
A BILL FOR AN ACT

RELATING TO HEALTH.

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 Hawaii
5 health systems corporation shall develop procedures for
6 obtaining verifiable information regarding the criminal history
7 of persons who are employed or seeking employment, or are
8 current or prospective contractors, providers, or volunteers in
9 any of the corporation's health facilities. The procedures shall
10 include 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 record checks.



1 (b) Except as otherwise specified, any person who is a
2 current or prospective board member; employed or who seeks
3 employment with Hawaii health systems corporation; or current or
4 prospective contractor, provider, or volunteer in any of the
5 corporation's health facilities may be required to provide to the
6 corporation:

7 (1) A sworn statement indicating whether the person has
8 ever been convicted of an offense for which
9 incarceration was a sentencing option, and the details
10 thereof;

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

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

15 Information obtained pursuant to subsection (a) and this
16 subsection shall be used by the Hawaii health systems
17 corporation exclusively to determine whether a person is
18 suitable for working or providing services in any of the
19 corporation's health facilities. All such decisions shall be
20 subject to federal laws and regulations currently or hereafter
21 in effect.



1 (c) Any Hawaii health systems corporation employee;
2 applicant for employment; or current or prospective contractor,
3 provider, or volunteer, or a current or prospective board member
4 who has been convicted of a criminal offense for which
5 incarceration is a sentencing option, may be terminated, not
6 hired, released, or be not used. This action shall be based on
7 the corporation's analysis of whether the nature and
8 circumstances of the crime may pose a risk to the health,
9 safety, or well-being of patients, residents, and organizations
10 in its health facilities.

11 (d) For the purposes of this section:

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

16 "Criminal history record check" means an examination of an
17 individual's criminal history records by means including
18 fingerprint analysis and name inquiry into state and national
19 criminal history record files.

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



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

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

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

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

20 (1) The State or any of its branches, political
21 subdivisions, or agencies pursuant to sections 78-2.7
22 and 831-3.1;



- 1 (2) The department of education pursuant to section
- 2 302A-601.5;
- 3 (3) The department of health with respect to employees,
- 4 providers, or subcontractors in positions that place
- 5 them in direct contact with clients when providing
- 6 non-witnessed direct mental health services pursuant
- 7 to section 321-171.5;
- 8 (4) The judiciary pursuant to section 571-34;
- 9 (5) The counties pursuant to section 846-2.7;
- 10 (6) Armed security services pursuant to section 261-17(b);
- 11 (7) Providers of a developmental disabilities domiciliary
- 12 home pursuant to section 333F-22;
- 13 (8) Private schools pursuant to sections 302C-1 and
- 14 378-3(8);
- 15 (9) Financial institutions in which deposits are insured
- 16 by a federal agency having jurisdiction over the
- 17 financial institution pursuant to section 378-3(9);
- 18 (10) Detective agencies and security guard agencies
- 19 pursuant to sections 463-6(b) and 463-8(b);
- 20 (11) Employers in the business of insurance pursuant to
- 21 section 431:2-201.3;



- 1 (12) Employers of individuals or supervisors of individuals
2 responsible for screening passengers or property under
3 49 [~~U.S.C. §44901~~] United States Code Section 44901 or
4 individuals with unescorted access to an aircraft of
5 an air carrier or foreign carrier or in a secured area
6 of an airport in the United States pursuant to 49
7 [~~U.S.C. §44936(a)~~], United States Code Section
8 44936(a);
- 9 (13) The department of human services pursuant to sections
10 346-97 and 352-5.5;
- 11 (14) The public library system pursuant to section
12 302A-601.5;
- 13 (15) The department of public safety pursuant to section
14 353C-5;
- 15 (16) The board of directors of a cooperative housing
16 corporation or the manager of a cooperative housing
17 project pursuant to section 421I-12;
- 18 (17) The board of directors of an association of owners
19 under chapter 514A or 514B, or the manager of a
20 condominium project pursuant to section 514A-82.1 or
21 514B-133; [~~and~~]



- 1 (18) The department of health pursuant to section
2 321-15.2[-]; and
- 3 (19) The Hawaii health systems corporation with respect to
4 employees; applicants; current or prospective board
5 members; and current or prospective contractors,
6 providers, or volunteers, pursuant to section 323F-
7 _____."

