum health and safety requirements or standards as required by federal law may be imposed on any of the groups in section 346-152, Hawaii Revised Statutes, that provide child care for a child whose family receives a child care subsidy from the department; clarifies that the burden of proof is upon the caregiver or facility to provide verification of meeting a declared exemption under section 346-152, Hawaii Revised Statutes; clarifies that the information that may be investigated by the department to determine violations of part VIII of chapter 346, Hawaii Revised Statutes, occurred or is occurring; clarifies that the department may file a petition for a search warrant with the district court; clarifies that a search warrant may be issued to the department and the appropriate law enforcement agency to conduct an investigation; and renumbers the exemptions to appear as they were prior to Act 276, Session Laws of Hawaii 2019. (SD1)

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

