



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 26, 2018

TO: The Honorable Senator Brain T. Taniguchi, Chair  
Senate Committee on Judiciary

The Honorable Senator Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2528 HD1– RELATING TO HUMAN SERVICES**

Hearing: Thursday, March 29, 2018, 10:30 a.m.  
Conference Room 211, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) is in strong support of HB2528 HD1 as it is consistent with the administration's proposed HB2365. DHS requests the measure be further amended by effectuating the effective date to "effective upon approval."

**PURPOSE:** The purposes of this bill are to:

1. Improve the safety of children in regulated child care settings, by amending section 346-152.5(a), Hawaii Revised Statutes (HRS), to require adult relatives who provide care for a child whose family receives a child care subsidy from the department to complete a criminal history record check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154, HRS;
2. Amends section 346-153, HRS, to clarify: (a) when information regarding investigations may be withheld by the department, (b) that information about an investigation of a complaint may be withheld by the department for not

more than ten working days from the date the investigation report is completed, and (c) that 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. Further, the bill allows the child care licensing program to share information and cooperate with investigations conducted by child protective services and law enforcement; and

3. Amends section 346-156, HRS, to clarify that the department may take both administrative and judicial action to enforce child care licensing provisions of chapter 346. It increases fines that may be imposed by making the amounts imposed daily, and sets a higher limit for violations of providing child care without a license or registration as required by sections 346-161 and 346-171, HRS. It also provides flexibility for the department to enforce regulations using administrative orders.

The House Committee on Health and Human Services amended the measure, per Standing Committee Report Number 648-18, by:

- “(1) Requiring grandparents, great grandparents, aunts, uncles, and siblings aged eighteen or older living in a separate residence to be required to undergo a criminal history record check, a sex offender registry check, a child abuse record check, and an adult abuse perpetrator check in order to provide child care for a child whose family receives a child care subsidy from the Department of Human Services;
- (2) Clarifying that the Department of Human Services' licensing program is not prohibited from sharing information and cooperating with Child Protective Services and law enforcement on investigations;
- (3) Allowing the Department of Human Services to withhold information about an investigation for not more than ten working days after the investigation report is completed;
- (4) Clarifying that penalties may apply to entities, agencies, or organizations violating provisions of the part;

- (5) Changing the fine structure from escalating fines to cumulative daily fines for violations;
- (6) Removing the criminal penalty of a class C felony for intentional, knowing, or reckless violations;
- (7) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (8) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.”

The Senate Committees on Human Services and Public Safety, Intergovernmental, and Military Affairs passed the measure unamended. See Standing Committee Report Number 3125.

The proposed amendment of section 346-152.5(a), HRS, improves safety provisions of children in legally exempt child care settings, by requiring adult relatives of a child whose family receives a child care subsidy from the department to complete a criminal history record check in the same manner as a prospective applicant or licensed provider in accordance with section 346-154, HRS, and includes fingerprint-based national and state criminal records checks.

DHS conducts comprehensive background checks including state and federal fingerprint checks, state and national sex offender registry checks, child abuse and neglect registry check, and adult abuse perpetrator checks. DHS reviews a person’s background checks to determine whether the person is suitable to provide care at a licensed or registered child care facility or home as well as legally exempt providers and household members caring for a child whose family receives a child care subsidy from DHS.

The Hawaii Criminal Justice Data Center at the Department of Attorney General and the Federal Bureau of Investigation require fingerprint samples in order to release arrest record information to the department.

The proposed amendments to section 346-153, HRS, clarify that the department may withhold information from the public about an investigation for not more than ten working days from the date the investigation report is completed and until such time as it has been determined that related legal proceedings will not be compromised with the

release of information. The department's Child Care Licensing program will continue to share relevant information with Child Welfare Services (CWS) and law enforcement agencies when the Child Care Licensing program is investigating a complaint or report of injury to a child in a regulated child care setting.

The proposed amendments to section 346-156, HRS, will provide more tools to the department to enforce violations quickly and with increased penalties to more effectively stop, deter, and prevent a person from engaging in illegal child care. This bill will authorize the department to take administrative action against a person who violates part VIII of chapter 346, in addition to initiating civil actions in court. Currently, the department must pursue any fine penalties against a person engaging in illegal child care in Circuit Court which has a higher burden of proof than an administrative hearing.

Furthermore, this bill changes the penalty structure so that a fine may be imposed for each day of a violation, and makes the fine higher for a person, entity, or organization who operates a child care facility without a license or registration in violation of section 346-161 or 346-171, HRS. The department would assess the severity of the violation and intent to knowingly continue to operate child care illegally to determine the amount of the fine that would be pursued.

