
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
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 corporation's
9 health facilities. The procedures shall include criminal
10 history record checks in accordance with section 846-2.7.

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

16 (b) Except as otherwise specified, any person who is a
17 current or prospective member of the corporation board or



1 regional system board; is employed or who seeks employment with
2 the corporation; or is a current or prospective contractor,
3 provider, or volunteer in any of the corporation's health
4 facilities may be required to provide to the corporation:

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

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

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

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

19 (c) Any employee of the corporation; applicant for
20 employment; or current or prospective contractor, provider, or
21 volunteer, or a current or prospective member of the corporation



1 board or regional system board who has been convicted of a
2 criminal offense for which incarceration is a sentencing option,
3 may be terminated, not hired, released, or be not used. This
4 action shall be based on the corporation's analysis of whether
5 the nature and circumstances of the crime may pose a risk to the
6 health, safety, or well-being of patients, residents, and
7 organizations in its health facilities.

8 (d) For the purposes of this section:

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

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

17 "Provider" means any organization or individual that
18 currently provides or intends to enter into a contract or
19 agreement to provide services to the patients or residents in
20 any of the corporation's health facilities, or is a student in
21 any program at any of the corporation's health facilities.



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

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

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

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

20 (2) The department of education pursuant to section
21 302A-601.5;



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



- 1 individuals with unescorted access to an aircraft of
2 an air carrier or foreign carrier or in a secured area
3 of an airport in the United States pursuant to 49
4 [~~U.S.C. §44936(a);~~] United States Code Section
5 44936(a);
- 6 (13) The department of human services pursuant to sections
7 346-97 and 352-5.5;
- 8 (14) The public library system pursuant to section
9 302A-601.5;
- 10 (15) The department of public safety pursuant to section
11 353C-5;
- 12 (16) The board of directors of a cooperative housing
13 corporation or the manager of a cooperative housing
14 project pursuant to section 421I-12;
- 15 (17) The board of directors of an association of owners
16 under chapter 514A or 514B, or the manager of a
17 condominium project pursuant to section 514A-82.1 or
18 514B-133; [~~and~~]
- 19 (18) The department of health pursuant to section
20 321-15.2[~~-~~]; and
- 21 (19) The Hawaii health systems corporation with respect to
22 employees; applicants; current or prospective members



1 of the corporation board or regional system board; and
2 current or prospective contractors, providers, or
3 volunteers, pursuant to section 323F- ."

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

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

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

10 (2) The department of health on prospective employees,
11 persons seeking to serve as providers, or
12 subcontractors in positions that place them in direct
13 contact with clients when providing non-witnessed
14 direct mental health services as provided by section
15 321-171.5;

16 (3) The department of health on all applicants for
17 licensure for, operators for, and prospective
18 employees, and volunteers at one or more of the
19 following: skilled nursing facility, intermediate
20 care facility, adult residential care home, expanded
21 adult residential care home, assisted living facility,
22 home health agency, hospice, adult day health center,



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

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

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

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

18 (7) The department of human services on operators and
19 employees of child caring institutions, child placing
20 organizations, and foster boarding homes as provided
21 by section 346-17;



- 1 (8) The department of human services on prospective
2 adoptive parents as established under section
3 346-19.7;
- 4 (9) The department of human services on applicants to
5 operate child care facilities, prospective employees
6 of the applicant, and new employees of the provider
7 after registration or licensure as provided by section
8 346-154;
- 9 (10) The department of human services on persons exempt
10 pursuant to section 346-152 to be eligible to provide
11 child care and receive child care subsidies as
12 provided by section 346-152.5;
- 13 (11) The department of human services on operators and
14 employees of home and community-based case management
15 agencies and operators and other adults, except for
16 adults in care, residing in foster family homes as
17 provided by section 346-335;
- 18 (12) The department of human services on staff members of
19 the Hawaii youth correctional facility as provided by
20 section 352-5.5;
- 21 (13) The department of human services on employees,
22 prospective employees, and volunteers of contracted

1 providers and subcontractors in positions that place
2 them in close proximity to youth when providing
3 services on behalf of the office or the Hawaii youth
4 correctional facility as provided by section 352D-4.3;
5 (14) The judiciary on employees and applicants at detention
6 and shelter facilities as provided by section 571-34;
7 (15) The department of public safety on employees and
8 prospective employees who are directly involved with
9 the treatment and care of persons committed to a
10 correctional facility or who possess police powers
11 including the power of arrest as provided by section
12 353C-5;
13 (16) The department of commerce and consumer affairs on
14 applicants for private detective or private guard
15 licensure as provided by section 463-9;
16 (17) Private schools and designated organizations on
17 employees and prospective employees who may be in
18 positions that necessitate close proximity to
19 children; provided that private schools and designated
20 organizations receive only indications of the states
21 from which the national criminal history record



1 information was provided [~~as provided by~~] pursuant to
2 section 302C-1;

3 (18) The public library system on employees and prospective
4 employees whose positions place them in close
5 proximity to children as provided by section
6 302A-601.5;

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

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

19 (21) The department of human services on purchase of
20 service contracted and subcontracted service providers
21 and their employees serving clients of the adult and



1 community care services branch, as provided by section
2 346-97;

3 (22) The department of human services on foster grandparent
4 program, retired and senior volunteer program, senior
5 companion program, and respite companion program
6 participants as provided by section 346-97;

7 (23) The department of human services on contracted and
8 subcontracted service providers and their current and
9 prospective employees that provide home and community-
10 based services under Section 1915(c) of the Social
11 Security Act (Title 42 United States Code Section
12 1396n(c)), or under any other applicable section or
13 sections of the Social Security Act for the purposes
14 of providing home and community-based services, as
15 provided by section 346-97;

16 (24) The department of commerce and consumer affairs on
17 proposed directors and executive officers of a bank,
18 savings bank, savings and loan association, trust
19 company, and depository financial services loan
20 company as provided by section 412:3-201;

21 (25) The department of commerce and consumer affairs on
22 proposed directors and executive officers of a



1 nondepository financial services loan company as
2 provided by section 412:3-301;

3 (26) The department of commerce and consumer affairs on the
4 original chartering applicants and proposed executive
5 officers of a credit union as provided by section
6 412:10-103;

7 [+] (27) [+] The department of commerce and consumer affairs on:

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

10 (B) The executive officers, key shareholders, and
11 managers in charge of a money transmitter's
12 activities of every corporate applicant for a
13 money transmitter license,

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

15 (28) The Hawaii health systems corporation on employees;
16 applicants seeking employment; current or prospective
17 members of the corporation board or regional system
18 board; or current or prospective volunteers,
19 providers, or contractors in any of the corporation's
20 health facilities as provided by section 323F- ; and



1 ~~[(28)]~~ (29) Any other organization, entity, or the State,
2 its branches, political subdivisions, or agencies as
3 may be authorized by state law."

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

6 SECTION 5. This Act shall take effect on January 1, 2046.



S.B. NO. 1137
S.D. 2
H.D. 2

Report Title:

Hawaii Health Systems Corporation; Criminal History Record Checks

Description:

Authorizes the Hawaii Health Systems Corporation to conduct criminal history record checks. (SB1137 HD2)

SB1137 HD2 HMS 2009-3370

