

AN ACT

To amend Title 21 of the Palau National Code to authorize the Palau National Framework on Early Childhood Council to regulate child care centers; to incentivize senior citizen participation in child care centers; and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

1 Section 1. Legislative Findings. The Olbiil Era Kelulau finds that there is a
 2 need to regulate child care centers operating in the Republic of Palau. All child care
 3 centers in the Republic of Palau should meet standardized requirements in order to
 4 offer safe and healthy services for children in Palau. This bill will create a legal
 5 framework for regulating child care centers and authorize the Palau National
 6 Framework on Early Childhood Council to create regulations and oversee child care
 7 centers in Palau.

8 The Olbiil Era Kelulau further finds that there is inherent value in employing
 9 senior citizens as caregivers at childcare centers in the Republic. Proper rearing of
 10 children is of utmost importance. Retired senior citizens employed as caregivers can
 11 pass on to the younger generation treasured knowledge and wisdom that they possess.
 12 Through this effort, greater emphasis can be placed on nurturing and educating
 13 children about their heritage, culture, and values. Additionally, the seniors employed
 14 as caregivers will remain active and engaged, thereby stimulating their bodies and
 15 minds.

16 Section 2 Amendment. Title 21 “Domestic Relations” is hereby amended to add
 17 a Chapter 9, as follows:

“Chapter 9

Child Care Center

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17 **Subchapter I – General Provisions**

18 § 901. Short Title.

19 This act shall be known as the “Child Care Center Act of 2018”.

20 § 902. Definitions.

21 In this Chapter:

22 (a) "Applicant" means any adult, general partner(s) of a partnership,
23 corporation, public agency or other governmental entity that has applied for a child
24 care center license.

25 (b) "Capacity" means the maximum number of children authorized to be
26 provided care and supervision at any one time in any licensed child care center.

27 (c) “Child” or “children” means a person under 5 years of age who is being
28 provided care and supervision in a child care center, except where specified otherwise.

29 “Child” includes infants (child from 0 to 12 months), toddlers (child from 12 to 36

1 months of age), and preschoolers (child from 36 months to enrollment in kindergarten
2 at 5 years of age).

3 (d) "Child Care Center" or "Center" means any child care facility licensed
4 under this Chapter, in which less than twenty four (24) hour per day nonmedical care
5 and supervision are provided to child in a group setting.

6 (e) "License" means a written authorization by the Palau National Framework
7 on Early Childhood Council to operate a child care center and to provide care and
8 supervision.

9 (f) "Council" means the Palau National Framework on Early Childhood
10 Council.

11 (g) "License holder" means the adult, general partner(s) of a partnership,
12 controlling partners in a limited liability corporation, public agency or other
13 governmental entity having the authority and responsibility to operate a licensed child
14 care center.

15 (h) "Minister" means the Minister of Health.

16 (i) "Ministry" means the Ministry of Health.

17 (j) "Non-ambulatory person" means a person unable to leave a building
18 unassisted under emergency conditions. It includes any person who is unable, or likely
19 to be unable, to physically and mentally respond to a sensory signal approved by the
20 fire department, or an oral instruction relating to fire danger, and persons who depend
21 upon mechanical aids such as crutches, walkers, and wheelchairs.

22 § 903. Palau National Framework on Early Childhood Council established as
23 regulator.

24 (a) The Palau National Framework on Early Childhood Council is hereby
25 established as the regulatory authority for child care centers in the Republic. The
26 Council shall coordinate with the Ministry of Health and other relevant national and
27 state agencies to carry out the duties and responsibilities delegated under this Chapter.

