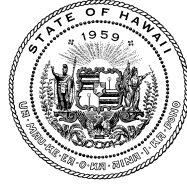


**DAVID Y. IGE**  
GOVERNOR

**SHAN TSUTSUI**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

**MARIA E. ZIELINSKI**  
DIRECTOR OF TAXATION

**DAMIEN A. ELEFANTE**  
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Thursday, February 23, 2017

Time: 11:00 A.M.

Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

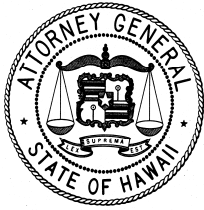
Re: H.B. 1031, H.D. 1, Relating to Criminal History Record Checks

The Department of Taxation (Department) strongly supports H.B. 1031, H.D. 1, an Administration measure allowing the Department and other agencies to conduct criminal history record checks on employees with access to federal tax information. H.D. 1, has a defective effective date of July 1, 2050.

The Internal Revenue Service (IRS), through Section 5 of Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, recently mandated all agencies that receive Federal Tax Information (FTI) perform background checks, including an FBI fingerprint search, on all employees who access FTI.

The Department of Taxation relies on FTI received from the IRS to target and perform audits. Maintaining access to FTI is critical to the administration of taxes. There will be a definite decrease in tax revenue collected without the ability to receive FTI.

Thank you for the opportunity to provide testimony in support.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1031, H.D. 1, CRIMINAL HISTORY RECORD CHECKS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Thursday, February 23, 2017                      **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Nathan S.C. Chee, Deputy Attorney General

---

Chair Luke and Members of the Committee:

The Department of the Attorney General supports this administration bill.

The purpose of this bill is to authorize the Child Support Enforcement Agency (CSEA) and the Departments of Taxation, Labor and Industrial Relations, and Human Services to conduct criminal history record checks for employees, applicants for employment, and contractors who will have access to Federal Tax Information (FTI).

The Internal Revenue Service (IRS), through *Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies*, recently mandated that all agencies receiving FTI perform background checks, including an FBI fingerprint search, on all employees, applicants for employment, and contractors who have access to FTI.

The CSEA receives FTI for the purposes of locating noncustodial parents and for the enforcement of child support obligations through the interception of federal income tax refunds.

The Department of Taxation receives and relies on FTI to perform audits. Maintaining access to FTI is required for the proper administration and collection of taxes.

The Department of Labor and Industrial Relations (DLIR) receives FTI for two purposes: (1) to reduce worker misclassification; and (2) to support the Treasury Offset Program (TOP). Worker misclassification occurs when an employee is erroneously

classified by an employer as an independent contractor or not classified at all and becomes part of the underground economy. The TOP is a centralized offset program administered by the Bureau of the Fiscal Service's Debt Management Services to collect delinquent debts owed to federal agencies and states (including past-due child support). On December 26, 2013, President Obama signed into law the Bipartisan Budget Act. The Act requires each state to administer the unemployment insurance programs and to use TOP to recoup certain outstanding debts via intercept of Federal income tax refunds as a condition for receipt of grants. As the DLIR relies on grant funding to operate the unemployment insurance offices, continued access to FTI must be maintained.

The Department of Human Services (DHS) receives FTI from both the IRS and the Social Services Administration (SSA). DHS relies on FTI and other income data sources to accurately determine an individual's eligibility for services and programs.

To ensure the agency and departments discussed above may continue to perform their core functions, we respectfully request passage of this bill.

DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

LEONARD HOSHIO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813

[www.labor.hawaii.gov](http://www.labor.hawaii.gov)  
Phone: (808) 586-8844 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

February 21, 2017

To: The Honorable Sylvia Luke, Chair  
The Honorable Ty J. K. Cullen, Vice Chair, and  
Members of the House Committee on Finance

Date: Thursday, February 23, 2017  
Time: 11:00 A.M.  
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 1031 HD1 Relating to Criminal History Record Checks**

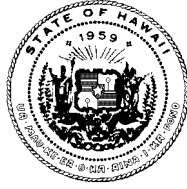
The Department strongly supports HB1031 HD1 which allows DLIR to conduct criminal history record checks on employees with access to the federal tax information. HB1031 HD1 is effective upon its approval.

The Internal Revenue Service (IRS), through Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, recently mandated all agencies that received Federal Tax Information (FTI) perform background checks, including an FBI fingerprint search, on all employees who access FTI.

The Department participates in the Treasury Offset Program (TOP) which allows the state UI program to recover certain unemployment debts from federal income tax refunds.

Hawaii must participate in TOP to qualify for future supplemental funding available from the U.S. Department of Labor (USDOL), and must conduct criminal history record checks on employees with access to federal tax information to participate in TOP. Therefore, DLIR strongly urges passage of this measure.

DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

BRIDGET HOLTHUS  
DEPUTY DIRECTOR

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

February 23, 2017

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **HB1031 HD 1 - RELATING TO CRIMINAL HISTORY RECORD CHECKS**

Hearing: February 23, 2017, 11:00 a.m.  
Conference Room 308, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration measure.

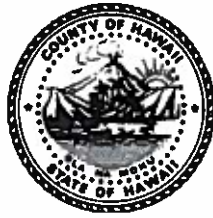
**PURPOSE:** The purpose of this measure is to add the Child Support Enforcement Agency and the Departments of Taxation, Human Services, and Labor and Industrial Relations to the list of agencies that are authorized to conduct criminal history record checks on employees, prospective employees, and contractors that have access to federal tax information (FTI). The House Committee on the Judiciary amended the measure by defecting the effective date and making technical amendments.

The Internal Revenue Service (IRS), through Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, recently mandated all agencies that receive Federal Tax Information (FTI) perform background checks, including an FBI fingerprint search, on all employees, applicants for employment, and contractors who access to FTI.

DHS receives FTI from both the Internal Revenue Services (IRS) and the Social Security Administration, and approximately 600 employees have access to FTI. This measure will support the efforts to safeguard FTI and remain compliant with federal law changes.

Thank you for this opportunity to provide comments on this bill.

Harry Kim  
Mayor



Wil Okabe  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

County of Hawai'i  
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokalole Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

February 21, 2017

Representative Sylvia Luke  
Finance Committee  
Hawai'i State Capitol  
Honolulu, HI 96813

Dear Chair Luke and members:

RE: **HB 1031, HD1**

Thank you for this opportunity to request amendments to HB1031, HD1.

HB 1031, HD1 is needed legislation, but it should be recognized that the new IRS regulation requiring background checks and FBI fingerprinting for all current and prospective employees will affect our county workers, too, creating the same issues as those raised by the various state agencies that are the subject of the current HD1.

The counties are bound by Sections 378-2.5 and 846-2.7, HRS. Both those HRS sections limit the County's authority as to when and on whom we can conduct criminal background and history checks on current and prospective employees. The new IRS regulations are not currently referenced in either HRS section.

Accordingly, my staff is suggesting two amendments to HB 11031, HD1. They are highlighted in yellow:

Section 6. Section 378-2.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:  
(d) Notwithstanding subsections (b) and (c), the requirement that inquiry into and consideration of a prospective employee's conviction record may take place only after the individual has received a conditional job offer, and the

limitation to the most recent ten-year period, excluding the period of incarceration, shall not apply to employers who are expressly permitted to inquire into an individual's criminal history for employment purposes pursuant to any federal or state law other than subsection (a), including:

- (1) The State or any of its branches, political subdivisions, or agencies pursuant to sections 78-2.7 and 831-3.1;
- (2) The department of education pursuant to section 302A-601.5;
- (3) The department of health with respect to employees, providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services pursuant to section 321-171.5;
- (4) The judiciary pursuant to section 571-34;
- (5) The counties pursuant to section 846-2.7(b)(5), (33), (34), (35), (36), [and] (38), and (49);

**SECTION [6] (7).** Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

.....

Sylvia Luke  
Finance Committee  
February 21, 2017

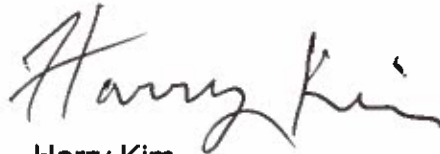
(48) The child support enforcement agency on current and prospective employees and contractors that have access to federal tax information in order to comply with federal law, regulation, or procedure; [and]

[+45+] (49) The various County agencies on current and prospective employees and contractors that have access to federal tax information in order to comply with federal law, regulation, or procedure; and

(50) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

We urge passage of this bill, with the requested, or comparable, amendments.

Respectfully submitted,



Harry Kim  
Mayor