
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR COUNTY EMPLOYEES.

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

- 1 SECTION 1. Section 846-2.7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
- 3 "(b) Criminal history record checks may be conducted by:
- 4 (1) The department of health on operators of adult foster
5 homes or developmental disabilities domiciliary homes
6 and their employees, as provided by section 333F-22;
- 7 (2) The department of health on prospective employees,
8 persons seeking to serve as providers, or
9 subcontractors in positions that place them in direct
10 contact with clients when providing non-witnessed
11 direct mental health services as provided by section
12 321-171.5;
- 13 (3) The department of health on all applicants for
14 licensure for, operators for, prospective employees,
15 and volunteers at one or more of the following:
16 skilled nursing facility, intermediate care facility,
17 adult residential care home, expanded adult
18 residential care home, assisted living facility, home



1 health agency, hospice, adult day health center,
2 special treatment facility, therapeutic living
3 program, intermediate care facility for individuals
4 with intellectual disabilities, hospital, rural health
5 center and rehabilitation agency, and, in the case of
6 any of the above facilities operating in a private
7 residence, on any adult living in the facility other
8 than the client as provided by section 321-15.2;

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

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

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

19 (7) The county liquor commissions on employees and
20 prospective employees involved in liquor
21 administration, law enforcement, and liquor control
22 investigations;



1 [~~(7)~~] (8) The department of human services on operators and
2 employees of child caring institutions, child placing
3 organizations, and foster boarding homes as provided
4 by section 346-17;

5 [~~(8)~~] (9) The department of human services on prospective
6 adoptive parents as established under section
7 346-19.7;

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

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

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



1 [~~(12)~~] (13) The department of human services on staff
2 members of the Hawaii youth correctional facility as
3 provided by section 352-5.5;

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

10 [~~(14)~~] (15) The judiciary on employees and applicants at
11 detention and shelter facilities as provided by
12 section 571-34;

13 [~~(15)~~] (16) The department of public safety on employees and
14 prospective employees who are directly involved with
15 the treatment and care of persons committed to a
16 correctional facility or who possess police powers
17 including the power of arrest as provided by section
18 353C-5;

19 [~~(16)~~] (17) The department of commerce and consumer affairs
20 on applicants for private detective or private guard
21 licensure as provided by section 463-9;



1 [~~17~~] (18) Private schools and designated organizations on
2 employees and prospective employees who may be in
3 positions that necessitate close proximity to
4 children; provided that private schools and designated
5 organizations receive only indications of the states
6 from which the national criminal history record
7 information was provided pursuant to section 302C-1;

8 [~~18~~] (19) The public library system on employees and
9 prospective employees whose positions place them in
10 close proximity to children as provided by section
11 302A-601.5;

12 [~~19~~] (20) The State or any of its branches, political
13 subdivisions, or agencies on applicants and employees
14 holding a position that has the same type of contact
15 with children, vulnerable adults, or persons committed
16 to a correctional facility as other public employees
17 who hold positions that are authorized by law to
18 require criminal history record checks as a condition
19 of employment as provided by section 78-2.7;

20 [~~20~~] (21) The department of human services on licensed
21 adult day care center operators, employees, new
22 employees, subcontracted service providers and their



1 employees, and adult volunteers as provided by section
2 346-97;

3 [~~(21)~~] (22) The department of human services on purchase of
4 service contracted and subcontracted service providers
5 and their employees serving clients of the adult and
6 community care services branch, as provided by section
7 346-97;

8 [~~(22)~~] (23) The department of human services on foster
9 grandparent program, retired and senior volunteer
10 program, senior companion program, and respite
11 companion program participants as provided by section
12 346-97;

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



1 ~~[-24-]~~ (25) The department of commerce and consumer affairs
2 on proposed directors and executive officers of a
3 bank, savings bank, savings and loan association,
4 trust company, and depository financial services loan
5 company as provided by section 412:3-201;

6 ~~[-25-]~~ (26) The department of commerce and consumer affairs
7 on proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;

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

14 ~~[-27-]~~ (28) The department of commerce and consumer affairs
15 on:

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

18 (B) The executive officers, key shareholders, and
19 managers in charge of a money transmitter's
20 activities of every corporate applicant for a
21 money transmitter license,

22 as provided by section 489D-9;



1 ~~[(28)]~~ (29) The department of commerce and consumer affairs
2 on applicants for licensure and persons licensed under
3 title 24;