8 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

- 10 "(b) Criminal history record checks may be conducted by:
- 11 (1) The department of health on operators of adult foster
12 homes or developmental disabilities domiciliary homes
13 and their employees, as provided by section 333F-22;
- 14 (2) The department of health on prospective employees,
15 persons seeking to serve as providers, or
16 subcontractors in positions that place them in direct
17 contact with clients when providing non-witnessed
18 direct mental health services as provided by section
19 321-171.5;
- 20 (3) The department of health on all applicants for
21 licensure for, operators for, and prospective
22 employees, and volunteers at one or more of the



- 1 following: skilled nursing facility, intermediate
2 care facility, adult residential care home, expanded
3 adult residential care home, assisted living facility,
4 home health agency, hospice, adult day health center,
5 special treatment facility, therapeutic living
6 program, intermediate care facility for the mentally
7 retarded, hospital, rural health center and
8 rehabilitation agency, and, in the case of any of the
9 above-related facilities operating in a private
10 residence, on any adult living in the facility other
11 than the client as provided by section 321-15.2;
- 12 (4) The department of education on employees, prospective
13 employees, and teacher trainees in any public school
14 in positions that necessitate close proximity to
15 children as provided by section 302A-601.5;
- 16 (5) The counties on employees and prospective employees
17 who may be in positions that place them in close
18 proximity to children in recreation or child care
19 programs and services;
- 20 (6) The county liquor commissions on applicants for liquor
21 licenses as provided by section 281-53.5;



- 1 (7) 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) The department of human services on prospective
6 adoptive parents as established under section
7 346-19.7;
- 8 (9) The department of human services on applicants to
9 operate child care facilities, prospective employees
10 of the applicant, and new employees of the provider
11 after registration or licensure as provided by section
12 346-154;
- 13 (10) The department of human services on persons exempt
14 pursuant to section 346-152 to be eligible to provide
15 child care and receive child care subsidies as
16 provided by section 346-152.5;
- 17 (11) The department of human services on operators and
18 employees of home and community-based case management
19 agencies and operators and other adults, except for
20 adults in care, residing in foster family homes as
21 provided by section 346-335;



- 1 (12) The department of human services on staff members of
2 the Hawaii youth correctional facility as provided by
3 section 352-5.5;
- 4 (13) 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) The judiciary on employees and applicants at detention
11 and shelter facilities as provided by section 571-34;
- 12 (15) The department of public safety on employees and
13 prospective employees who are directly involved with
14 the treatment and care of persons committed to a
15 correctional facility or who possess police powers
16 including the power of arrest as provided by section
17 353C-5;
- 18 (16) The department of commerce and consumer affairs on
19 applicants for private detective or private guard
20 licensure as provided by section 463-9;
- 21 (17) Private schools and designated organizations on
22 employees and prospective employees who may be in



1 positions that necessitate close proximity to
2 children; provided that private schools and designated
3 organizations receive only indications of the states
4 from which the national criminal history record
5 information was provided [~~as provided by~~] pursuant to
6 section 302C-1;

7 (18) The public library system on employees and prospective
8 employees whose positions place them in close
9 proximity to children as provided by section
10 302A-601.5;

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

19 (20) The department of human services on licensed adult day
20 care center operators, employees, new employees,
21 subcontracted service providers and their employees,
22 and adult volunteers as provided by section 346-97;



- 1 (21) The department of human services on purchase of
2 service contracted and subcontracted service providers
3 and their employees serving clients of the adult and
4 community care services branch, as provided by section
5 346-97;
- 6 (22) The department of human services on foster grandparent
7 program, retired and senior volunteer program, senior
8 companion program, and respite companion program
9 participants as provided by section 346-97;
- 10 (23) The department of human services on contracted and
11 subcontracted service providers and their current and
12 prospective employees that provide home and community-
13 based services under Section 1915(c) of the Social
14 Security Act (Title 42 United States Code Section
15 1396n(c)), or under any other applicable section or
16 sections of the Social Security Act for the purposes
17 of providing home and community-based services, as
18 provided by section 346-97;
- 19 (24) The department of commerce and consumer affairs on
20 proposed directors and executive officers of a bank,
21 savings bank, savings and loan association, trust



- 1 company, and depository financial services loan
2 company as provided by section 412:3-201;
- 3 (25) The department of commerce and consumer affairs on
4 proposed directors and executive officers of a
5 nondepository financial services loan company as
6 provided by section 412:3-301;
- 7 (26) The department of commerce and consumer affairs on the
8 original chartering applicants and proposed executive
9 officers of a credit union as provided by section
10 412:10-103;
- 11 [+] (27) [+] The department of commerce and consumer affairs on:
- 12 (A) Each principal of every non-corporate applicant
13 for a money transmitter license; and
- 14 (B) The executive officers, key shareholders, and
15 managers in charge of a money transmitter's
16 activities of every corporate applicant for a
17 money transmitter license,
18 as provided by section 489D-9; [~~and~~]
- 19 (28) The Hawaii health systems corporation on employees;
20 applicants seeking employment; current or prospective
21 board members; or current or prospective volunteers,



1 providers, or contractors in any of the corporation's
 2 health facilities as provided by section 323F- ; and
 3 ~~[-28-]~~ (29) Any other organization, entity, or the State,
 4 its branches, political subdivisions, or agencies as
 5 may be authorized by state law."

6 SECTION 4. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

Hawaii Health Systems Corporation; Criminal History Record Checks

Description:

Authorizes Hawaii health systems corporation to conduct criminal history record checks. (SB1137 HD1)

SB1137 HD1 HMS 2009-3145

