
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Chapter 281, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
- 4 "§281- Security employees of certain licensees; criminal
5 history record checks. (a) All class 2, class 5, class 11,
6 class 12, class 14, and class 15 licensees shall:
- 7 (1) Obtain national and state criminal history record
8 checks, in accordance with section 846-2.7, for all
9 employees and prospective employees providing security
10 services for the licensee; and
- 11 (2) Develop safeguards to protect against inadvertent or
12 inappropriate disclosure of information obtained under
13 this section.
- 14 The fee charged by the Hawaii criminal justice data center to
15 perform criminal history record checks under this section may be
16 passed on to the person upon whom the criminal history record
17 check is performed.



1 (b) Information obtained pursuant to this section shall be
2 used exclusively by the licensee to determine whether an
3 employee or prospective employee is suitable for employment to
4 provide security services.

5 (c) Licensees may deny employment on the basis of criminal
6 conviction for an employee or prospective employee providing
7 security services, if the licensee finds by reason of the nature
8 and circumstances of the crime that the employee or prospective
9 employee may pose a risk to the health, safety, or well-being of
10 others while providing security services.

11 (d) The State, the Hawaii criminal justice data center,
12 and their respective officers and employees shall be immune from
13 civil liability for:

14 (1) Any official government act, decision, or omission
15 performed pursuant to this section that is not the
16 result of gross negligence or wilful misconduct; and

17 (2) Any act, decision, omission, or use of the information
18 by any licensee authorized to receive or who receives
19 information pursuant to this section.

20 (e) For the purposes of this section, "security services"
21 means services with the primary duties of maintaining order and



1 protecting persons and property from harm in and around the
2 licensed premises of the licensee."

3 SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

6 (1) The department of health on operators of adult foster
7 homes or developmental disabilities domiciliary homes
8 and their employees, as provided by section 333F-22;

9 (2) The department of health on prospective employees,
10 persons seeking to serve as providers, or
11 subcontractors in positions that place them in direct
12 contact with clients when providing non-witnessed
13 direct mental health services as provided by section
14 321-171.5;

15 (3) The department of health on all applicants for
16 licensure for, operators for, and prospective
17 employees, and volunteers at one or more of the
18 following: skilled nursing facility, intermediate
19 care facility, adult residential care home, expanded
20 adult residential care home, assisted living facility,
21 home health agency, hospice, adult day health center,
22 special treatment facility, therapeutic living



1 program, intermediate care facility for the mentally
2 retarded, hospital, rural health center and
3 rehabilitation agency, and, in the case of any of the
4 above-related facilities operating in a private
5 residence, on any adult living in the facility other
6 than the client as provided by section 321-15.2;

7 (4) The department of education on employees, prospective
8 employees, and teacher trainees in any public school
9 in positions that necessitate close proximity to
10 children as provided by section 302A-601.5;

11 (5) The counties on employees and prospective employees
12 who may be in positions that place them in close
13 proximity to children in recreation or child care
14 programs and services;

15 (6) The county liquor commissions on applicants for liquor
16 licenses as provided by section 281-53.5;

17 (7) Liquor licensees on employees and prospective
18 employees providing security services as provided by
19 section 281-_____ ;

20 [~~7~~] (8) The department of human services on operators and
21 employees of child caring institutions, child placing



1 organizations, and foster boarding homes as provided
2 by section 346-17;

3 [~~8~~] (9) The department of human services on prospective
4 adoptive parents as established under section 346-
5 19.7;

6 [~~9~~] (10) The department of human services on applicants to
7 operate child care facilities, prospective employees
8 of the applicant, and new employees of the provider
9 after registration or licensure as provided by section
10 346-154;

11 [~~10~~] (11) The department of human services on persons
12 exempt pursuant to section 346-152 to be eligible to
13 provide child care and receive child care subsidies as
14 provided by section 346-152.5;

15 [~~11~~] (12) The department of human services on operators and
16 employees of home and community-based case management
17 agencies and operators and other adults, except for
18 adults in care, residing in foster family homes as
19 provided by section 346-335;

20 [~~12~~] (13) The department of human services on staff members
21 of the Hawaii youth correctional facility as provided
22 by section 352-5.5;



1 [~~(13)~~] (14) The department of human services on employees,
2 prospective employees, and volunteers of contracted
3 providers and subcontractors in positions that place
4 them in close proximity to youth when providing
5 services on behalf of the office or the Hawaii youth
6 correctional facility as provided by section 352D-4.3;

