



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

February 5, 2018

TO: The Honorable Representative John M. Mizuno, Chair  
House Committee on Health & Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2528 Proposed HD 1– RELATING TO HUMAN SERVICES**

Hearing: Tuesday, February 6, 2018, 8:30 a.m.  
Conference Room 329, State Capitol

**DEPARTMENT’S POSITION:** The Department of Human Services (DHS) is in strong support of HB2528 Proposed HD1 as it is consistent with the administration’s proposed HB2365.

**PURPOSE:** The purposes of the HB2528 Proposed HD1 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 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.

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.

Thank you for the opportunity to testify on this measure.

**HB-2528**

Submitted on: 2/4/2018 10:16:24 PM

Testimony for HHS on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
DELORSE RAPOZA	FAMILY CHILDCARE PROVIDER	Oppose	No

Comments:

I am opposed to this bill. It does not favor family childcare providers but treats them as potential criminals with fines and criminal liabilities.

I have been a licensed childcare provider in the State of Hawaii for almost 30 years and this bill is making me consider retirement soon because I don't want to be subjected to criminal penalties.

I work long hours Monday through Friday and I am unable to testify in person because there is no one else available to care for the daycare children for me. If I could testify on a Saturday or Sunday then I would be there.

**LATE**

**HB-2528**

Submitted on: 2/5/2018 4:48:28 PM

Testimony for HHS on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Tschann		Comments	No

Comments:

As a working mother who relies on and finds **great** value in a family-based childcare provider, I would like to share my comments on HB2528. While the two cases for which the bill is named are unbearably sad and reflect gross negligence, many professional family-based care providers take their responsibility with the children in their care as a great honor and work their hardest to meet the many (and increasing) requirements placed on their work.

While the intention of regulations in these settings is usually meant to support the healthy, happy and safe growth of our keiki, I worry that passage of a high-profile, emotionally laden bill such as this may encourage frivolous and unfounded claims against otherwise competent providers. Interpersonal disputes, disagreements in childcare philosophies or similar such friction between childcare providers and parents, grandparents, or extended ohana should not result in criminal investigation.

I urge the legislature to consider issuing strong and clear guidance for the agencies tasked with enforcing this law with regard to ferreting out issues of negligence vs. issues of disagreement. We need our family-based childcare providers to continue to offer their exceptionally important care, and bills like this may discourage them from continuing to watch our keiki or from new providers embarking on this work. We owe the dedicated and safe providers in our community some protection when we're simultaneously attempting to identify providers who should no longer be entrusted with our keiki. Competent providers should not be collateral damage in the pursuit of making childcare safer.

Our childcare provider is an extension of our family. Her investment in my child's health and wellbeing is evident in all of our interactions, and I know she is not alone in holding herself to exceptionally high standards. I want her and her peers to be protected from reputation- and livelihood-destroying allegations if this bill is to become law.

Thank you,

Mary Tschann PhD MPH



**LATE**

**HB-2528**

Submitted on: 2/5/2018 9:23:34 PM

Testimony for HHS on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pualani Ramos	The Green Preschool in Kailua	Oppose	Yes

Comments:

From: Pualani Ramos

Member of The Alliance of Concerned Parents and Daycare Providers

pualani96734@gmail.com

808-262-352

Dear Representative Mizuno,

Thank you for all you do for our community and for hearing this testimony.

I am very much against HB 2528. I understand that the state has concerns around the safety of children in daycare. But I do not think slapping heavy fines and turning licensers into police officers is a good solution.

A better solution would be to change the licensing rules to become more inclusive, so that providers would be encouraged to be registered and licensed with the state. Professional rules regarding ratio of children to adults should be in place and appropriate training for people working with children in the home should also be mandatory.

As long as the state treats daycare providers as a "family run business", there will be problems that endanger the safety of our keiki.

Improvements must go beyond punitive and instead create professionalism.

HB 1679 is based on the licensing rules for home daycare in the state of Oregon. Many preschools in the state of Oregon are home based and are run by professional preschool teachers.

HB 1679 would allow providers to increase their numbers of children cared for from 6 a day to 10 a day, and from 12 a day to 16 a day, with appropriate child to adult ratios. This would encourage providers to participate as licensed providers and not go "rouge". Hiring appropriately trained people WHO ARE NOT RELATIVES of the daycare provider, would also encourage professionalism and do away with the kind of nepotism that plagued the much publicized child abuse case last year.

