

STATE OF HAWAII
DEPARTMENT OF HEALTH

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**Testimony in STRONG SUPPORT of Senate Bill 1113, SD 1
RELATING TO BACKGROUND CHECKS**

SENATOR GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR

Hearing Date: Friday, February 27, 2015

Room Number: 016

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (DOH) is in **strong support** of SB 1113
3 SD 1, which is part of the Governor's Package, and respectfully offers one amendment to correct
4 a drafting error that significantly and substantively alters the scope of the proposal.

5 This bill seeks to expand the authority of the department to conduct background checks to
6 include criminal history records checks and non-criminal registries checks such as adult
7 protective services, child abuse and neglect, and certified nurse aide registry. Currently, the
8 department has the authority only to conduct criminal records checks.

9 This broader authority will be exercised on persons applying for or currently holding a
10 license or certificate to operate a health care facility, seeking employment with a health care
11 facility in a position that necessitates non-witnessed direct contact with patients, seeking or
12 holding employment with the department in a position that provides non-witnessed direct mental
13 health or healthcare to DOH clients, or for contractors or subcontractors with the department or
14 with a private or public licensed health care facility who work or have employees who work in
15 similar positions.

1 The intent is to provide greater protection for the public when they seek healthcare
2 services at licensed or certified health care facilities or through the department.

3 DOH requests a SB 1113 SD2 that incorporates the amendment offered below, the effect
4 of which is to grandfather employees hired prior to July 1, 2015 from background checks. As
5 currently worded, SB 1113 SD 1 excludes from background checks employees hired after July 1,
6 2015, which is not the intention of this measure.

7 **Offered Amendments:**

8 SB 1113 SD1, Page 16, Bill Section 2, subsection (d), lines 3 – 7, to read as follows:

9 (d) This section shall not be used by the department of
10 health or [~~the department's~~] its designee to secure [~~criminal~~
11 ~~history record~~] background checks on persons who have been
12 employed continuously on a salaried basis [~~prior to~~] since prior
13 to July 1, [~~2000.~~] 2015.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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February 27, 2015

The Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Keith-Agaran and Members of the Committee:

SUBJECT: SB 1113 SD1 – Relating to Background Checks

The State Council on Developmental Disabilities (DD) **supports SB 1113 SD1**. The purpose of this bill is to expand the authority of the Department of Health (DOH) to conduct background checks to include criminal history record check, adult abuse perpetrator and child abuse record checks, and certified nurse aide registry record checks for persons seeking employment with the State or its contractors where the work involves direct client care, and applicants and operators of healthcare facilities.

People with DD, as well as children and the elderly population, are considered vulnerable to potential abuse, neglect, and mistreatment by family members, caregivers, and others who have direct access to them. This measure is intended to ensure the reputable and responsible character of owners, operators, direct caregivers and persons with direct access to patients, individuals with intellectual and developmental disabilities (I/DD), or residents in State-licensed health care facilities, certified homes, and of DOH employees, contractors, and subcontractors who have direct access to the Department's patients, individuals with I/DD, or clients in public health or behavioral health settings.

The Council appreciates the Legislature's intent to expand protection to Hawaii's most vulnerable population through this bill.

Thank you for the opportunity to submit testimony **in support of SB 1113 SD1**.

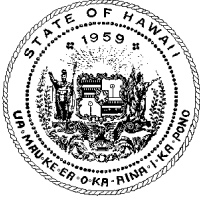
Sincerely,

Handwritten signature of Waynette K.Y. Cabral in black ink.

Waynette K.Y. Cabral, M.S.W.
Executive Administrator

Handwritten signature of Rosie Rowe in black ink.

Rosie Rowe
Chair



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 ·PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 27, 2015
9:05 a.m.
Conference Room 016

To: The Honorable Gilbert Keith-Agaran, Chair
and Members of the Senate Committee on Judiciary and Labor

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 1113, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai‘i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

S.B. No. 1113, S.D.1, if enacted, expand the authority of the Department of Health to conduct background checks for persons seeking employment with the State or its contractors where the work involves direct client care, and applicants and operators of health care facilities. The measure is intended to provide protection for vulnerable patients who seek health care services at licensed or certified health care facilities.

The HCRC has not opposed narrowly drawn statutory exceptions sought for positions that involve unsupervised contact with vulnerable persons as patients, clients, customers, or students, but has opposed creation of overly broad exceptions and the creation of a “slippery slope” where exceptions render the rule meaningless.

The HCRC does not oppose S.B. No. 1113, S.D.1.