The amendments to section 346-156, HRS, may increase the need for resources for the department's Administrative Appeals Office and the Department of the Attorney General to conduct administrative hearings and prosecute violations in court.

Lastly, regarding Section 6, please effectuate the date to read "effective upon approval."

Thank you for the opportunity to testify on this measure.

## HOUSE COMMITTEE ON JUDICIARY

Senator Brian T. Taniguchi, Chair  
Senator Karl Rhoads, Vice Chair

## HOUSE COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

### NOTICE OF HEARING

Thursday, March 29, 2018, 10:30 AM  
Conference Room 211, Hawai'i State Capitol

### TESTIMONY IN SUPPORT OF HB2528 HD1

Relating to Human Services

#### TESTIFIER:

Saige Y. Manatad Kamano, Graduate Student  
University of Hawai'i at Mānoa, Myron B. Thompson School of Social Work

Honorable Chairs Taniguchi and Dela Cruz, Vice Chairs Rhoads and Keith-Agaran and members of the Committees. I, Saige Manatad Kamano, *support* bill HB2528 HD1.

The purpose of this Act is to (1) improve the safety of children in Hawai'i's regulated and legally exempt child care settings by requiring criminal history 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 the department of human services may take both administrative and judicial action to enforce child care licensing provisions of chapter 346, Hawai'i Revised Statutes, and increase penalties by making them apply on a daily basis; (3) Explain when investigation information will be released to the public; and (4) 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 will share information it receives with, and cooperate with, child welfare services and law enforcement.

Caring for our keiki is the utmost importance in regards to their well-being, safety and quality of care. Ensuring that the professionals within the classroom or administering the care is qualified and clear of any criminal history, sex offender, child abuse, and/or adult abuse perpetrator is crucial in creating secure environments. Early childhood care is essential for proper mental, social and physical development. Therefore, allowing the child to thrive in their environment and feel safe with their caregivers offers children greater opportunities to learn and grow.

The proposed amendments in HB2528 HD1 are the necessary steps that are required to keep our keiki safe and provide piece of mind for the families. As a former employee within an early childhood development program, I have witnessed first hand the importance of having a safe space for children to thrive. Employing individuals who have the proper credentials and clear history of background checks provides children the nurturing and critical development care that is imperative for their growth.

Mahalo for the opportunity,

Saige Y. Manatad Kamano

## **HOUSE COMMITTEE ON JUDICIARY**

Senator Brian T. Taniguchi, Chair  
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Thursday, March 29, 2018, 10:30 AM  
Conference Room 211, Hawai'i State Capitol

### **TESTIMONY IN SUPPORT OF HB 2528 HD1**

Relating to Human Services

#### **TESTIFIER:**

Lexus Lapinad, Graduate Student  
University of Hawai'i at Mānoa, Myron B. Thompson School of Social Work

Honorable Chairs Taniguchi and Dela Cruz, Vice Chairs Rhoads and Keith-Agaran and members of the Committees.

Thank you for the opportunity to submit testimony in **support** of HB 2528. My name is Lexus Lapinad and I am a graduate student in the social work program at the University of Hawaii at Manoa. I have been working with children for about 3 years, and am aware of the importance of children feeling safe in their environment to thrive.

The purpose of this Act is to (1) improve the safety of children in Hawai'i's regulated and legally exempt child care settings by requiring criminal history 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 the department of human services may take both administrative and judicial action to enforce child care licensing provisions of chapter 346, Hawai'i Revised Statutes, and increase penalties by making them apply on a daily basis; (3) Explain when investigation information will be released to the public; and (4) 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 will share information it receives with, and cooperate with, child welfare services and law enforcement.

Caring for our keiki is the utmost importance in regards to their well-being, safety and quality of care. Ensuring that the professionals within the classroom or those who are administering the care of children are qualified and clear of any criminal history, sex offender, child abuse, and/or adult abuse perpetrator is crucial in creating secure and safe environments.

Early childhood care is essential for proper mental, social and physical development. Therefore, allowing the child to thrive in their environment and feel and be safe with their caregivers offers children greater opportunities to learn and grow.

I feel the proposed amendments within HB 2528 HD1 are the necessary steps that are required to keep our keiki safe. These amendments will also provide piece of mind for the families involved. As a current intern working within the Department of Education, I have the opportunity to witness first hand the importance of having a safe space for children to thrive and grow. Employing individuals who have the proper credentials and clear history of background checks provides children the nurturing and critical development care that is imperative for their growth. **Therefore, I strongly support the passing of HB 2528 HD1.**

Mahalo,

Lexus Lapinad