A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR STATE AND COUNTY EMPLOYEES.

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

SECTION 1. 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), [and] (36)[†], and (38);

(6) Armed security services pursuant to section 261-17(b);

(7) Providers of a developmental disabilities domiciliary home pursuant to section 333F-22;

(8) Private schools pursuant to sections 302C-1 and 378-3(8);

(9) Financial institutions in which deposits are insured by a federal agency having jurisdiction over the financial institution pursuant to section 378-3(9);

(10) Detective agencies and security guard agencies pursuant to sections 463-6(b) and 463-8(b);

(11) Employers in the business of insurance pursuant to section 431:2-201.3;

(12) Employers of individuals or supervisors of individuals responsible for screening passengers or property under
title 49 United States Code section 44901 or
individuals with unescorted access to an aircraft of
an air carrier or foreign carrier or in a secured area
of an airport in the United States pursuant to title
49 United States Code section 44936(a);

(13) The department of human services pursuant to sections
346-97 and 352-5.5;

(14) The public library system pursuant to section
302A-601.5;

(15) The department of public safety pursuant to section
353C-5;

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

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

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

SECTION 2. 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:

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

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

(3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation.
agency, and, in the case of any of the above
facilities operating in a private residence, on any
adult living in the facility other than the client as
provided by section 321-15.2;

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

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

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

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

(8) The department of human services on operators and
employees of child caring institutions, child placing
organizations, and foster boarding homes as provided
by section 346-17;
(9) The department of human services on prospective adoptive parents as established under section 346-19.7;

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

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

(12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 321-484;

(13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;

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

(15) The judiciary on employees and applicants at detention
and shelter facilities as provided by section 571-34;

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

(17) The board of private detectives and guards on
applicants for private detective or private guard
licensure as provided by section 463-9;

(18) Private schools and designated organizations on
employees and prospective employees who may be in
positions that necessitate close proximity to
children; provided that private schools and designated
organizations receive only indications of the states
from which the national criminal history record
information was provided pursuant to section 302C-1;
(19) The public library system on employees and prospective
employees whose positions place them in close
proximity to children as provided by section
302A-601.5;

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

(21) The department of health on licensed adult day care
center operators, employees, new employees,
subcontracted service providers and their employees,
and adult volunteers as provided by section 321-496;

(22) The department of human services on purchase of
service contracted and subcontracted service providers
and their employees serving clients of the adult and
community care services branch, as provided by section
346-97;
(23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;

(24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;

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

(26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
(27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

(28) The department of commerce and consumer affairs on:

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

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

as provided by sections 489D-9 and 489D-15;

(29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;

(30) The Hawaii health systems corporation on:

(A) Employees;

(B) Applicants seeking employment;

(C) Current or prospective members of the corporation board or regional system board; or

(D) Current or prospective volunteers, providers, or contractors,
in any of the corporation's health facilities as provided by section 323F-5.5;

(31) The department of commerce and consumer affairs on:

(A) An applicant for a mortgage loan originator license; and

(B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;

(32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;

(33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;

(34) The counties on prospective employees for fire department positions which involve contact with children or [dependent] vulnerable adults;
(35) The counties on prospective employees for emergency medical services positions which involve contact with children or [dependent] vulnerable adults;

(36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable [and disabled] citizens during emergencies or crises; [and]

(37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;

(38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;

(39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to
proprietary, confidential, or sensitive information;
and
Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

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

SECTION 4. This Act shall take effect on July 1, 2014.
Report Title:
Criminal History Record Checks; State and County Employees

Description:
Allows the State and counties to perform criminal history record checks on employees, prospective employees, volunteers, and contractors whose positions allow them access to sensitive information, firearms for other than law enforcement purposes, and secured areas related to a traffic management center. Allows the counties to perform criminal history record checks prior to making an employment offer, and be exempt from the ten year look-back period, for prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes. (SD1)

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