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# A BILL FOR AN ACT

RELATING TO NURSING.

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

1           SECTION 1. The legislature finds there is a need to  
2 protect public safety by ensuring that licensed nurses are safe  
3 to practice and care for patients. While nearly all  
4 jurisdictions require applicants for nurse licensure to self-  
5 report any criminal history upon application for licensure, data  
6 reflects that many nurses with criminal histories fail to do so.  
7 According to information published by the National Council of  
8 State Boards of Nursing, there may be criminal history within  
9 the background of an applicant that could violate public trust  
10 and jeopardize the safety of patients.

11           The legislature further finds that the Council of State  
12 Governments recommends that each state work with its board of  
13 nursing to develop plans to conduct comprehensive federal and  
14 state criminal background checks as part of nurse licensure  
15 protocol. Of the fifty-five boards of nursing nationwide,  
16 currently Hawaii is one of only twelve states that do not  
17 conduct federal and state criminal background checks. The  
18 legislature finds that boards of nursing, employers, and other



1 stakeholders need criminal history information to ensure that a  
2 nurse is safe and unlikely to harm patients.

3 Accordingly, the purpose of this Act is to:

4 (1) Require all nurse licensure applicants, beginning with  
5 the July 1, 2017, licensing biennium, and all nurse  
6 license renewal and reactivation applicants, beginning  
7 with the July 1, 2019, licensing biennium, to comply  
8 with criminal history record checks; and

9 (2) Authorize the state board of nursing to:

10 (A) Reactivate licenses and conduct investigations of  
11 applicants; and

12 (B) Request, beginning July 1, 2017, criminal history  
13 records of qualified applicants and request, no  
14 later than July 1, 2023, criminal history records  
15 required for licensees who were issued licenses  
16 prior to July 1, 2017.

17 SECTION 2. Section 457-5, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) In addition to any other powers and duties authorized  
20 by law, the board may:



- 1           (1) Adopt, amend, or repeal rules, pursuant to chapter 91,  
2           not inconsistent with the law, as may be necessary to  
3           enable it to carry into effect this chapter, including  
4           the definition of the scope of practice of nursing and  
5           the delegation of nursing tasks based upon  
6           professional nursing standards, which include but are  
7           not limited to the standards set forth by national  
8           certifying bodies recognized by the board;
- 9           (2) Prescribe standards for preparing persons for  
10           licensure as practical nurses, registered nurses, and  
11           advanced practice registered nurses under this  
12           chapter;
- 13           (3) Conduct surveys of educational programs as it may deem  
14           necessary and practical;
- 15           (4) Approve educational programs that meet the  
16           requirements of this chapter and the rules of the  
17           board;
- 18           (5) Deny or withdraw approval of educational programs for  
19           failure to meet or maintain the standards prescribed  
20           in this chapter;



1           (6) License qualified applicants by examination or  
2           endorsement, including advanced practice registered  
3           nurses, and renew, reinstate, reactivate, and restore  
4           licenses[?] and shall conduct an investigation of the  
5           qualified applicant's background, character,  
6           competency, and integrity, as the board deems  
7           appropriate. The board shall:  
8           (A) Request, beginning July 1, 2017, the criminal  
9           history records of qualified applicants, in  
10           accordance with section 846-2.7; and  
11           (B) Request the criminal history records, pursuant to  
12           section 846-2.7, of licensees who were issued  
13           licenses by the board prior to July 1, 2017;  
14           provided that the board shall request criminal history  
15           records under this paragraph not less than once for  
16           each individual qualified applicant or licensee;  
17           provided further that all requests for criminal  
18           history records required for licensees issued a  
19           license by the board prior to July 1, 2017, shall be  
20           made by the board no later than July 1, 2023. The  
21           Hawaii criminal justice data center shall provide the

