



EXECUTIVE CHAMBERS
HONOLULU

GOV. MSG. NO. **661**

LINDA LINGLE
GOVERNOR

May 24, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on May 24, 2006, the following bill was signed into law:

HB2367 HD1 SD1 CD1

A BILL FOR AN ACT RELATING TO CRIMINAL
HISTORY RECORD CHECKS FOR SERVICE
PROVIDERS OF THE OFFICE OF YOUTH SERVICES.
(ACT 131)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

on _____

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 2367
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR SERVICE PROVIDERS
OF THE OFFICE OF YOUTH SERVICES.

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

1 SECTION 1. Chapter 352D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§352D- Criminal history record checks. (a) Employees,
5 prospective employees, and volunteers of contracted providers or
6 subcontractors in positions that place them in close proximity
7 to youth when providing services on behalf of the office shall
8 be required to agree to criminal history record checks. The
9 office shall develop procedures for obtaining verifiable
10 information regarding the criminal history records of
11 individuals seeking to serve as employees or volunteers of
12 contracted providers or subcontractors in positions that place
13 them in close proximity to youth when providing services on
14 behalf of the office.

15 (b) Except as otherwise specified, any individual who is
16 employed, seeks employment, or volunteers with a contracted
17 provider or subcontractor in a position that necessitates close

1 proximity to youth when providing services on behalf of the
2 office shall:

3 (1) Submit to the office a sworn statement indicating
4 whether the individual has ever been convicted of an
5 offense for which incarceration is a sentencing
6 option;

7 (2) Be subject to criminal history record checks through
8 the Hawaii criminal justice data center in accordance
9 with section 846-2.7. An annual name inquiry shall be
10 conducted in the state criminal history record files;
11 and

12 (3) Provide to the office written consent to obtain
13 criminal history record information for verification.

14 Information obtained pursuant to this section shall be used
15 exclusively by the office for purposes of determining whether a
16 person is suitable for working or volunteering in a position
17 that necessitates close proximity to youth when providing
18 contracted services on behalf of the office or in conjunction
19 with services provided for youth at the Hawaii youth
20 correctional facility, while in custody, on furlough or on
21 parole. All such decisions shall be subject to any applicable
22 federal laws and regulations.



1 (c) The office may require the contracted provider or
2 subcontractor to refuse employment to an applicant for
3 employment, terminate the employment of an employee, or
4 terminate the services of a volunteer if:

5 (1) The employee, prospective employee, or volunteer of
6 the contracted provider or subcontractor has been
7 convicted of an offense for which incarceration is a
8 sentencing option; and

9 (2) The office finds that the criminal history record of
10 the employee, prospective employee, or volunteer of
11 the contracted provider or subcontractor indicates
12 that the employee, prospective employee, or volunteer
13 may pose a risk to the health, safety, or well-being
14 of youth receiving direct services by that employee,
15 prospective employee, or volunteer.

16 (d) For the purposes of this section:

17 "Prospective employee" means any applicant for a position
18 with a contracted provider or subcontractor that provides direct
19 services to youth on behalf of the office.

20 "Provider" means any organization that or individual who
21 enters into, or intends to enter into, a contract with or is
22 currently contracted by the office to provide direct services to



1 youth. The term includes all individuals who are authorized to
2 provide direct services to youth under the contract with the
3 organization or individual.

4 "Subcontractor" means any organization that or individual
5 who enters into, or intends to enter into, a contract or
6 agreement with a contracted provider to provide direct services
7 to youth. The term includes all persons who may provide direct
8 services to youth under the contract with the organization or
9 individual.

10 "Volunteer" means any individual who provides, or intends
11 to provide, direct services to youth on a non-compensatory
12 basis.

13 (e) Notwithstanding any other law to the contrary, the
14 office shall be exempt from section 831-3.1 for purposes of this
15 section and need not conduct its investigations, notifications,
16 or hearings in accordance with chapter 91."

