

---

---

# 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 may request a criminal history record check of  
6 persons who are employed or seeking employment, or are current  
7 or prospective contractors, providers, or volunteers in any of  
8 the corporation's health facilities, in accordance with section  
9 846-2.7.

10           (b) For the purpose of this section, the criminal history  
11 record check shall be performed by the Hawaii criminal justice  
12 data center. 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        (c) Any person who is a current or prospective member of  
2 the corporation board or regional system board; is employed or  
3 who seeks employment with the corporation; or is a 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) Personal identifying information including name,  
8        social security number, and date of birth;
- 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 for the  
15 purposes of this section.

16       (d) Any inquiry into or consideration of the criminal  
17 history record of an employee or prospective employee of the  
18 corporation shall be limited to that which is allowed under  
19 section 378-2.5 or required under federal law.

20       (e) A current or prospective contractor, provider, or  
21 volunteer, or a current or prospective member of the corporation  
22 board or regional system board who has been convicted of a

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

7 (f) For the purposes of this section:

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

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

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

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

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



- 1 (1) The department of health on operators of adult foster  
2 homes or developmental disabilities domiciliary homes  
3 and their employees, as provided by section 333F-22;
- 4 (2) The department of health on prospective employees,  
5 persons seeking to serve as providers, or  
6 subcontractors in positions that place them in direct  
7 contact with clients when providing non-witnessed  
8 direct mental health services as provided by section  
9 321-171.5;
- 10 (3) The department of health on all applicants for  
11 licensure for, operators for, and prospective  
12 employees, and volunteers at one or more of the  
13 following: skilled nursing facility, intermediate  
14 care facility, adult residential care home, expanded  
15 adult residential care home, assisted living facility,  
16 home health agency, hospice, adult day health center,  
17 special treatment facility, therapeutic living  
18 program, intermediate care facility for the mentally  
19 retarded, hospital, rural health center and  
20 rehabilitation agency, and, in the case of any of the  
21 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~~] pursuant to  
17          section 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  
21          302A-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, vulnerable 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, retired and senior volunteer program, senior  
20          companion program, and respite companion program  
21          participants as provided by section 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 (Title 42 United States Code Section  
6           1396n(c)), or under any other applicable section or  
7           sections of the Social Security Act for the purposes  
8           of providing home and community-based services, as  
9           provided by section 346-97;
- 10          (24) The department of commerce and consumer affairs on  
11          proposed directors and executive officers of a bank,  
12          savings bank, savings and loan association, trust  
13          company, and depository financial services loan  
14          company as provided by section 412:3-201;
- 15          (25) The department of commerce and consumer affairs on  
16          proposed directors and executive officers of a  
17          nondepository financial services loan company as  
18          provided by section 412:3-301;
- 19          (26) The department of commerce and consumer affairs on the  
20          original chartering applicants and proposed executive  
21          officers of a credit union as provided by section  
22          412:10-103;



1    ~~[(27)]~~ The department of commerce and consumer affairs on:

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

4           (B) The executive officers, key shareholders, and  
5           managers in charge of a money transmitter's  
6           activities of every corporate applicant for a  
7           money transmitter license,

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

9        (28) The Hawaii health systems corporation on:

10       (A) Employees;

11       (B) Applicants seeking employment;

12       (C) Current or prospective members of the corporation  
13       board or regional system board; or

14       (D) Current or prospective volunteers, providers, or  
15       contractors,

16       in any of the corporation's health facilities as  
17       provided by section 323F-    ; and

18    ~~[(28)]~~ (29) Any other organization, entity, or the State,  
19       its branches, political subdivisions, or agencies as  
20       may be authorized by state law."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on January 1, 2046.



**Report Title:**

Hawaii Health Systems Corporation; Criminal History Record Checks

**Description:**

Authorizes the Hawaii Health Systems Corporation to conduct criminal history record checks. (SB1137 HD3)