Increasing the number of children allowed per day also allows for a decent return on the daycare provider's efforts and allows for enough income to hire assistants, should the provider choose to increase their numbers of children allowed under HB 1679.

Right now, preschools are allowed to be exempt from property tax. Home daycare is another opportunity for children to learn, if properly incentivized and therefore why not allow the daycare provider to claim this same tax incentive for the portion of the property that is used for the care of the children?

Lastly, there are some 600 home daycare providers throughout the state. Some provide care for 6 children a day, but some care for smaller numbers of children per day. It can be a burden for the provider under such circumstances to be required to carry liability insurance for their daycare. Interestingly, at this time, there is no insurance offered in the state of Hawaii that will cover a home daycare, even as a rider on a home owner's policy. Those who have insurance get it from an insurance company in Minnesota.



Making insurance optional is a great support to daycare providers. If providers are licensed, their facility will be a safe environment. That's why it is important to create incentives for providers to be licensed.

We need to support daycare providers. Listen to their ideas. Don't let the rotten apples spoil the whole lot. Yes, there are some people who have been negligent, but the vast majority of daycare providers are hard working people who love children and want the best for them.

Not everyone can afford to sent their keiki to a large daycare or preschool and not all children thrive in such an environment. For many young children, a friendly home environment is the best first experience for education outside of their own home.

Sadly, despite the good intensions, HB 2528 will not improve the difficulties facing home daycare because it does not address the root problem:

The present licensing rules are out dated and are not inclusive. The punitive approach will only drive the good people out of business and force others to go "underground".

Please support HB 1679 and rescind HB 2528. Our keiki will thank you for it. And as a "licensed daycare provider", I will be very grateful.

Mahalo for your time,

Pualani Ramos

**LATE**

**HB-2528**

Submitted on: 2/5/2018 10:49:34 PM  
Testimony for HHS on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Wawrzenski		Oppose	No

Comments:

Representative Mizuno

Feb 5, 2018

From: Dr Heather Wawrzenski, Member of The Alliance of Concerned Parents and Daycare Providers.

I am against HB 2528. We both agree that there are concerns about the safety of our children in daycare. I do not agree that increasing fines and arresting daycare providers is the answer. Daycare providers should be encouraged to be registered and licensed with the state and anyone working with the children in the home should be required to be appropriately trained. The system itself needs to be improved to promote professionalism. HB 1679 addresses some of the issues the system faces while supporting daycare providers. The daycare providers I have dealt with are very hard working people who love children and want the best for them. We need to encourage more people like them to become professional daycare providers. Our children will thank you.

As a parent who sends my children to a "licensed daycare provider" I will be very grateful if you support on HB 1679 and rescind HB 2528.

Thank you for your time,

Dr Heather Wawrzenski

**LATE**

**HB-2528**

Submitted on: 2/6/2018 5:53:51 AM

Testimony for HHS on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shelah Woodruff	Alliance of Concerned Parents and Daycare Provider	Oppose	No

Comments:

From:

Shelah Woodruff

Member of The Alliance of Concerned Parents and Daycare Providers

Thank you for all you do for our community and for hearing this testimony.

I am very much against HB 2528. While I understand that the state has concerns around the safety of children in daycare, I do not believe heavy fines are the solution to a better childcare system.

A better solution would be to change the licensing rules to become more inclusive, so that providers would be encouraged to be registered and licensed with the state. Professional rules regarding ratio of children to adults should be in place and appropriate training for people working with children in the home should also be mandatory.

Improvements must go beyond punitive and instead create professionalism.

HB 1679 is based on the licensing rules for home daycare in the state of Oregon. Many preschools in the state of Oregon are home based and are run by professional preschool teachers.

HB 1679 would allow providers to increase their numbers of children cared for from 6 a day to 10 a day, and from 12 a day to 16 a day, with appropriate child to adult ratios. This would encourage providers to participate as licensed providers and not go "rouge". Hiring appropriately trained people who are not of the daycare provider, would also encourage professionalism and do away with the kind of nepotism that plagued the much publicized child abuse case last year.

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Lastly, there are some 600 home daycare providers throughout the state. Some provide care for 6 children a day, but some care for smaller numbers of children per day. It can be a burden for the provider under such circumstances to be required to carry liability insurance for their daycare. Interestingly, at this time, there is no insurance offered in the state of Hawaii that will cover a home daycare, even as a rider on a home owner's policy. Those who have insurance get it from an insurance company in Minnesota.