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 on operators of adult foster
21 homes or developmental disabilities domiciliary homes
22 and their employees, as provided by section 333F-22;



- 1 (2) The department of health on prospective employees,
2 persons seeking to serve as providers, or
3 subcontractors in positions that place them in direct
4 contact with clients when providing non-witnessed
5 direct mental health services, as provided by section
6 321-171.5;
- 7 (3) The department of education on employees, prospective
8 employees, and teacher trainees in any public school
9 in positions that necessitate close proximity to
10 children as provided by section 302A-601.5;
- 11 (4) The counties on employees and prospective employees
12 who may be in positions that place them in close
13 proximity to children in recreation or child care
14 programs and services;
- 15 (5) The county liquor commissions on applicants for liquor
16 licenses as provided by section 281-53.5;
- 17 (6) 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 (7) The department of human services on prospective
- 2 adoptive parents as established under section
- 3 346-19.7;
- 4 (8) The department of human services on applicants to
- 5 operate child care facilities, prospective employees
- 6 of the applicant, and new employees of the provider
- 7 after registration or licensure as provided by section
- 8 346-154;
- 9 (9) The department of human services on persons exempt
- 10 pursuant to section 346-152 to be eligible to provide
- 11 child care and receive child care subsidies as
- 12 provided by section 346-152.5;
- 13 (10) The department of human services on operators and
- 14 employees of home and community-based case management
- 15 agencies and operators and other adults, except for
- 16 adults in care, residing in foster family homes as
- 17 provided by section 346-335;
- 18 (11) The department of human services on staff members of
- 19 the Hawaii youth correctional facility as provided by
- 20 section 352-5.5;
- 21 (12) The department of human services on employees,
- 22 prospective employees, and volunteers of contracted

1 providers and subcontractors in positions that place
2 them in close proximity to youth when providing
3 services on behalf of the office or the Hawaii youth
4 correctional facility as provided by section 352D- ;
5 ~~(12)~~ (13) The judiciary on employees and applicants at
6 detention and shelter facilities as provided by
7 section 571-34;
8 ~~(13)~~ (14) The department of public safety on employees and
9 prospective employees who are directly involved with
10 the treatment and care of persons committed to a
11 correctional facility or who possess police powers
12 including the power of arrest as provided by section
13 353C-5;
14 ~~(14)~~ (15) The department of commerce and consumer affairs
15 on applicants for private detective or private guard
16 licensure as provided by section 463-9;
17 ~~(15)~~ (16) Private schools and designated organizations on
18 employees and prospective employees who may be in
19 positions that necessitate close proximity to
20 children; provided that private schools and designated
21 organizations receive only indications of the states
22 from which the national criminal history record

1 information was provided as provided by section
2 302C-1;

3 [~~16~~] (17) The public library system on employees and
4 prospective employees whose positions place them in
5 close proximity to children as provided by section
6 302A-601.5;

7 [~~17~~] (18) The State or any of its branches, political
8 subdivisions, or agencies on applicants and employees
9 holding a position that has the same type of contact
10 with children, dependent adults, or persons committed
11 to a correctional facility as other public employees
12 who hold positions that are authorized by law to
13 require criminal history record checks as a condition
14 of employment as provided by section 78-2.7; and

15 [~~18~~] (19) Any other organization, entity, or the State,
16 its branches, political subdivisions, or agencies as
17 may be authorized by state law."

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

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



H.B. NO. 2367
H.D. 1
S.D. 1
C.D. 1

APPROVED this 24 day of MAY, 2006



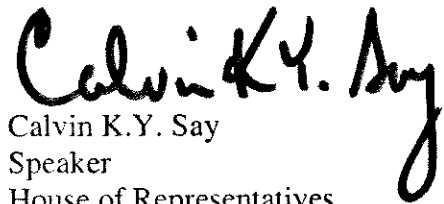
GOVERNOR OF THE STATE OF HAWAII

HB No. 2367 HD 1 SD 1 CD 1

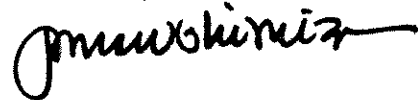
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate