A BILL FOR AN ACT

RELATING TO CHILD CARE.

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

SECTION 1. The purpose of this Act is to clarify certain requirements regarding licensure of child care facilities, including exemptions from licensure, health and safety standards, and investigations of violations.

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

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

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

(A) An aunt, uncle, grandparent, great-grandparent, great-great grandparent, first cousin, niece, nephew, grandniece, grandnephew, great aunt, or great uncle;

(B) A stepfather, stepmother, stepbrother, or stepsister; or
(C) The spouse of a person named in subparagraph (A) or (B), even though the marriage is terminated by death, separation, or divorce;

(2) A person, group of persons, or facility caring for a child less than six hours a week;

(3) A kindergarten, school, or child care program licensed or certified by the department of education or the United States Department of Defense and located on federal property, or a classroom administered by the executive office on early learning pursuant to section 302L-7;

(4) A program that provides exclusively for a specialized training or skill development for children who are eligible pupils in grades kindergarten through twelve in public or private schools, including but not limited to programs providing activities such as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;

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

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

(7) A provider agency operating or managing a
homeless facility or any other program for homeless
persons authorized under part XVII;

(8) After-school, weekend, and summer recess programs
conducted by the department of education pursuant to
section 302A-408;

(9) Child care programs conducted by counties
pursuant to section 302A-408; provide that each county
adopts rules for its programs;

(10) Any person who enters a home in a child caring
capacity and only cares for children who are of that
household;
(11) A person caring for two or fewer children unrelated to the caregiver by blood, marriage, or adoption, as described in paragraph (1); and

(12) A child care program licensed by the Hawaii council of private schools. A child care program claiming an exemption under this paragraph shall submit an application for the exemption on a form provided by the department and shall provide to the department evidence that the licensing standards of the Hawaii council of private schools meet or exceed the department's standards for a comparable program, including a monitoring component. Upon application of a child care program for the exemption under this paragraph, the department shall have the discretion to determine whether the licensing standards of the Hawaii council of private schools meet or exceed the department's standards.

(b) Staff members of programs taught solely in Hawaiian that promote fluency in the Hawaiian language shall be exempt from any rules requiring academic training or certification.
(c) Minimum health and safety requirements or standards as required by federal law may be imposed on any of the groups listed in this section that provide child care [services and are reimbursed with federal funds] for a child whose family receives a child care subsidy from the department.

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

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

"[+]§346-152.3 Investigations.[+] (a) Upon receiving a report that a person or child care facility may be caring for [more than two children unrelated to the caretaker by blood, marriage, or adoption, or providing care for a child for more than six hours per week, without a child care license issued by the department,] children in violation of this part, the department may conduct an investigation for the [limited] purpose of determining [the number of children in care who are]
unrelated to the caregiver by blood, marriage, or adoption, and
the number of hours of care provided per week, in accordance
with the following provisions.] whether a violation of this part
has occurred or is occurring.

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

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

SECTION 5. This Act shall take effect on December 31,
2059.
Report Title:
Child Care; Child Care Facilities; Licensure Exemptions; Violations

Description:
Clarifies certain requirements regarding licensure of child care facilities, including exemptions from licensure, health and safety standards, and investigations of violations. Effective 12/31/2059. (HD1)

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