Making insurance optional is a great support to daycare providers. If providers are licensed, their facility will be a safe environment. That's why it is important to create incentives for providers to be licensed.

We need to support daycare providers. Listen to their ideas. Don't let the rotten apples spoil the whole lot. Yes, there are some people who have been negligent, but the vast majority of daycare providers are hard working people who love children and want the best for them.

Not everyone can afford to send their keiki to a large daycare or preschool and not all children thrive in such an environment. For many young children, a friendly home environment is the best first experience for education outside of their own home.

Sadly, despite the good intentions, HB 2528 will not improve the difficulties facing home daycare because it does not address the root problem:

The present licensing rules are out dated and are not inclusive. The punitive approach will only drive the good people out of business and force others to go “underground”.

Please support HB 1679 and rescind HB 2528. Our keiki will thank you for it. And as a parent who sends her children to a home run preschool, so will I.

Mahalo for your time!

**LATE**

**HB-2528**

Submitted on: 2/6/2018 2:29:20 AM

Testimony for HHS on 2/6/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melba Amaral		Oppose	Yes

Comments:

Melba Amaral, Lic. Childcare Provider, 15 Years.

808-294-9634

Thank you chair and representatives for allowing me the few minutes that I have been allotted to and to the two families who have suffered, I am truly sorry for your pain and loss.

Childcare is not a hobby for me. I made this choice to do Family Childcare as a career. It has become my livelihood and passing this bill will greatly affect it. I have a passion for what I am doing & the commitment to keep on doing it & passing this bill into law will greatly hinder it.

In the last 15 yrs as a licensed childcare professional, I have impacted the many lives of children & their parents. We have developed bonds outside of the daycare that will last a lifetime. I have become their extended family. There are countless families & children in our state who need someone like me. Why would you limit the experiences of the "future of this world", the keikis in our care? Passing this bill would. I am not alone in holding myself to exceptionally high standards, when caring for our keikies. My commitment to my profession is long term. However, can I stay motivated & continue as a provider? I'm finding it difficult to, because of bills like this. I'm a business owner that has tough decisions to make & tough issues with parents to face, because of bills like this. I am not a babysitter or a criminal, but this bill defines me as one. This bill is also saying, a child may have a fall Sunday night & be dropped off to daycare Monday morning & the parent fails to inform me of the fall. The child starts showing signs of a head injury while they are under my care, therefore, I would be negligent. A child is bitten by their playmate, I would be negligent, because I failed to prevent it. A child who has been given a dose of ibuprofen by parent before drop off, because they need to go to work, so there is no fever present, medication eventually wears off, after several hours & has a febrile seizure while under my care, I would be negligent. This bill may encourage frivolous and unwanted claims. By passing this bill, I would anticipate my liability insurance to go up, that's Act 161, past last year, which has now have unintended consequences. Already, I have placed safe guards in my daycare, by using daily journals to document. This bill will change that. Basically, the daycare will be like a car rental where I would have to check for dents, scratches, and

damages on the child at drop off & pick up & have parents sign it before thy sign in & out of my daycare. I would need to place more cameras in every corner of every room. And that, would probably not be enough to cover may ass against frivolous accusations. This bill will allow that. I have begun to look at my current enrollemnet to pick out the parent & child that would be a potential liability to me since I have been made aware of this bill. Burn out is common in my field of work. The constant demands by children, conflicts with parents & working alone & meeting the many & increasing requirements placed on our work begins to wear you down overtime, passing this bill, will be our breaking point. I need help. We all need help. I need to be able to have bathroom time without the fear of being accused of negligence. This bill will do that. The National Association of Family Childcare Providers standards allows me to have 5 minutes of bathroom time, so I pee in a cup. Im tired of becoming methodic about my basic needs. So, if the intention of regulations in our daycare, is to support the healthy happy & safe growth of our keikies, then we need to be able to have an aide, not a family member. The current law, which does not meet the current demands of childcare, needs to be changed. Not bills like this. This is a high profile & emotionally laden bill, that is against competant providers like myself. Its anti-provider. To pass this bill will not benefit us, it will only appease the families of the two children, that this bill is named after & another accomplishment to add to your list as lawmakers. Also, to pass this bill will likely discourage future & current providers who are passionate, to continue, hence impacting our work force & economy which is already in jeopardy. And finally, we cannot be the collateral damage, in your pursuit to make children safer. We providers, deserve respect & some protection too. Thank you.