
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. The legislature finds that the Internal Revenue
2 Service has instituted a new requirement to perform background
3 checks on all current and prospective employees and contractors
4 who receive access to federal tax information. The background
5 checks must be comprehensive and include a Federal Bureau of
6 Investigation fingerprint search. To comply with this new
7 requirement, the child support enforcement agency and the
8 departments of taxation, human services, and labor and
9 industrial relations require additional authorization to search
10 criminal histories of employees, prospective employees, and
11 contractors, and to perform a fingerprint search of such
12 persons. Multiple other departments and agencies have received
13 such additional authority. This Act will extend similar
14 authority to the child support enforcement agency and the
15 departments of taxation, human services, and labor and
16 industrial relations to allow them to comply with new Internal
17 Revenue Service requirements.



1 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§231- Criminal history record checks. (a) The
5 department shall establish a personnel security program that
6 ensures a background investigation is completed at the
7 appropriate level designated by the federal government for any
8 individual who will have access to federal tax information.
9 This program shall include criminal history record checks in
10 accordance with section 846-2.7. Information obtained pursuant
11 to this subsection shall be used exclusively by the department
12 for the purpose of determining whether the person is suitable
13 for accessing federal tax information in accordance with
14 applicable federal laws.

15 (b) The department may terminate or deny employment to any
16 employee or applicant, or terminate or refuse to secure the
17 services of any contractor, if the department finds by reason of
18 the background investigation conducted under subsection (a) that
19 the employee or applicant, or employee or agent of the
20 contractor, poses a risk to the security of federal tax
21 information. Termination or denial of employment under this



1 subsection shall only occur after appropriate notification to
2 the employee or applicant of the findings of the background
3 investigation, and after the employee or applicant is given an
4 opportunity to meet and rebut the findings. Nothing in this
5 subsection shall abrogate any applicable appeal rights under
6 chapters 76 and 89, or administrative regulation of the
7 department.

8 (c) Notwithstanding any other law to the contrary, for
9 purposes of this section, the department shall be exempt from
10 section 831-3.1 and need not conduct investigations,
11 notifications, or hearings under this section in accordance with
12 chapter 91."

13 SECTION 3. Chapter 346, Hawaii Revised Statutes, is
14 amended by adding to part I a new section to be appropriately
15 designated and to read as follows:

16 "§346- Criminal history record checks. (a) The
17 department shall develop procedures for obtaining verifiable
18 information regarding the criminal history of persons who are
19 employed or seeking employment, or contractors, if such position
20 will require access to federal tax information. The procedures
21 shall include criminal history record checks in accordance with



1 section 846-2.7. Information obtained pursuant to this
2 subsection shall be used exclusively by the department for the
3 purpose of determining whether a person is suitable for
4 accessing federal tax information in accordance with applicable
5 federal laws.

6 (b) The department may refuse to employ, and may terminate
7 the employment of any employee or deny employment to an
8 applicant if the person has been convicted of a crime, and if
9 the department finds by reason of the nature and circumstances
10 of the crime that the person poses a risk to the security of
11 federal tax information. Termination or denial of employment
12 may occur only after appropriate investigation and notification
13 to the employee or applicant for employment of results and
14 planned action, and after the employee or applicant for
15 employment is given an opportunity to respond to the finding.
16 Nothing in this subsection shall abrogate any applicable appeal
17 rights under chapters 76 and 89, or administrative regulation of
18 the department.

19 (c) Notwithstanding any other law to the contrary, for
20 purposes of this section, the department shall be exempt from
21 section 831-3.1 and need not conduct investigations,



1 notifications, or hearings under this section in accordance with
2 chapter 91."

3 SECTION 4. Chapter 383, Hawaii Revised Statutes, is
4 amended by adding to part IV a new section to be appropriately
5 designated and to read as follows:

6 "§383- Criminal history record checks. (a) The
7 department shall establish a personnel security program that
8 ensures a background investigation is completed at the
9 appropriate level designated by the Federal government for any
10 individual who will have access to federal tax information.
11 This program shall include criminal history record checks in
12 accordance with section 846-2.7. Information obtained pursuant
13 to this subsection shall be used exclusively by the department
14 for the purpose of determining whether the person is suitable
15 for accessing federal tax information in accordance with
16 applicable federal laws.

17 (b) The department may terminate or deny employment to any
18 employee or applicant, or terminate or refuse to secure the
19 services of any contractor, if the department finds by reason of
20 the background investigation conducted under subsection (a) that
21 the employee or applicant, or employee or agent of the



1 contractor, poses a risk to the security of federal tax
2 information. Termination or denial of employment under this
3 subsection shall only occur after appropriate notification to
4 the employee or applicant of the findings of the background
5 investigation, and after the employee or applicant is given an
6 opportunity to meet and rebut the findings. Nothing in this
7 subsection shall abrogate any applicable appeal rights under
8 chapters 76 and 89, or administrative regulation of the
9 department.