- 1           information on request to the director of commerce and  
2           consumer affairs;
- 3           (7) Conduct hearings upon request of a denied applicant or  
4           upon charges calling for discipline of a licensee;
- 5           (8) Exercise the power to issue subpoenas, compel the  
6           attendance of witnesses, and administer oaths to  
7           persons giving testimony at hearings;
- 8           (9) Cause the prosecution of all persons violating this  
9           chapter and incur necessary expenses therefor;
- 10          (10) Keep a record of all its proceedings;
- 11          (11) Provide consultation, conduct conferences, forums,  
12          studies, and research on nursing education and  
13          practice;
- 14          (12) Communicate with national organizations that promote  
15          the improvement of the legal standards of practice of  
16          nursing for the protection of public health, safety,  
17          and welfare;
- 18          (13) Authorize the administration of examinations to  
19          eligible applicants for licensure as registered nurses  
20          or licensed practical nurses, or other examinations  
21          required by the board as designated in its rules;



- 1       (14)   Employ, contract, and cooperate, to the extent
- 2           allowable by law, with any board-approved organization
- 3           in the preparation and grading of an appropriate
- 4           nationally uniform examination; provided the board
- 5           shall retain sole discretion and responsibility for
- 6           determining the standard of successful completion of
- 7           such an examination.  When such a national examination
- 8           is used, access to questions and answers shall be
- 9           restricted by the board; and
- 10       (15)   Develop and adopt rules as necessary relating to the
- 11           practice of nursing in telehealth."

12       SECTION 3.  Section 457-7, Hawaii Revised Statutes, is  
 13 amended by amending subsection (a) to read as follows:

14       "(a)  An applicant for a license to practice nursing as a  
 15 registered nurse shall submit ~~[an]~~:

- 16       (1)  An application on a form prescribed by the board;
- 17       (2)  Beginning with the July 1, 2017, licensing biennium, a  
 18       full set of electronic fingerprints for the purpose of  
 19       obtaining federal and state criminal history record  
 20       checks in accordance with section 846-2.7 directly to  
 21       the Hawaii criminal justice data center for processing



1           with the Federal Bureau of Investigation. The  
2           applicant shall bear the cost of the fingerprint  
3           processing and the application shall not be considered  
4           complete until the results of the criminal history  
5           record check have been received by the board; and  
6           ~~[shall provide written]~~

7           (3) Written evidence that the applicant has completed a  
8           nursing program approved by the board."

9           SECTION 4. Section 457-8, Hawaii Revised Statutes, is  
10          amended by amending subsection (a) to read as follows:

11          "(a) An applicant for a license to practice nursing as a  
12          licensed practical nurse shall submit ~~[an]~~:

- 13          (1) An application on a form prescribed by the board;
- 14          (2) Beginning with the July 1, 2017, licensing biennium, a  
15          full set of electronic fingerprints for the purpose of  
16          obtaining federal and state criminal history record  
17          checks in accordance with section 846-2.7 directly to  
18          the Hawaii criminal justice data center for processing  
19          with the Federal Bureau of Investigation. The  
20          applicant shall bear the cost of the fingerprint  
21          processing and the application shall not be considered



1           complete until the results of the criminal history  
2           record check have been received by the board; and  
3           ~~[shall provide written]~~

4           (3) Written evidence that the applicant has completed a  
5           licensed practical nurse program, or its equivalent,  
6           approved by the board, and holds a diploma or  
7           certificate therefrom."

8           SECTION 5. Section 457-8.5, Hawaii Revised Statutes, is  
9           amended by amending subsection (a) to read as follows:

10           "(a) The board shall grant an advanced practice registered  
11           nurse license to a nurse who has:

12           (1) A current, unencumbered license as a registered nurse  
13           in this State;

14           (2) An unencumbered license as a registered nurse in all  
15           other states in which the nurse has a current and  
16           active license;

17           (3) An unencumbered license as an advanced practice  
18           registered nurse or similar designation in all other  
19           states in which the nurse has a current and active  
20           license as an advanced practice registered nurse;