4 ~~[(29)]~~ (30) The Hawaii health systems corporation on:
5 (A) Employees;
6 (B) Applicants seeking employment;
7 (C) Current or prospective members of the corporation
8 board or regional system board; or
9 (D) Current or prospective volunteers, providers, or
10 contractors,
11 in any of the corporation's health facilities as
12 provided by section 323F-5.5;

13 ~~[(30)]~~ (31) The department of commerce and consumer affairs
14 on:
15 (A) An applicant for a mortgage loan originator
16 license; and
17 (B) Each control person, executive officer, director,
18 general partner, and manager of an applicant for
19 a mortgage loan originator company license,
20 as provided by chapter 454F; ~~[and]~~

21 (32) The counties on employees and prospective employees
22 who work:



- 1 (A) With vulnerable adults or senior citizens in
2 community based programs;
- 3 (B) For fire department positions that involve
4 contact with children or dependent adults;
- 5 (C) For emergency medical services positions that
6 involve contact with children or dependent
7 adults; and
- 8 (D) For emergency management positions and community
9 volunteers whose responsibilities involve
10 planning and executing Department of Homeland
11 Security measures including viewing, handling,
12 and engaging in law enforcement or classified
13 meetings and assisting vulnerable and disabled
14 citizens during emergencies or crises; and
- 15 ~~[(31)]~~ (33) Any other organization, entity, or the State, its
16 branches, political subdivisions, or agencies as may
17 be authorized by state law."

18 SECTION 2. Section 378-2.5, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) Notwithstanding subsections (b) and (c), the
21 requirement that inquiry into and consideration of a prospective
22 employee's conviction record may take place only after the



1 individual has received a conditional job offer, and the
2 limitation to the most recent ten-year period, excluding the
3 period of incarceration, shall not apply to employers who are
4 expressly permitted to inquire into an individual's criminal
5 history for employment purposes pursuant to any federal or state
6 law other than subsection (a), including:

- 7 (1) The State or any of its branches, political
8 subdivisions, or agencies pursuant to sections 78-2.7
9 and 831-3.1;
- 10 (2) The department of education pursuant to section
11 302A-601.5;
- 12 (3) The department of health with respect to employees,
13 providers, or subcontractors in positions that place
14 them in direct contact with clients when providing
15 non-witnessed direct mental health services pursuant
16 to section 321-171.5;
- 17 (4) The judiciary pursuant to section 571-34;
- 18 (5) The counties pursuant to section [~~846-2.7;~~]
19 846-2.7(b)(5) and (32);
- 20 (6) Armed security services pursuant to section 261-17(b);
- 21 (7) Providers of a developmental disabilities domiciliary
22 home pursuant to section 333F-22;



- 1 (8) Private schools pursuant to sections 302C-1 and
2 378-3(8);
- 3 (9) Financial institutions in which deposits are insured
4 by a federal agency having jurisdiction over the
5 financial institution pursuant to section 378-3(9);
- 6 (10) Detective agencies and security guard agencies
7 pursuant to sections 463-6(b) and 463-8(b);
- 8 (11) Employers in the business of insurance pursuant to
9 section 431:2-201.3;
- 10 (12) Employers of individuals or supervisors of individuals
11 responsible for screening passengers or property under
12 49 U.S.C. §44901 or individuals with unescorted access
13 to an aircraft of an air carrier or foreign carrier or
14 in a secured area of an airport in the United States
15 pursuant to 49 U.S.C. §44936(a);
- 16 (13) The department of human services pursuant to sections
17 346-97 and 352-5.5;
- 18 (14) The public library system pursuant to section
19 302A-601.5;
- 20 (15) The department of public safety pursuant to section
21 353C-5;



1 (16) The board of directors of a cooperative housing
2 corporation or the manager of a cooperative housing
3 project pursuant to section 421I-12;

4 (17) The board of directors of an association of owners
5 under chapter 514A or 514B, or the manager of a
6 condominium project pursuant to section 514A-82.1 or
7 514B-133; and

8 (18) The department of health pursuant to section
9 321-15.2."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Criminal History Record Checks for County Employees; City and County of Honolulu Package

Description:

Allows counties to conduct criminal history checks on employees and prospective employees supporting the liquor commission, working with vulnerable adults or seniors, and working in the field of emergency services and emergency management. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

