
A BILL FOR AN ACT

RELATING TO HAWAII HEALTH SYSTEMS CORPORATION BACKGROUND CHECKS.

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

1 SECTION 1. Chapter 323F, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§323F- Criminal history record checks. (a) The
5 corporation shall develop procedures for obtaining verifiable
6 information regarding the criminal history of persons who are
7 employed or seeking employment, or are current or prospective
8 contractors, providers, or volunteers in any of the
9 corporation's health facilities. The procedures shall include
10 but not be limited to criminal history record checks in
11 accordance with section 846-2.7.

12 The Hawaii criminal justice data center may assess
13 providers and contractors a reasonable fee for criminal history
14 record checks performed. Providers and contractors shall be
15 responsible for payment to the Hawaii criminal justice data
16 center of the fee for the criminal history records checks.

17 (b) Except as otherwise specified, any person who is
18 employed or who seeks employment with the corporation, or is a



1 current or prospective contractor, provider, or volunteer in any
2 of the corporation's health facilities may be required to
3 provide to the corporation:

4 (1) A sworn statement indicating whether or not the person
5 has ever been convicted of an offense for which
6 incarceration was a sentencing option, and the details
7 thereof;

8 (2) Written consent for the corporation to obtain criminal
9 history record check information for verification; and

10 (3) Written consent to be fingerprinted for the purpose of
11 a criminal history record check.

12 Information obtained pursuant to subsection (a) and this
13 subsection shall be used exclusively by the corporation for the
14 purposes of determining whether a person is suitable for working
15 or providing services in any of the corporation's health
16 facilities. All such decisions shall be subject to federal laws
17 and regulations currently or hereafter in effect.

18 (c) Any corporation employee, applicant seeking
19 employment, or current or prospective contractor, provider, or
20 volunteer, who has been convicted of a criminal offense for
21 which incarceration is a sentencing option, may be terminated,
22 not hired, released, or not be used. This action will be based



1 on the corporation's analysis of whether the nature and
2 circumstances of the crime may pose a risk to the health,
3 safety, or well-being of patients and residents in its health
4 facilities.

5 (d) Notwithstanding any other law to the contrary, for
6 purposes of this section, the corporation shall be exempt from
7 section 831-3.1 and need not conduct investigations,
8 notifications, or hearing under this section in accordance with
9 chapter 91.

10 (e) For the purposes of this section:

11 "Contractor" means any organization or individual that
12 enters into a contract or agreement to provide services to the
13 patients or residents in any of the Hawaii health systems
14 corporation's health facilities.

15 "Criminal history record check" means an examination of an
16 individual's criminal history records by means including but not
17 limited to fingerprint analysis and name inquiry into state and
18 national criminal history record files.

19 "Provider" means any organization or individual that
20 currently provides or intends to enter into a contract or
21 agreement to provide services to the patients or residents in



1 any of the corporation's health facilities, or is a student in
2 any program at any of the corporation's health facilities."

3 SECTION 2. Section 378-2.5, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) Notwithstanding subsections (b) and (c), the
6 requirement that inquiry into and consideration of a prospective
7 employee's conviction record may take place only after the
8 individual has received a conditional job offer, and the
9 limitation to the most recent ten-year period, excluding the
10 period of incarceration, shall not apply to employers who are
11 expressly permitted to inquire into an individual's criminal
12 history for employment purposes pursuant to any federal or state
13 law other than subsection (a), including:

14 (1) The State or any of its branches, political
15 subdivisions, or agencies pursuant to [~~section 831-3.1~~
16 ~~and section 78-2.7;~~] sections 78-2.7 and 831-3.1;

17 (2) The department of education pursuant to section
18 302A-601.5;

19 (3) The department of health with respect to employees,
20 providers, or subcontractors in positions that place
21 them in direct contact with clients when providing



- 1 non-witnessed direct mental health services pursuant
2 to section 321-171.5;
- 3 (4) The judiciary pursuant to section 571-34;
- 4 (5) The counties pursuant to section 846-2.7;
- 5 (6) Armed security services pursuant to section 261-17(b);
- 6 (7) Providers of a developmental disabilities domiciliary
7 home pursuant to section 333F-22;
- 8 (8) Private schools pursuant to [~~section 378-3(8) and~~
9 ~~section 302C-1,~~] sections 302C-1 and 378-3(8);
- 10 (9) Financial institutions in which deposits are insured
11 by a federal agency having jurisdiction over the
12 financial institution pursuant to section 378-3(9);
- 13 (10) Detective agencies and security guard agencies
14 pursuant to sections 463-6(b) and 463-8(b);
- 15 (11) Employers in the business of insurance pursuant to
16 section 431:2-201.3;
- 17 (12) Employers of individuals or supervisors of individuals
18 responsible for screening passengers or property under
19 49 [~~U.S.C. §44901~~] United States Code Section 44901 or
20 individuals with unescorted access to an aircraft of
21 an air carrier or foreign carrier or in a secured area
22 of an airport in the United States pursuant to 49



- 1 ~~[U.S.C. §44936(a);]~~ United States Code Section
- 2 44936(a);
- 3 (13) The department of human services pursuant to sections
- 4 346-97 and 352-5.5;
- 5 (14) The public library system pursuant to section
- 6 302A-601.5;
- 7 (15) The department of public safety pursuant to section
- 8 353C-5;
- 9 (16) The board of directors of a cooperative housing
- 10 corporation or the manager of a cooperative housing
- 11 project pursuant to section 421I-12;
- 12 (17) The board of directors of an association of apartment
- 13 owners, or the manager of a condominium project
- 14 pursuant to section 514B-133; ~~and~~
- 15 (18) The department of health pursuant to section 321-
- 16 15.2~~[-]~~; and
- 17 (19) The Hawaii health systems corporation with respect to
- 18 employees, applicants seeking employment, and current
- 19 or prospective contractors, providers, or volunteers,
- 20 pursuant to section 323F."

