

JAN 28 2009

A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR COUNTY EMPLOYEES.

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

1 SECTION 1. Section 846-2.7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

7 (2) The department of health on prospective employees,
8 persons seeking to serve as providers, or
9 subcontractors in positions that place them in direct
10 contact with clients when providing non-witnessed
11 direct mental health services as provided by section
12 321-171.5;

13 (3) The department of health on all applicants for
14 licensure for, operators for, and prospective
15 employees, and volunteers at one or more of the
16 following: skilled nursing facility, intermediate
17 care facility, adult residential care home, expanded
18 adult residential care home, assisted living facility,



1 home health agency, hospice, adult day health center,
2 special treatment facility, therapeutic living
3 program, intermediate care facility for the mentally
4 retarded, hospital, rural health center and
5 rehabilitation agency, and, in the case of any of the
6 above-related facilities operating in a private
7 residence, on any adult living in the facility other
8 than the client as provided by section 321-15.2;

9 (4) The department of education on employees, prospective
10 employees, and teacher trainees in any public school
11 in positions that necessitate close proximity to
12 children as provided by section 302A-601.5;

13 (5) The counties on employees and prospective employees
14 who may be in positions that place them in close
15 proximity to children in recreation or child care
16 programs and services;

17 (6) The county liquor commissions on applicants for liquor
18 licenses as provided by section 281-53.5;

19 (7) The county liquor commissions on employees and
20 prospective employees involved in liquor control
21 investigations;



1 [~~+7~~] (8) The department of human services on operators and
2 employees of child caring institutions, child placing
3 organizations, and foster boarding homes as provided
4 by section 346-17;

5 [~~+8~~] (9) The department of human services on prospective
6 adoptive parents as established under section 346-
7 19.7;

8 [~~+9~~] (10) The department of human services on applicants
9 to operate child care facilities, prospective
10 employees of the applicant, and new employees of the
11 provider after registration or licensure as provided
12 by section 346-154;

13 [~~+10~~] (11) The department of human services on persons
14 exempt pursuant to section 346-152 to be eligible to
15 provide child care and receive child care subsidies as
16 provided by section 346-152.5;

17 [~~+11~~] (12) The department of human services on operators
18 and employees of home and community-based case
19 management agencies and operators and other adults,
20 except for adults in care, residing in foster family
21 homes as provided by section 346-335;



1 ~~[(12)]~~ (13) The department of human services on staff
2 members of the Hawaii youth correctional facility as
3 provided by section 352-5.5;

4 ~~[(13)]~~ (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 ~~[(14)]~~ (15) The judiciary on employees and applicants at
11 detention and shelter facilities as provided by
12 section 571-34;

13 ~~[(15)]~~ (16) The department of public safety on employees and
14 prospective employees who are directly involved with
15 the treatment and care of persons committed to a
16 correctional facility or who possess police powers
17 including the power of arrest as provided by section
18 353C-5;

19 ~~[(16)]~~ (17) The department of commerce and consumer affairs
20 on applicants for private detective or private guard
21 licensure as provided by section 463-9;



1 [~~(17)~~] (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 as provided by section 302C-
8 1;

9 [~~(18)~~] (19) The public library system on employees and
10 prospective employees whose positions place them in
11 close proximity to children as provided by section
12 302A-601.5;

13 [~~(19)~~] (20) The State or any of its branches, political
14 subdivisions, or agencies on applicants and employees
15 holding a position that has the same type of contact
16 with children, vulnerable adults, or persons committed
17 to a correctional facility as other public employees
18 who hold positions that are authorized by law to
19 require criminal history record checks as a condition
20 of employment as provided by section 78-2.7;

21 [~~(20)~~] (21) The department of human services on licensed
22 adult day care center operators, employees, new



1 employees, subcontracted service providers and their
2 employees, and adult volunteers as provided by section
3 346-97;

4 [~~+21~~] (22) The department of human services on purchase of
5 service contracted and subcontracted service providers
6 and their employees serving clients of the adult and
7 community care services branch, as provided by section
8 346-97;

9 [~~+22~~] (23) The department of human services on foster
10 grandparent program, retired and senior volunteer
11 program, senior companion program, and respite
12 companion program participants as provided by section
13 346-97;

14 [~~+23~~] (24) The department of human services on contracted
15 and subcontracted service providers and their current
16 and prospective employees that provide home and
17 community-based services under Section 1915(c) of the
18 Social Security Act (Title 42 United States Code
19 Section 1396n(c)), or under any other applicable
20 section or sections of the Social Security Act for the
21 purposes of providing home and community-based
22 services, as provided by section 346-97;



1 ~~[(+24)]~~ (25) The department of commerce and consumer affairs
2 on proposed directors and executive officers of a
3 bank, savings bank, savings and loan association,
4 trust company, and depository financial services loan
5 company as provided by section 412:3-201;

6 ~~[(+25)]~~ (26) The department of commerce and consumer affairs
7 on proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;

10 ~~[(+26)]~~ (27) The department of commerce and consumer affairs
11 on the original chartering applicants and proposed
12 executive officers of a credit union as provided by
13 section 412:10-103;

14 ~~[+(27)]~~ (28) The department of commerce and consumer affairs
15 on:

16 (A) Each principal of every non-corporate applicant
17 for a money transmitter license; and

18 (B) The executive officers, key shareholders, and
19 managers in charge of a money transmitter's
20 activities of every corporate applicant for a
21 money transmitter license,

22 as provided by section 489D-9; [and]



- 1 (29) The counties on prospective employees who work with
- 2 vulnerable adults or senior citizens in community
- 3 based programs;
- 4 (30) The counties on prospective employees for fire
- 5 department positions that involve contact with
- 6 children or dependent adults;
- 7 (31) The counties on prospective employees for emergency
- 8 medical services positions that involve contact with
- 9 children or dependent adults;
- 10 (32) The counties on prospective employees for emergency
- 11 management positions that involve planning and
- 12 executing measures for the security of their
- 13 respective jurisdictions, the State, or the United
- 14 States; and
- 15 [~~+(28)+~~] (33) Any other organization, entity, or the State, its
- 16 branches, political subdivisions, or agencies as may
- 17 be authorized by state law."

18 SECTION 2. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 3. This Act shall take effect upon its approval.

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S.B. NO. 1166

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Report Title:

Counties; Criminal History Record Checks

Description:

Expands the counties' authority to conduct criminal history record checks on current and prospective employees.

