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# 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)  
5 Employees, prospective employees, and volunteers who seek  
6 employment with contracted providers or subcontractors in  
7 positions that place them in close proximity to youth when  
8 providing services on behalf of the office of youth services  
9 shall be required to agree to criminal history record checks.

10 The office of youth services shall develop procedures for  
11 obtaining verifiable information regarding the criminal history  
12 records of persons seeking to serve as employees or volunteers  
13 of contracted providers or subcontractors in positions that  
14 place them in close proximity to youth when providing services  
15 on behalf of the office of youth services.

16           (b) Except as otherwise specified, any person who is  
17 employed, seeks employment, or volunteers with a contracted



1 provider or subcontractor in a position that necessitates close  
2 proximity to youth when providing services on behalf of the  
3 office of youth services shall:

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

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

13       (3) Provide to the office of youth services written  
14 consent to obtain criminal history record information  
15 for verification.

16 Information obtained pursuant to this section shall be used  
17 exclusively by the office of youth services for purposes of  
18 determining whether a person is suitable for working in a  
19 position that necessitates close proximity to youth when  
20 providing contracted services on behalf of the office of youth  
21 services or in conjunction with services provided for youth at  
22 the Hawaii youth correctional facility, while in custody, or on



1 furlough or parole. All such decisions shall be subject to any  
2 applicable federal laws and regulations.

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

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

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

19 (d) For the purposes of this section:

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



1       "Provider" means any organization or individual that enters  
2 into, or intends to enter into, a contract with or is currently  
3 contracted by the office of youth services to provide direct  
4 services to youth. The term includes all persons who may  
5 provide direct services to youth under the contract with the  
6 organization or individual.

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

12       "Volunteer" means any organization or individual that  
13 provides, or intends to provide, direct services to youth on a  
14 non-compensatory basis.

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

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

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



- 1 (1) The department of health on operators of adult foster  
2 homes or developmental disabilities domiciliary homes  
3 and their employees, as provided by section 333F-22;
- 4 (2) The department of health on prospective employees,  
5 persons seeking to serve as providers, or  
6 subcontractors in positions that place them in direct  
7 contact with clients when providing non-witnessed  
8 direct mental health services, as provided by section  
9 321-171.5;
- 10 (3) The department of education on employees, prospective  
11 employees, and teacher trainees in any public school  
12 in positions that necessitate close proximity to  
13 children as provided by section 302A-601.5;
- 14 (4) The counties on employees and prospective employees  
15 who may be in positions that place them in close  
16 proximity to children in recreation or child care  
17 programs and services;
- 18 (5) The county liquor commissions on applicants for liquor  
19 licenses as provided by section 281-53.5;
- 20 (6) The department of human services on operators and  
21 employees of child caring institutions, child placing



- 1 organizations, and foster boarding homes as provided  
2 by section 346-17;
- 3 (7) The department of human services on prospective  
4 adoptive parents as established under section 346-  
5 19.7;
- 6 (8) The department of human services on applicants to  
7 operate child care facilities, prospective employees  
8 of the applicant, and new employees of the provider  
9 after registration or licensure as provided by section  
10 346-154;
- 11 (9) 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 (10) The department of human services on operators and  
16 employees of home and community-based case management  
17 agencies and operators and other adults, except for  
18 adults in care, residing in foster family homes as  
19 provided by section 346-335;
- 20 (11) The department of human services on staff members of  
21 the Hawaii youth correctional facility as provided by  
22 section 352-5.5;



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



1 children; provided that private schools and designated  
2 organizations receive only indications of the states  
3 from which the national criminal history record  
4 information was provided as provided by section 302C-  
5 1;

6 [~~(16)~~] (17) The public library system on employees and  
7 prospective employees whose positions place them in  
8 close proximity to children as provided by section  
9 302A-601.5;

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

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

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





1 SECTION 4. This Act shall take effect on July 1, 2096.



HB 2367 HD 1

**Report Title:**

Criminal history checks; service providers

**Description:**

Authorizes the Office of Youth Services to obtain criminal history record information on employees, prospective employees, and volunteers of its contracted providers and subcontractors, in positions that necessitate close proximity to youth when providing services on behalf of the OYS. (HB 2367 HD1)

