

Honolulu, Hawaii

FEB 16 2007

RE: S.B. No. 96
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committees on Education and Judiciary and Labor, to which was referred S.B. No. 96 entitled:

"A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION,"

beg leave to report as follows:

The purpose of this measure is to ensure the safety of our public school students by requiring criminal background checks for all providers, subcontractors, and trainees from institutions of higher education.

This measure also:

- (1) Authorizes the Department of Education to pass along the fees charged for background checks to the individual being reported on; and
- (2) Removes the authority of the Department of Education to either refuse to issue or revoke a teaching or other educational certificate if it is discovered that the individual has been convicted of a crime that poses a risk to the safety of children.

Testimony in support of this measure was submitted by the Department of Education. Testimony in opposition to this measure was submitted by the University of Hawaii.

Your Committees find that the safety and well being of our children is of the utmost concern, particular within the



Department of Education. Your Committees further find that when our children are at school, they should be provided with a healthy, safe, and positive environment to support high levels of academic achievement and success. Currently, the law requires criminal history background checks to be completed on all employees and prospective employees of the Department of Education. However, the law fails to contemplate other adults who may also come in direct contact with the children in public schools through the provision of other services necessary for the operations of the school system. This measure addresses certain individuals who may pose a danger to our students, should these individuals be found to possess criminal backgrounds.

Your Committees recognize that this measure covers trainees from an institution of higher education who may be placed within the public schools. Testimony was received that indicated that these individuals should be excluded from the criminal background check requirement because the University of Hawaii currently conducts extensive screening of individuals prior to their selection as teacher trainees. These trainees are also required to submit to fingerprint checks prior to their clearance to work in the public schools. Your Committees understand that the criminal history record checks for the teacher trainees by the Department of Education may not be necessary, but believe that they may also be warranted under certain circumstances depending upon the degree and length of contact the trainees will be having with the students. Thus, your Committees believe that the teacher trainees should remain a subject of this measure and, as the measure continues to proceed through the session, the Legislature can consider and the parties can confer to determine the necessity of their continued inclusion.

Additionally, your Committees find that the current language of the measure would seem to include entire organizations in its requirements and similarly preclude entire organizations from providing services to the Department of Education based on one individual's negative background check. Your Committees determine that such application is too broad and the measure should be narrowed to apply only to those individuals who are providing services. Similarly, individuals that will not have direct contract with the children as part of their work should also not be made subject to the requirements of this measure.

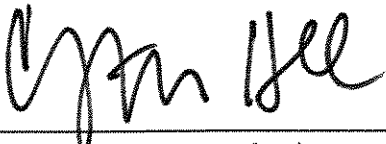
Accordingly, your Committees have amended this measure by:



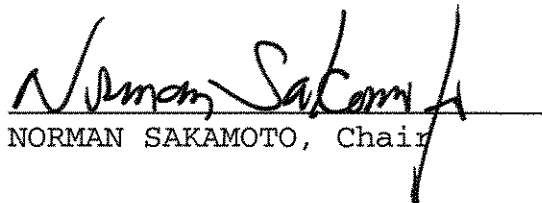
- (1) Amending the definition of "trainee from an institution of higher education" to mean only students in an institution of higher education training program that require public school observation, participation, or direct contact with children;
- (2) Amending the definition of "provider" to mean an individual that intends to or is employed by an organization that intends to enter into a contract with the Department of Education to provide services involving direct contact with children;
- (3) Amending the definition of "subcontractor" to mean an individual that enters into or is employed by an organization that enters into a contract or agreement with a provider to provide services involving direct contact with children;
- (4) Changing the effective date of the Act to July 1, 2050, to facilitate further discussion on the measure; and
- (5) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 96, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 96, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Education and
Judiciary and Labor,



CLAYTON HEE, Chair



NORMAN SAKAMOTO, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Education
EDU

Bill / Resolution No.:* SB 96	Committee Referral: EDU/JDL, WAG	Date: 02/09/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAKAMOTO, Norman (C)	X			
TOKUDA, Jill N. (VC)	X			
CHUN OAKLAND, Suzanne				X
HEE, Clayton				X
NISHIHARA, Clarence K.	X			
TANIGUCHI, Brian T.				X
GABBARD, Mike	X			
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency				

*Only one measure per Record of Votes

The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 96	Committee Referral: EDU/JDL, WAM	Date: 2/9/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)				/
KOKUBUN, Russell S. (VC)	/			
INOUYE, Lorraine R.				/
NISHIHARA, Clarence K.	/			
GABBARD, Mike	/			
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Russell S. Kohl</div>				
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