- 1 (4) Completed an accredited graduate-level education  
2 program preparing the nurse for one of the four  
3 recognized advanced practice registered nurse roles;
- 4 (5) A current, unencumbered certification of having passed  
5 a national certification examination that measures  
6 role and population-focused competencies and is  
7 recognized by the board;
- 8 (6) Maintained continued competencies through  
9 recertification in role and population-focused  
10 competencies through a national certification program  
11 recognized by the board;
- 12 (7) Acquired advanced clinical knowledge and skills  
13 preparing the nurse to provide direct care to patients  
14 through a significant educational and practical  
15 concentration on the direct care of patients;
- 16 (8) Demonstrated a greater breadth of knowledge, a greater  
17 synthesis of data, greater complexity of skills and  
18 interventions, and greater role autonomy than  
19 demonstrated by a registered nurse;
- 20 (9) Been educationally prepared to assume responsibility  
21 and accountability for health promotion and



1 maintenance and to assess, diagnose, and manage  
2 patient problems through the use and prescription of  
3 pharmacologic and non-pharmacologic interventions;

4 (10) Acquired clinical experience of sufficient depth and  
5 breadth to reflect the intended license; ~~and]~~

6 (11) Beginning with the July 1, 2017, licensing biennium,  
7 submitted a full set of electronic fingerprints for  
8 the purpose of obtaining federal and state criminal  
9 history record checks in accordance with section 846-  
10 2.7 directly to the Hawaii criminal justice data  
11 center for processing with the Federal Bureau of  
12 Investigation. The applicant shall bear the cost of  
13 the fingerprint processing and the application shall  
14 not be considered complete until the results of the  
15 criminal history record check have been received by  
16 the board; and

17 ~~[(11)]~~ (12) Paid the appropriate fees."

18 SECTION 6. Section 457-9, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The license of every person licensed or granted  
21 prescriptive authority shall expire on June 30 of every odd-



1 numbered year and shall be renewed biennially, except as  
2 provided in this section. Biennially in each odd-numbered year,  
3 the board shall make available an application for renewal of  
4 license before the deadline set forth by the board to every  
5 person to whom a license was issued or renewed during the  
6 biennium. The applicant shall complete the application and  
7 submit it to the board with a renewal fee, and shall also  
8 submit, beginning with the July 1, 2019, licensing biennium, a  
9 full set of electronic fingerprints for the purpose of obtaining  
10 federal and state criminal history record checks in accordance  
11 with section 846-2.7 directly to the Hawaii criminal justice  
12 data center for processing with the Federal Bureau of  
13 Investigation. The applicant shall bear the cost of the  
14 fingerprint processing and the application shall not be  
15 considered complete until the results of the criminal history  
16 record check has been received by the board; and all required  
17 documents on or before the deadline set by the board. The  
18 applicant shall provide documents from proper agencies or  
19 parties of any criminal conviction or any disciplinary action  
20 taken or pending in this State or any other state in the United  
21 States or any territory or possession under the jurisdiction of



1 the United States within the two years prior to application for  
2 renewal of license. Upon receipt of the application and fee,  
3 the board shall verify the accuracy of the application and issue  
4 to the applicant a certificate of renewal for the biennium  
5 expiring two years hence on the deadline set by the board. The  
6 renewal shall render the holder thereof a legal practitioner of  
7 nursing for the period stated on the renewal form.

8 (b) Any licensee who fails to renew a license as provided  
9 in subsection (a) but continues to practice shall be considered  
10 an illegal practitioner and shall be subject to the penalties  
11 provided for violations of this chapter. The failure to timely  
12 renew a license, the failure to pay all applicable fees, the  
13 dishonoring of any check upon first deposit, or the failure to  
14 comply with any other requirement provided by law shall cause  
15 the license to be automatically forfeited; provided that the  
16 person's license may be restored by the board within two years  
17 after the date of forfeiture upon compliance with the licensing  
18 renewal fees, penalty fees, and compliance resolution fund fees.

