

JAN 25 2017

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# 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. Section 46-16.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§46-16.5 Public passenger vehicle regulation. (a) The  
4 legislature finds and declares the following:

5           (1) The orderly regulation of vehicular traffic on the  
6 streets and highways of Hawaii is essential to the  
7 welfare of the State and its people;

8           (2) Privately-operated public passenger vehicle service  
9 provides vital transportation links within the State.

10           Public passenger vehicle service operated in the  
11 counties enables the State to provide the benefits of  
12 privately-operated, demand-responsive transportation  
13 services to its people and to persons who travel to  
14 the State for business or tourist purposes;

15           (3) The economic viability and stability of privately-  
16 operated public passenger vehicle service is  
17 consequently a matter of statewide importance;



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- 1           (4) The policy of the State is to promote safe and  
2           reliable privately-operated public passenger vehicle  
3           service to provide the benefits of that service. In  
4           furtherance of this policy, the legislature recognizes  
5           and affirms that the regulation of privately-operated  
6           public passenger vehicle service is an essential  
7           governmental function;
- 8           (5) The policy of the State is to require that counties  
9           regulate privately-operated public passenger vehicle  
10          service and not subject a county or its officers to  
11          liability under the federal antitrust laws;
- 12          (6) The policy of the State is to further promote  
13          privately-operated public passenger vehicle service,  
14          including but not limited to, the picking up and  
15          discharge of passengers from various unrelated  
16          locations by taxicabs; and
- 17          (7) The policy of the State is to further promote  
18          privately-operated public passenger vehicle service by  
19          requiring jitney services not regulated by the  
20          counties to be under the jurisdiction of the public  
21          utilities commission. For the purposes of this



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1 paragraph, "jitney services" means public  
2 transportation services utilizing motor vehicles that  
3 have seating accommodations for six to twenty-five  
4 passengers, operate along specific routes during  
5 defined service hours, and levy a flat fare schedule.

6 (b) Any other law to the contrary notwithstanding, where  
7 not within the jurisdiction of the public utilities commission,  
8 every county may provide rules to protect the public health,  
9 safety, and welfare by licensing, controlling, and regulating,  
10 by ordinance or resolution, public passenger vehicle service  
11 operated within the jurisdiction of the county; provided that  
12 the counties shall promote the policies set forth in subsection

13 (a).

14 (c) Every county is empowered to regulate:

15 (1) Entry into the business of providing public passenger  
16 vehicle service within the jurisdiction of that  
17 county.

18 (2) The rates charged for the provision of public  
19 passenger vehicle service.



1           (3) The establishment of stands to be employed by one or a  
2           limited number of providers of public passenger  
3           vehicle service.

4           (d) Every county that regulates public passenger vehicle  
5           services shall establish standards to determine, in the case  
6           where an operator of a public passenger vehicle service  
7           previously has been convicted of a crime, whether by reason of  
8           the nature and circumstances of the crime, the operator poses a  
9           risk to the health, safety, or well-being of passengers. Every  
10           county subject to this subsection shall require each individual  
11           who operates a public passenger vehicle service within the  
12           county to submit to the examiner of drivers of that county a  
13           full set of electronic fingerprints and to consent to the  
14           conduct of a criminal history record check of the individual.  
15           The examiner of drivers may set and collect a fee for each  
16           criminal history record check."

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

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

20           (1) The department of health or its designee on operators  
21           of adult foster homes for individuals with



1 developmental disabilities or developmental  
2 disabilities domiciliary homes and their employees, as  
3 provided by section 321-15.2;

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

10 (3) The department of health or its designee on all  
11 applicants for licensure or certification for,  
12 operators for, prospective employees, adult  
13 volunteers, and all adults, except adults in care, at  
14 healthcare facilities as defined in section 321-15.2;

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

19 (5) The counties on employees and prospective employees  
20 who may be in positions that place them in close



- 1           proximity to children in recreation or child care  
2           programs and services;
- 3           (6) The county liquor commissions on applicants for liquor  
4           licenses as provided by section 281-53.5;
- 5           (7) The county liquor commissions on employees and  
6           prospective employees involved in liquor  
7           administration, law enforcement, and liquor control  
8           investigations;
- 9           (8) The department of human services on operators and  
10          employees of child caring institutions, child placing  
11          organizations, and foster boarding homes as provided  
12          by section 346-17;
- 13          (9) The department of human services on prospective  
14          adoptive parents as established under section  
15          346-19.7;
- 16          (10) The department of human services or its designee on  
17          applicants to operate child care facilities, household  
18          members of the applicant, prospective employees of the  
19          applicant, and new employees and household members of  
20          the provider after registration or licensure as



1 provided by section 346-154, and persons subject to  
2 section 346-152.5;

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

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

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

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



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- 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;  
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; and  
12          (C) The persons who are to assume control of a money  
13          transmitter licensee in connection with an  
14          application requesting approval of a proposed  
15          change in control of licensee,  
16          as provided by sections 489D-9 and 489D-15;
- 17          (29) The department of commerce and consumer affairs on  
18          applicants for licensure and persons licensed under  
19          title 24;
- 20          (30) The Hawaii health systems corporation on:  
21          (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 (31) The department of commerce and consumer affairs on:
  - 9 (A) An applicant for a mortgage loan originator
  - 10 license; and
  - 11 (B) Each control person, executive officer, director,
  - 12 general partner, and manager of an applicant for
  - 13 a mortgage loan originator company license,
  - 14 as provided by chapter 454F;
- 15 (32) The state public charter school commission or public
- 16 charter schools on employees, teacher trainees,
- 17 prospective employees, and prospective teacher
- 18 trainees in any public charter school for any position
- 19 that places them in close proximity to children, as
- 20 provided in section 302D-33;



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



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



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1            reactivation, or restoration as provided by sections  
2            457-7, 457-8, 457-8.5, and 457-9;

3    [†] (43) [†]    The county police departments on applicants for  
4            permits to acquire firearms pursuant to section 134-2  
5            and on individuals registering their firearms pursuant  
6            to section 134-3;

7    [†] (44) [†]    The department of commerce and consumer affairs on:

8            (A)    Each of the controlling persons of the applicant  
9            for licensure as an escrow depository, and each  
10           of the officers, directors, and principals who  
11           will be in charge of the escrow depository's  
12           activities upon licensure; and

13           (B)    Each of the controlling persons of an applicant  
14           for proposed change in control of an escrow  
15           depository licensee, and each of the officers,  
16           directors, and principals who will be in charge  
17           of the licensee's activities upon approval of  
18           such application,

19           as provided by chapter 449; [and]



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1        (45) The examiner of drivers on operators of a public  
 2        passenger vehicle service pursuant to section 46-16.5;  
 3        and

4        [~~(45)~~] (46) Any other organization, entity, or the State,  
 5        its branches, political subdivisions, or agencies as  
 6        may be authorized by state law."

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

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

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INTRODUCED BY:

*Francis J. Grouse*

*B*

*David H. DeLoe*

*Russell de Pook*

*BTG*  
*Breene Hunt*





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**Report Title:**

Transportation; Criminal History Record Check

**Description:**

Requires counties that regulate public passenger vehicle services to establish standards to protect passenger safety. Requires operators of public passenger vehicle services to provide a full set of electronic fingerprints and submit to a criminal history record check.

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