28 (b) The Council shall have the following duties and responsibilities:

29 (1) to promulgate regulations to effectuate the requirements of this
30 Chapter;

1 (2) to create a licensing procedure through standardized application
2 forms and accompanying documentation requirements in order to make a
3 thorough and complete evaluation of the fitness of the applicant, including the
4 suitability of the physical location of the applicant's proposed child care center;

5 (3) to license child care centers in the Republic;

6 (4) to monitor child care centers and ensure compliance with the
7 requirements of this Chapter and all relevant regulations;

8 (5) to hire all necessary personnel, including if necessary a Child
9 Development Specialist, to effectuate the purposes of this Chapter; and

10 (6) to coordinate with the Palau Community Action Agency and the
11 Ministry to enforce the provisions of this Chapter.

12 Subchapter II - Continuing Requirements for Child Care Center.

13 § 911. Personnel-to-child ratio.

14 (a) License holders shall maintain at least the minimum personnel-to-child
15 ratios as established in regulations promulgated by the Council. The Council shall
16 create separate categories for personnel-to-child ratios in the care of infants, toddlers,
17 and preschoolers.

18 (b) Compliance with the ratios shall be determined based on actual attendance.

19 (c) Whenever a group of children of a regulated age category are co-mingled
20 with a group of children of an unregulated age category five (5) years of age and
21 above), the ratios for the entire group must meet the ratios required for the regulated
22 age group. Whenever a group of children from one regulated category are mingled
23 with a group from another regulated category, the ratio of the youngest regulated
24 category shall be the required personnel-to-child ratio.

25 (d) The licensee may include the center director in the personnel-to-child ratio
26 when the director is actually engaged in supervising a group of children.

27 (e) Each licensee shall maintain an up-to-date list of personnel substitutes.
28 Substitutes on this list shall be called immediately in case of emergency or illness to
29 meet the personnel-to-child ratios required by this section.

30 (f) During nap periods the personnel-to-child ratio shall apply.

1 (g) An employee may not be required to perform housekeeping or maintenance
2 duties that prevent the employee from performing duties related to providing care and
3 supervision to children.

4 (h) Persons employed for clerical, housekeeping and maintenance functions
5 shall not be included as personnel in the personnel-to-child ratio.

6 (i) During field trips the personnel-to-child ratio shall apply.

7 (j) Only expressly authorized persons are allowed to enter in the center and
8 collect children.

9 § 912. Administration of Act; authority to regulate child care centers.

10 (a) The Council is responsible for administering this Act and shall implement all
11 regulations necessary to carry out its responsibilities under this Act. Such regulations
12 shall be promulgated in compliance with the Administrative Procedures Act and shall
13 address, but are not limited to:

14 (1) Training and qualifications of child care center employees;

15 (2) Capacity of child care centers;

16 (3) Child records;

17 (4) Conditions of child care center facilities, equipment, and grounds;

18 (5) Health and Safety measures and policies, including access to national
19 or state health services such as Oral and Behavioral Health Programs;

20 (6) Care, learning, and play;

21 (7) Child protection;

22 (8) Nutrition and food safety;

23 (9) Equal Opportunities and children with special needs;

24 (10) License application procedures, standardized forms, and
25 accompanying documentation requirements; and

26 (11) Trainings for caretakers and parents regarding early childhood
27 development, child health, and child safety.

28 (b) The Family Health Unit, within the Ministry of Health, shall accommodate
29 the work of the Council. The Family Health Unit shall provide office space and share
30 resources as necessary to facilitate the work of the Council.

1 **§ 913. Tobacco, betelnut and alcohol prohibition.**

2 Smoking tobacco, chewing betelnut and drinking alcohol on the premises of a
3 licensed day care center is prohibited.

4 **§ 914. Child Health.**

5 (a) As provided in the 34 PNC Chapter 6, Section 603, a certificate of
6 immunization against communicable diseases as specified by the Bureau of Public
7 Health is required for admission to and attendance at a center.

8 (b) The license holder shall ensure that a separate, complete and current record
9 for each child is maintained in the child care center.

10 (c) All information and records obtained from child care centers regarding
11 particular children shall be confidential.

12 **§ 915. Food and drink.**

13 (a) All child care centers shall be required to provide children under their care
14 and supervision with healthy and nutritious meals, snacks, and beverages as
15 determined by regulations promulgated by the Council.

16 (b) The Council shall perform random inspections of centers' kitchenettes.

17 **Subchapter III – Licensing.**

18 **§ 921. Application for license.**

19 Any adult, partnership, corporation, public agency or other governmental
20 entity wishing to obtain a license to operate a child care center shall fill out and file
21 with the Council an application, as well as any accompanying documentation required
22 by the Council by regulation.

23 **§ 922. License required.**

24 (a) Unless a child care arrangement is exempt from licensure as specified in
25 Section 923 below, no adult, firm, general partners of a partnership, corporation, state,
26 public agency or other governmental entity shall operate, establish, manage, conduct,
27 or maintain a child day care facility in the Republic of Palau without a valid license
28 from the Council.

29 (b) If a center is operating without a license, the Council shall inform the
30 Ministry. The Ministry is authorized to issue a Notice of Operation in Violation of

1 Law and a civil penalty for all cases in which it finds a violation of the licensing
2 requirements of this Chapter.

3 (c) A person who violates this section is liable for a civil fine in the amount of
4 two hundred dollars (\$200) per day.

5 (d) The penalty specified in subsection (c) shall be imposed if the operator of an
6 unlicensed facility refuses to seek licensure or the operator seeks licensure and is
7 denied but continues to operate.

8 § 923. Exemption from licensure.

9 (a) The licensure requirements contained in this subchapter shall not apply to
10 any of the following:

11 (1) Any family day care home providing care for the children of only one
12 family in addition to the operator's own child.

13 (2) Any cooperative arrangement between parents for the care of their
14 children where no payment is involved and the arrangement meets one or more
15 of the following conditions:

16 (A) Parents shall combine their efforts so that each parent, or set
17 of parents, rotates as the responsible caregiver with respect to all the
18 children in the cooperative.

19 (B) Any person caring for children shall be a parent, legal
20 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at
21 least one of the children in the cooperative.

22 (C) There can be no payment of money or receipt of in-kind
23 income in exchange for the provision of care. This does not prohibit in-
24 kind contributions of snacks, games, toys, blankets for napping, pillows,
25 and other materials which parents deem appropriate for their child. It is
26 not the intent of this paragraph to prohibit payment for outside
27 activities, in the amount that may not exceed the actual cost of the
28 activity.

29 (D) No more than six (6) children may receive care in the same
30 place at the same time.

1 (3) Any arrangement for the receiving and care of a child by a relative.

2 (4) Any child day care program that operates only one day per week for
3 no more than four hours on that one day.

4 § 924. Limitation on capacity.

5 A licensee shall not operate a child care center beyond the conditions and
6 limitations specified on the license, including the capacity limitation.

7 § 925. Advertisements and license number.

8 (a) The license shall be posted in a prominent, publicly accessible location in the
9 center.

10 (b) No person or legal entity shall advertise or represent itself as a licensed child
11 care center without first obtaining a current valid license from the Council. Each
12 center licensed shall reveal its license number in all advertisements, publications, or
13 announcements made with the intent to attract clients.

14 § 926. Inspection.

15 (a) Any duly authorized officer, employee, or agent of the Council may, upon
16 presentation of proper identification, enter and inspect any place providing personal
17 care, supervision, and services at any time, with or without advance notice, to insure
18 compliance with, or to prevent a violation of, this Chapter and the regulations adopted
19 by the Council pursuant to the Chapter.

20 (b) The Council shall notify the child care center in writing of all deficiencies in
21 its compliance with this chapter and the rules and regulations adopted pursuant to this
22 chapter, and shall set a reasonable length of time for compliance by the child care
23 center. Upon a finding of noncompliance, the Council shall inform the Ministry of
24 Health. The Ministry of Health may levy a civil penalty. The Council shall establish a
25 fee schedule for civil penalties through regulation.

26 (d) The civil penalty may be in addition to the penalties of suspension or
27 revocation.