19 A nurse who does not intend to practice nursing in the  
20 State and elects to be placed on inactive status shall so  
21 indicate in writing during the license renewal period or by so



1 indicating on the license renewal application, and paying  
2 inactivation and all appropriate fees. Should the nurse wish to  
3 resume nursing at some future time, the nurse shall notify the  
4 board in writing and remit the reactivation and renewal fees  
5 ~~[and]~~; submit an application form as provided in subsection  
6 (a) [-]; and beginning with the July 1, 2019, licensing biennium,  
7 submit a full set of electronic fingerprints for the purpose of  
8 obtaining federal and state criminal history record checks in  
9 accordance with section 846-2.7 directly to the Hawaii criminal  
10 justice data center for processing with the Federal Bureau of  
11 Investigation. The applicant shall bear the cost of the  
12 fingerprint processing and the application shall not be  
13 considered complete until the results of the criminal history  
14 record check has been received by the board. A nurse who has  
15 not actively practiced in this State or any other state in the  
16 United States or any territory or possession under the  
17 jurisdiction of the United States for more than five years may  
18 be required by the board to submit proof of continued competency  
19 by retaking and passing the licensing examination or  
20 successfully completing appropriate continuing education  
21 recognized by the board."



1 SECTION 7. 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 or its designee on operators  
5 of adult foster homes for individuals with  
6 developmental disabilities or developmental  
7 disabilities domiciliary homes and their employees, as  
8 provided by section 321-15.2;

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

15 (3) The department of health or its designee on all  
16 applicants for licensure or certification for,  
17 operators for, prospective employees, adult  
18 volunteers, and all adults, except adults in care, at  
19 health care facilities as defined in section 321-15.2;

20 (4) The department of education on employees, prospective  
21 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to  
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees  
4 who may be in positions that place them in close  
5 proximity to children in recreation or child care  
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor  
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and  
10 prospective employees involved in liquor  
11 administration, law enforcement, and liquor control  
12 investigations;
- 13 (8) The department of human services on operators and  
14 employees of child caring institutions, child placing  
15 organizations, and foster boarding homes as provided  
16 by section 346-17;
- 17 (9) The department of human services on prospective  
18 adoptive parents as established under section  
19 346-19.7;
- 20 (10) The department of human services on applicants to  
21 operate child care facilities, prospective employees



1 of the applicant, and new employees of the provider  
2 after registration or licensure as provided by section  
3 346-154;

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

8 (12) The department of health on operators and employees of  
9 home and community-based case management agencies and  
10 operators and other adults, except for adults in care,  
11 residing in community care foster family homes as  
12 provided by section 321-15.2;

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

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





- 1       (15) The judiciary on employees and applicants at detention  
2             and shelter facilities as provided by section 571-34;
- 3       (16) The department of public safety on employees and  
4             prospective employees who are directly involved with  
5             the treatment and care of persons committed to a  
6             correctional facility or who possess police powers  
7             including the power of arrest as provided by section  
8             353C-5;
- 9       (17) The board of private detectives and guards on  
10            applicants for private detective or private guard  
11            licensure as provided by section 463-9;
- 12       (18) Private schools and designated organizations on  
13            employees and prospective employees who may be in  
14            positions that necessitate close proximity to  
15            children; provided that private schools and designated  
16            organizations receive only indications of the states  
17            from which the national criminal history record  
18            information was provided pursuant to section 302C-1;
- 19       (19) The public library system on employees and prospective  
20            employees whose positions place them in close



1           proximity to children as provided by section  
2           302A-601.5;

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

11          (21) The department of health on licensed adult day care  
12          center operators, employees, new employees,  
13          subcontracted service providers and their employees,  
14          and adult volunteers as provided by section 321-15.2;

15          (22) The department of human services on purchase of  
16          service contracted and subcontracted service providers  
17          and their employees serving clients of the adult  
18          protective and community services branch, as provided  
19          by section 346-97;

20          (23) The department of human services on foster grandparent  
21          program, senior companion program, and respite