10 (c) Notwithstanding any other law to the contrary, for
11 purposes of this section, the department shall be exempt from
12 section 831-3.1 and need not conduct investigations,
13 notifications, or hearings under this section in accordance with
14 chapter 91."

15 SECTION 5. Chapter 576D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§576D- Criminal history record checks. (a) The child
19 support enforcement agency shall develop procedures for
20 obtaining verifiable information regarding the criminal history
21 of persons who are employed or seeking employment with the



1 agency if such position will require access to federal tax
2 information. These procedures shall include criminal history
3 record checks in accordance with section 846-2.7.

4 Information obtained pursuant to this subsection shall be
5 used exclusively by the agency for the purpose of determining
6 whether a person is suitable for accessing federal tax
7 information. All such decisions shall be subject to applicable
8 federal laws and regulations currently or hereafter in effect.

9 (b) The agency may refuse to employ, and may terminate the
10 employment of any employee or deny employment to an applicant if
11 the person has been convicted of a crime, and if the agency
12 finds by reason of the nature and circumstances of the crime
13 that the person poses a risk to the security of federal tax
14 information. Termination or denial of employment may occur only
15 after appropriate investigation and notification to the employee
16 or applicant for employment of results and planned action, and
17 after the employee or applicant for employment is given an
18 opportunity to meet and rebut the finding. Nothing in this
19 subsection shall abrogate any applicable appeal rights under
20 chapters 76 and 89.

21 (c) Notwithstanding any other law to the contrary, for



1 purposes of this section, the agency shall be exempt from
2 section 831-3.1 and need not conduct investigations,
3 notifications, or hearings under this section in accordance with
4 chapter 91."

5 SECTION 6. Section 846-2.7, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

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

- 8 (1) The department of health or its designee on operators
9 of adult foster homes for individuals with
10 developmental disabilities or developmental
11 disabilities domiciliary homes and their employees, as
12 provided by section 321-15.2;
- 13 (2) The department of health or its designee on
14 prospective employees, persons seeking to serve as
15 providers, or subcontractors in positions that place
16 them in direct contact with clients when providing
17 non-witnessed direct mental health or health care
18 services as provided by section 321-171.5;
- 19 (3) The department of health or its designee on all
20 applicants for licensure or certification for,
21 operators for, prospective employees, adult



- 1 volunteers, and all adults, except adults in care, at
2 healthcare facilities as defined in section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The county liquor commissions on employees and
14 prospective employees involved in liquor
15 administration, law enforcement, and liquor control
16 investigations;
- 17 (8) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;



- 1 (9) The department of human services on prospective
2 adoptive parents as established under section
3 346-19.7;
- 4 (10) The department of human services or its designee on
5 applicants to operate child care facilities, household
6 members of the applicant, prospective employees of the
7 applicant, and new employees and household members of
8 the provider after registration or licensure as
9 provided by section 346-154, and persons subject to
10 section 346-152.5;
- 11 (11) The department of human services on persons exempt
12 pursuant to section 346-152 to be eligible to provide
13 child care and receive child care subsidies as
14 provided by section 346-152.5;
- 15 (12) The department of health on operators and employees of
16 home and community-based case management agencies and
17 operators and other adults, except for adults in care,
18 residing in community care foster family homes as
19 provided by section 321-15.2;



- 1 (13) The department of human services on staff members of
2 the Hawaii youth correctional facility as provided by
3 section 352-5.5;
- 4 (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 (15) The judiciary on employees and applicants at detention
11 and shelter facilities as provided by section 571-34;
- 12 (16) The department of public safety on employees and
13 prospective employees who are directly involved with
14 the treatment and care of persons committed to a
15 correctional facility or who possess police powers
16 including the power of arrest as provided by section
17 353C-5;
- 18 (17) The board of private detectives and guards on
19 applicants for private detective or private guard
20 licensure as provided by section 463-9;



- 1 (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 (19) The public library system on employees and prospective
9 employees whose positions place them in close
10 proximity to children as provided by section
11 302A-601.5;
- 12 (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 (21) The department of health on licensed adult day care
21 center operators, employees, new employees,



- 1 subcontracted service providers and their employees,
2 and adult volunteers as provided by section 321-15.2;
- 3 (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
6 protective and community services branch, as provided
7 by section 346-97;
- 8 (23) The department of human services on foster grandparent
9 program, senior companion program, and respite
10 companion program participants as provided by section
11 346-97;
- 12 (24) The department of human services on contracted and
13 subcontracted service providers and their current and
14 prospective employees that provide home and community-
15 based services under section 1915(c) of the Social
16 Security Act, title 42 United States Code section
17 1396n(c), or under any other applicable section or
18 sections of the Social Security Act for the purposes
19 of providing home and community-based services, as
20 provided by section 346-97;