28 (e) Unless specified elsewhere in this Act, the amount of the civil penalty may
29 not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for
30 each violation of this Chapter except where (1) the nature of the violation, (2) the

1 seriousness of the violation, (3) the frequency of the violation, or (4) any combination of
2 these factors warrants a higher penalty or an immediate civil penalty assessment or
3 both. In no event shall a civil penalty assessment exceed one hundred fifty dollars
4 (\$150) per day.

5 § 927. Renewal of license; nontransferability.

6 (a) Child care centers must renew their licenses on a yearly basis. The Council
7 shall set standards for licensure renewal.

8 (b) Licenses are nontransferable.”

9 Section 3. Regulations and Budget Request.

10 (a) The Council shall issue regulations within one (1) year of this Act becoming
11 law.

12 (b) Within ninety days of the effective date of this Act, the Council shall submit
13 a budget request to the President of the Republic and the presiding officers of the
14 Olbiil Era Kelulau. The budget request shall specify the annual amount of funding
15 necessary to accomplish the purposes of this Act and shall itemize its expenses.

16 Section 4. Grandfather Clause.

17 Child care centers already in operation at the time this Act goes into effect will
18 not be subject to the requirements of this Act for six (6) months after it becomes law in
19 order to have time to comply with its provisions.

20 Section 5. Amendment. Section 705 of Title 21 of the Palau National Code is
21 hereby amended as follows:

22 “§ 705. Powers, duties and functions of the Palau National Framework on
23 Early Childhood Council.

24 The Palau National Framework on Early Childhood Council shall have the
25 following powers, duties and functions:

26 (1) establish the basic guidelines and procedures for the implementation of
27 Palau National Framework on Early Childhood;

28 ...

29 (3) implement the requirements of Chapter 9 of Title 21 of the Palau National
30 Code and conduct a periodic survey and evaluation of early care programs;

1 (4) coordinate and communicate regularly and provide recommendations to the
2 Ministry of Health, the Palau Community Action Agency, and all other relevant
3 agencies;

4 ... "

5 Section 6. Amendment. Section 761 of Title 41 of the Palau National Code is
6 hereby amended as follows:

7 "§ 761. The earnings test.

8 (a) The "earnings test" means a test to determine whether the person who is
9 receiving the benefit is retired or otherwise dependent on the Social Security benefit.
10 The maximum amount of remuneration that a person may earn and still remain
11 entitled to a full benefit is three thousand dollars (\$3,000.00) during any quarter,
12 except as provided in subsection (c) and (e).

13 ...

14 (e) Notwithstanding the foregoing, the earnings test will not be applicable:

15 (1) in the quarter in which the person who is receiving the benefit attains age
16 sixty-five (65), or in any subsequent quarter;

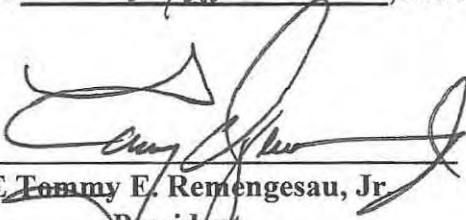
17 (2) to persons who became eligible to receive benefits prior to August 2, 2007,
18 who shall receive such benefit at the level in existence immediately prior to August 2,
19 2007; or

20 (3) to persons receiving retirement benefits who are employed as personnel by a
21 licensed child care center. For purposes of this section, "personnel" means one who
22 takes on the responsibilities of a caretaker of children at a child care center and
23 satisfies the personnel-to-child ratio and personnel responsibilities established by 21
24 PNC § 911 and corresponding regulations."

25 Section 7. Effective Date. This Act shall take effect upon its approval by the
26 President of the Republic, or upon becoming law without such approval, except as
27 otherwise provided by law.

PASSED: March 14, 2018

Approved this 29th day of MARCH, 2018.


HE **Tommy E. Remengesau, Jr.**
President
Republic of Palau