- 1           companion program participants as provided by section  
2           346-97;
- 3       (24) The department of human services on contracted and  
4           subcontracted service providers and their current and  
5           prospective employees that provide home and community-  
6           based services under section 1915(c) of the Social  
7           Security Act, title 42 United States Code section  
8           1396n(c), or under any other applicable section or  
9           sections of the Social Security Act for the purposes  
10          of providing home and community-based services, as  
11          provided by section 346-97;
- 12       (25) The department of commerce and consumer affairs on  
13          proposed directors and executive officers of a bank,  
14          savings bank, savings and loan association, trust  
15          company, and depository financial services loan  
16          company as provided by section 412:3-201;
- 17       (26) The department of commerce and consumer affairs on  
18          proposed directors and executive officers of a  
19          nondepository financial services loan company as  
20          provided by section 412:3-301;



- 1           (27) The department of commerce and consumer affairs on the  
2                   original chartering applicants and proposed executive  
3                   officers of a credit union as provided by section  
4                   412:10-103;
- 5           (28) The department of commerce and consumer affairs on:  
6                   (A) Each principal of every non-corporate applicant  
7                           for a money transmitter license; and  
8                   (B) The executive officers, key shareholders, and  
9                           managers in charge of a money transmitter's  
10                   activities of every corporate applicant for a  
11                   money transmitter license,  
12                   as provided by sections 489D-9 and 489D-15;
- 13           (29) The department of commerce and consumer affairs on  
14                   applicants for licensure and persons licensed under  
15                   title 24;
- 16           (30) The Hawaii health systems corporation on:  
17                   (A) Employees;  
18                   (B) Applicants seeking employment;  
19                   (C) Current or prospective members of the corporation  
20                   board or regional system board; or



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

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

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

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

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

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



- 1       (34) The counties on prospective employees for fire  
2           department positions which involve contact with  
3           children or vulnerable adults;
- 4       (35) The counties on prospective employees for emergency  
5           medical services positions which involve contact with  
6           children or vulnerable adults;
- 7       (36) The counties on prospective employees for emergency  
8           management positions and community volunteers whose  
9           responsibilities involve planning and executing  
10          homeland security measures including viewing,  
11          handling, and engaging in law enforcement or  
12          classified meetings and assisting vulnerable citizens  
13          during emergencies or crises;
- 14      (37) The State and counties on employees, prospective  
15          employees, volunteers, and contractors whose position  
16          responsibilities require unescorted access to secured  
17          areas and equipment related to a traffic management  
18          center;
- 19      (38) The State and counties on employees and prospective  
20          employees whose positions involve the handling or use  
21          of firearms for other than law enforcement purposes;



- 1 (39) The State and counties on current and prospective  
2 systems analysts and others involved in an agency's  
3 information technology operation whose position  
4 responsibilities provide them with access to  
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on  
7 applicants for real estate appraiser licensure or  
8 certification as provided by chapter 466K;
- 9 (41) The department of health or its designee on all  
10 license applicants, licensees, employees, contractors,  
11 and prospective employees of medical marijuana  
12 dispensaries, and individuals permitted to enter and  
13 remain in medical marijuana dispensary facilities as  
14 provided under sections 329D-15(a) (4) and  
15 329D-16(a) (3); [~~and~~]
- 16 (42) The department of commerce and consumer affairs on  
17 applicants for nurse licensure or license renewal,  
18 reactivation, or restoration as provided by sections  
19 457-7, 457-8, 457-8.5, and 457-9; and



1        [~~(42)~~] (43) Any other organization, entity, or the State,  
2                    its branches, political subdivisions, or agencies as  
3                    may be authorized by state law."

4            SECTION 8. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6            SECTION 9. This Act shall take effect on July 1, 2016.





**Report Title:**

Nursing; Licensure; Registration; Renewal; Criminal History  
Record Checks; Board of Nursing

**Description:**

Requires submittal of electronic fingerprints for criminal history record checks from nurse licensure applicants and nurse licensure renewal applicants. Authorizes the Board of Nursing to conduct investigations of applicants for licensure, renewal, and reactivation, request criminal history records of qualified applicants, and request criminal history records of persons issued licenses. (HB1756 CD1)

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