- 1 (25) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a bank,
3 savings bank, savings and loan association, trust
4 company, and depository financial services loan
5 company as provided by section 412:3-201;
- 6 (26) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;
- 10 (27) The department of commerce and consumer affairs on the
11 original chartering applicants and proposed executive
12 officers of a credit union as provided by section
13 412:10-103;
- 14 (28) The department of commerce and consumer affairs on:
15 (A) Each principal of every non-corporate applicant
16 for a money transmitter license;
17 (B) The executive officers, key shareholders, and
18 managers in charge of a money transmitter's
19 activities of every corporate applicant for a
20 money transmitter license; and



- 1 (C) The persons who are to assume control of a money
- 2 transmitter licensee in connection with an
- 3 application requesting approval of a proposed
- 4 change in control of licensee,
- 5 as provided by sections 489D-9 and 489D-15;
- 6 (29) The department of commerce and consumer affairs on
- 7 applicants for licensure and persons licensed under
- 8 title 24;
- 9 (30) The Hawaii health systems corporation on:
- 10 (A) Employees;
- 11 (B) Applicants seeking employment;
- 12 (C) Current or prospective members of the corporation
- 13 board or regional system board; or
- 14 (D) Current or prospective volunteers, providers, or
- 15 contractors,
- 16 in any of the corporation's health facilities as
- 17 provided by section 323F-5.5;
- 18 (31) The department of commerce and consumer affairs on:
- 19 (A) An applicant for a mortgage loan originator
- 20 license; and



- 1 (B) Each control person, executive officer, director,
2 general partner, and manager of an applicant for
3 a mortgage loan originator company license,
4 as provided by chapter 454F;
- 5 (32) The state public charter school commission or public
6 charter schools on employees, teacher trainees,
7 prospective employees, and prospective teacher
8 trainees in any public charter school for any position
9 that places them in close proximity to children, as
10 provided in section 302D-33;
- 11 (33) The counties on prospective employees who work with
12 children, vulnerable adults, or senior citizens in
13 community-based programs;
- 14 (34) The counties on prospective employees for fire
15 department positions which involve contact with
16 children or vulnerable adults;
- 17 (35) The counties on prospective employees for emergency
18 medical services positions which involve contact with
19 children or vulnerable adults;
- 20 (36) The counties on prospective employees for emergency
21 management positions and community volunteers whose



1 responsibilities involve planning and executing
 2 homeland security measures including viewing,
 3 handling, and engaging in law enforcement or
 4 classified meetings and assisting vulnerable citizens
 5 during emergencies or crises;

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

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

14 (39) The State and counties on current and prospective
 15 systems analysts and others involved in an agency's
 16 information technology operation whose position
 17 responsibilities provide them with access to
 18 proprietary, confidential, or sensitive information;

19 (40) The department of commerce and consumer affairs on
 20 applicants for real estate appraiser licensure or
 21 certification as provided by chapter 466K;



1 (41) The department of health or its designee on all
2 license applicants, licensees, employees, contractors,
3 and prospective employees of medical marijuana
4 dispensaries, and individuals permitted to enter and
5 remain in medical marijuana dispensary facilities as
6 provided under sections 329D-15(a)(4) and
7 329D-16(a)(3);

8 (42) The department of commerce and consumer affairs on
9 applicants for nurse licensure or license renewal,
10 reactivation, or restoration as provided by sections
11 457-7, 457-8, 457-8.5, and 457-9;

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

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

18 (A) Each of the controlling persons of the applicant
19 for licensure as an escrow depository, and each
20 of the officers, directors, and principals who



1 will be in charge of the escrow depository's
 2 activities upon licensure; and
 3 (B) Each of the controlling persons of an applicant
 4 for proposed change in control of an escrow
 5 depository licensee, and each of the officers,
 6 directors, and principals who will be in charge
 7 of the licensee's activities upon approval of
 8 such application,
 9 as provided by chapter 449; [~~and~~]

10 (45) The department of taxation on current or prospective
 11 employees or contractors that have access to federal
 12 tax information in order to comply with requirements
 13 of federal law, regulation, or procedure, as provided
 14 by section 231- ;

15 (46) The department of labor and industrial relations on
 16 current or prospective employees or contractors that
 17 have access to federal tax information in order to
 18 comply with requirements of federal law, regulation,
 19 or procedure, as provided by section 383- ;

20 (47) The department of human services or its designee on
 21 current and prospective employees or contractors that



1 have access to federal tax information in order to
2 comply with requirements of federal law, regulation,
3 or procedure, as provided by section 346- ;

4 (48) The child support enforcement agency on current and
5 prospective employees and contractors that have access
6 to federal tax information in order to comply with
7 federal law, regulation, or procedure; and

8 ~~[(45)]~~ (49) Any other organization, entity, or the State,
9 its branches, political subdivisions, or agencies as
10 may be authorized by state law."

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2050.

14



Report Title:

Criminal History Record Checks

Description:

Adds the Child Support Enforcement Agency and the Departments of Taxation, Human Services, and Labor and Industrial Relations to the list of agencies that are authorized to conduct criminal history record checks on employees, prospective employees, and contractors that have access to federal tax information.

(HB1031 HD1)

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