21 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is

22 amended by amending subsection (b) to read as follows:

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

2 (1) The department of health on operators of adult foster
3 homes or developmental disabilities domiciliary homes
4 and their employees, as provided by section 333F-22;

5 (2) The department of health on prospective employees,
6 persons seeking to serve as providers, or
7 subcontractors in positions that place them in direct
8 contact with clients when providing non-witnessed
9 direct mental health services as provided by section
10 321-171.5;

11 (3) The department of health on all applicants for
12 licensure for, operators for, and prospective
13 employees, and volunteers at one or more of the
14 following: skilled nursing facility, intermediate
15 care facility, adult residential care home, expanded
16 adult residential care homes, assisted living
17 facility, home health agency, hospice, adult day
18 health center, special treatment facility, therapeutic
19 living program, intermediate care facility for the
20 mentally retarded, hospital, rural health center and
21 rehabilitation agency, and, in the case of any of the
22 above-related facilities operating in a private



- 1 residence, on any adult living in the facility other
2 than the client as provided by 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 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 (8) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;
- 20 (9) The department of human services on applicants to
21 operate child care facilities, prospective employees
22 of the applicant, and new employees of the provider



- 1 after registration or licensure as provided by section
2 346-154;
- 3 (10) 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 (11) The department of human services on operators and
8 employees of home and community-based case management
9 agencies and operators and other adults, except for
10 adults in care, residing in foster family homes as
11 provided by section 346-335;
- 12 (12) The department of human services on staff members of
13 the Hawaii youth correctional facility as provided by
14 section 352-5.5;
- 15 (13) 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;
- 21 (14) The judiciary on employees and applicants at detention
22 and shelter facilities as provided by section 571-34;



- 1 (15) The department of public safety on employees and
2 prospective employees who are directly involved with
3 the treatment and care of persons committed to a
4 correctional facility or who possess police powers
5 including the power of arrest as provided by section
6 353C-5;
- 7 (16) The department of commerce and consumer affairs on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;
- 10 (17) Private schools and designated organizations on
11 employees and prospective employees who may be in
12 positions that necessitate close proximity to
13 children; provided that private schools and designated
14 organizations receive only indications of the states
15 from which the national criminal history record
16 information was provided as provided by section
17 302C-1;
- 18 (18) The public library system on employees and prospective
19 employees whose positions place them in close
20 proximity to children as provided by section 302A-
21 601.5;



- 1 (19) The State or any of its branches, political
2 subdivisions, or agencies on applicants and employees
3 holding a position that has the same type of contact
4 with children, dependent adults, or persons committed
5 to a correctional facility as other public employees
6 who hold positions that are authorized by law to
7 require criminal history record checks as a condition
8 of employment as provided by section 78-2.7;
- 9 (20) The department of human services on licensed adult day
10 care center operators, employees, new employees,
11 subcontracted service providers and their employees,
12 and adult volunteers as provided by section 346-97;
- 13 (21) The department of human services on purchase of
14 service contracted and subcontracted service providers
15 and their employees serving clients of the adult and
16 community care services branch, as provided by section
17 346-97;
- 18 (22) The department of human services on foster grandparent
19 program, senior companion program, and respite
20 companion program participants as provided by section
21 346-97;



1 (23) The department of human services on contracted and
 2 subcontracted service providers and their current and
 3 prospective employees that provide home and community-
 4 based services under Section 1915(c) of the Social
 5 Security Act [~~(42 U.S.C. §1396n(c))~~], (42 United
 6 States Code Section 1396n(c)), as provided by section
 7 346-97; [~~and~~]

8 (24) The Hawaii health systems corporation on employees,
 9 applicants seeking employment, or current and
 10 prospective volunteers, providers, or contractors in
 11 any of the corporation's health facilities as provided
 12 by section 323F; and

13 [24] (25) Any other organization, entity, or the State,
 14 its branches, political subdivisions, or agencies as
 15 may be authorized by state law."

16 SECTION 4. There is appropriated out of the state criminal
 17 history record improvement revolving fund the sum of \$20,000 or
 18 so much thereof as may be necessary for fiscal year 2008-2009
 19 for the purposes of this Act.

20 The sum appropriated shall be expended by the department of
 21 the attorney general for the purposes of this Act.

1 SECTION 6. This Act shall take effect on July 1, 2020.



Report Title:

Hawaii Health Systems Corporation Background Checks

Description:

Authorize the Hawaii Health Systems Corporation to conduct FBI criminal history record checks through the Hawaii Criminal Justice Data Center on employees, applicants, current or prospective contractors, providers, or volunteers. Effective 7/1/2020. (SB3080 HD1)