7 [~~(14)~~] (15) The judiciary on employees and applicants at
8 detention and shelter facilities as provided by
9 section 571-34;

10 [~~(15)~~] (16) The department of public safety on employees and
11 prospective employees who are directly involved with
12 the treatment and care of persons committed to a
13 correctional facility or who possess police powers
14 including the power of arrest as provided by section
15 353C-5;

16 [~~(16)~~] (17) The department of commerce and consumer affairs
17 on applicants for private detective or private guard
18 licensure as provided by section 463-9;

19 [~~(17)~~] (18) Private schools and designated organizations on
20 employees and prospective employees who may be in
21 positions that necessitate close proximity to
22 children; provided that private schools and designated

1 organizations receive only indications of the states
2 from which the national criminal history record
3 information was provided pursuant to section 302C-1;
4 ~~[(18)]~~ (19) The public library system on employees and
5 prospective employees whose positions place them in
6 close proximity to children as provided by section
7 302A-601.5;
8 ~~[(19)]~~ (20) The State or any of its branches, political
9 subdivisions, or agencies on applicants and employees
10 holding a position that has the same type of contact
11 with children, vulnerable adults, or persons committed
12 to a correctional facility as other public employees
13 who hold positions that are authorized by law to
14 require criminal history record checks as a condition
15 of employment as provided by section 78-2.7;
16 ~~[(20)]~~ (21) The department of human services on licensed
17 adult day care center operators, employees, new
18 employees, subcontracted service providers and their
19 employees, and adult volunteers as provided by section
20 346-97;
21 ~~[(21)]~~ (22) The department of human services on purchase of
22 service contracted and subcontracted service providers



1 and their employees serving clients of the adult and
2 community care services branch, as provided by section
3 346-97;

4 [~~22~~] (23) The department of human services on foster
5 grandparent program, retired and senior volunteer
6 program, senior companion program, and respite
7 companion program participants as provided by section
8 346-97;

9 [~~23~~] (24) The department of human services on contracted
10 and subcontracted service providers and their current
11 and prospective employees that provide home and
12 community-based services under Section 1915(c) of the
13 Social Security Act (Title 42 United States Code
14 Section 1396n(c)), or under any other applicable
15 section or sections of the Social Security Act for the
16 purposes of providing home and community-based
17 services, as provided by section 346-97;

18 [~~24~~] (25) The department of commerce and consumer affairs
19 on proposed directors and executive officers of a
20 bank, savings bank, savings and loan association,
21 trust company, and depository financial services loan
22 company as provided by section 412:3-201;



1 [~~25~~] (26) The department of commerce and consumer affairs
2 on proposed directors and executive officers of a
3 nondepository financial services loan company as
4 provided by section 412:3-301;

5 [~~26~~] (27) The department of commerce and consumer affairs
6 on the original chartering applicants and proposed
7 executive officers of a credit union as provided by
8 section 412:10-103;

9 [~~27~~] (28) The department of commerce and consumer affairs
10 on:

11 (A) Each principal of every non-corporate applicant
12 for a money transmitter license; and

13 (B) The executive officers, key shareholders, and
14 managers in charge of a money transmitter's
15 activities of every corporate applicant for a
16 money transmitter license,

17 as provided by section 489D-9;

18 [~~28~~] (29) The department of commerce and consumer affairs
19 on applicants for licensure and persons licensed under
20 title 24;

21 [~~29~~] (30) The Hawaii health systems corporation on:

22 (A) Employees;



- 1 (B) Applicants seeking employment;
- 2 (C) Current or prospective members of the corporation
- 3 board or regional system board; or
- 4 (D) Current or prospective volunteers, providers, or
- 5 contractors,
- 6 in any of the corporation's health facilities as
- 7 provided by section 323F-5.5;
- 8 ~~[(30)]~~ (31) The department of commerce and consumer affairs
- 9 on an applicant for a mortgage loan originator's
- 10 license as provided by chapter 454F; and
- 11 ~~[(31)]~~ (32) Any other organization, entity, or the State, its
- 12 branches, political subdivisions, or agencies as may
- 13 be authorized by state law."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 2, 2010.

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INTRODUCED BY:

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Report Title:

Liquor Licensees; Security Employees; Criminal History Record Checks

Description:

Requires certain liquor licensees who serve alcohol on their premises to conduct criminal history record checks on security employees.

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