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January 31, 2008

MEMORANDUM

TO: Honorable Maile S.L. Shimabukuro, Chair
House Committee on Human Services and Housing

FROM: Lillian B. Koller, Director

SUBJECT: H.B. 3129, RELATING TO CRIMINAL HISTORY BACKGROUND
CHECKS FOR SOCIAL SERVICES PROGRAMS

Hearing: Thursday, January 31, 2008, 8:40 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to authorize the Department or its designee to conduct criminal history record checks for service providers. This bill will correct omissions in Acts 131 and 220, SLH 2006, as well as the various statutes authorizing the Department to conduct criminal history background checks. It will also add the authorization for a new program to conduct criminal history record checks.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports the passage of this Administration bill. Criminal history record checks are required for various Department programs to ensure the safety of clients. Acts 131 and 220, SLH 2006, increased the number of programs requiring criminal history record checks. However, in order

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for the Department to fully operationalize the required increase in record checks, amendments are needed to correct omissions in Acts 131 and 220, SLH 2006, as well as the various statutes authorizing the Department to conduct criminal history background checks.

The statutory amendments being proposed will clarify that the Department or its designee is authorized to conduct the criminal history record checks for the Department and its service providers, including arrest records, as specified in chapter 846, Hawaii Revised Statutes (HRS).

Currently, such background checks may only be conducted by Department staff, except for one of the Department's programs, i.e., community care foster family homes, for which sections 346-335, HRS, specifies that the Department's "designee" may perform these functions for the Department.

The increase of requests for background checks resulting from Acts 131 and 220, SLH 2006, is greater than current Department staff can process on a timely basis. Authorizing the Department or its designee to conduct the necessary background checks will enable the Department to contract for such services in all of the programs for which the Department, or its administratively attached agencies, are required to do background checks, to ensure that the required background checks are processed timely.

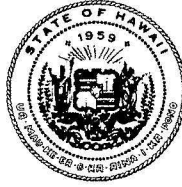
This will enable service providers to receive and provide to the Department, the background check information

necessary to meet the licensing or other requirements of the Department's programs resulting in more timely services to vulnerable adults and children and will free up Department staff to provide other necessary social services.

This bill also proposes to amend sections 346-97 and 846-2.7, HRS, to add a new program to the list of programs that require criminal history record checks and adult abuse perpetrator checks. Additionally, it adds clarifying language that will continue to allow home and community-based programs to require these checks, regardless of the type of Medicaid waiver that is administering the program.

These proposed amendments will clarify that the designee of the Department, and its administratively attached agencies, may conduct the criminal history record checks on behalf of the Department, pursuant to chapter 846, HRS.

Thank you for this opportunity to testify.



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January 31, 2008

TO: The Honorable Maile S. L. Shimabukuro, Chair
House Committee on Human Services and Housing

FROM: Martha T. Torney, Executive Director

**SUBJECT: HB 3129, RELATING TO CRIMINAL HISTORY BACKGROUND
CHECKS FOR SOCIAL SERVICES PROGRAMS**

Hearing: Thursday, January 31, 2008, 8:40 am
State Capitol, Conference Room 329

The Office of Youth Services (OYS) strongly supports the passage of HB 3129, an Administration bill, relating to Criminal History Background Checks for Social Services Programs, which authorizes the Department of Human Services (DHS) or its designee to conduct criminal history record checks.

Act 131, SLH 2006, mandates OYS to conduct criminal history records checks on employees, prospective employees, and volunteers of contracted providers or subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office. Our intention was to have a contractor conduct the criminal history checks for us, but discovered through working with other DHS divisions that the contractor could not have access to arrest information. Yet, section 846-2.7, HRS, requires arrest information be collected for the initial check in order to be in compliance with our mandate.

Section 846-2.7, HRS, reads:

The criminal history record check shall include the submission of fingerprints to:

- (1) The Federal Bureau of Investigation for a national criminal history record check; and
- (2) The Hawaii criminal justice data center for a state criminal history record check that shall include nonconviction data.

In addition, OYS must conduct annual name inquiries in the state criminal records files for those who have completed the initial check. We estimate that 800 initial checks have to be completed just to cover our current providers and at least 200 new initial checks per year, plus about 800 name checks a year. We do not have the staff or expertise to collect and analyze the FBI and State data.

We urge the passage of HB 3129 as it provides OYS the method to comply with Act 131 and protect the children and youth we provide services to.

Thank you for the opportunity to present this testimony.



HB 3129 RELATING TO CRIMINAL HISTORY BACKGROUND CHECKS FOR SOCIAL SERVICES PROGRAMS

House Committee on Public Safety & Military Affairs

January 31, 2008
309

8:30 a.m.

Room

The Office of Hawaiian Affairs is providing testimony in support of HB 3129. Our interest in this issue is primarily based on the following: (1) our concerns that there are approximately 26,000 elderly Hawaiian s residing in Hawaii, many whom are confronted with a myriad of challenges that may prevent them from living out the rest of their lives in safety, comfort, and dignity; and (2) the growing incidences of abuse and violence on our children.

OHA strongly supports this measure because it partly addresses fundamental concerns about the health and safety of our kupuna and children who, because of their vulnerability, are often preyed upon by those who are entrusted with their care. We believe the authority provided to DHS to conduct the background checks will prevent the abuse of kupuna and children by identifying those with a history of abuse and domestic violence before they are entrusted as caregivers.

Ensuring that our kupuna and children are properly cared for is of utmost importance to OHA, and we urge your passage of this bill.

Mahalo nui loa for the opportunity to present testimony.

GOODSILL ANDERSON QUINN & STIFEL

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January 30, 2008

TO: Representative Maile Shimabukuro
Chair, Committee on Human Services & Housing
Hawaii State Capitol, Room 406
Via Email: HSHtestimony@Capitol.hawaii.com

FROM: Joanna Markle

RE: H.B 3129 – Relating to Criminal History Background Checks for
Social Services Programs
Hearing Date: Thursday, January 31, 2008 at 8:40 a.m.

Dear Chair Shimabukuro and Members of the Committee on Human Services & Housing:

I am Joanna Markle testifying on behalf of the Consumer Data Industry Association. Founded in 1906, the Consumer Data Industry Association (CDIA) is the international trade association that represents more than 400 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA supports the intent of H.B. 3129 as it is of the utmost importance to ensure the safety of the most vulnerable members of our community, children and seniors. However, the bill requires that the background check be conducted using only state resources. Private sector databases have more comprehensive information and can often do checks faster than the state data. More importantly, a criminal history in California will not show up on a Hawaii state database but will show up in a private sector database.

For this reason, we respectfully request an amendment to add the use of a criminal history record report provided by a "consumer credit reporting agency" or "consumer reporting agency" as defined in HRS §489P-2 to every reference of the "Hawaii criminal justice data center" as it relates to obtaining criminal history record information.

Thank you for your consideration and for the opportunity to testify.