

JUDtestimony

From: Rogers, Lloyd [LRogers@honolulu.gov]
Sent: Monday, February 14, 2011 12:11 PM
To: JUDtestimony
Subject: HB 268
Attachments: HB 268_Background Checks.pdf

Testifier: *Lloyd Rogers, Administrative Assistant
State Fire Council/Honolulu Fire Department*

Committee on Judiciary

Hearing Date/Time: Tuesday February 15, 2011 /2:00 p.m.

Measure Number: HB 268

3 copies

Any questions please contact:

*Lloyd Rogers
State Fire Council/Honolulu Fire Department
Administrative Assistant
636 South Street
Honolulu, Hawaii 96813
Ph. (808) 723-7176
Fax: (808) 723-7179
lrogers@honolulu.gov*

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

www.hawaii.gov/labor

Phone: (808) 586-8842 / Fax: (808) 586-9099

Email: dilir.director@hawaii.gov

February 14, 2011

The Honorable Gilbert Keith-Agaran, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 302
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran:

Subject: H.B. 268 Relating to Criminal History Record Checks for County Employees

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 268, which proposes to allow criminal history record checks on prospective county fire department employees who may have contact with children or dependent adults.

With the elimination of residency requirements for prospective fire department employment, the number of out-of-state applicants has increased with no legal means to verify whether or not these individuals possess the necessary qualities for dealing with children or vulnerable adults.

Public trust must not be compromised when individuals are hired as emergency responders. The public expects and deserves the utmost quality and care from the people who are entrusted to provide emergency services and fire and life safety education presentations. Conducting criminal record checks is one way to ensure that prospective fire department employees have no criminal or abuse record.

The SFC and the HFD urge your committee's support on the passage of H.B. 268.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth G. Silva".

KENNETH G. SILVA
Chair

KGS/LR:cn

JUDtestimony

From: Lee, Charlene R (DHR) [clee4@honolulu.gov]
Sent: Monday, February 14, 2011 3:23 PM
To: JUDtestimony
Cc: Au, Paul K. W.; Onouye, Vera K
Subject: Testimony for HB268
Attachments: HB268 2 15 2011.pdf

The attached testimony is being transmitted to the Committee on Judiciary for the hearing scheduled on Tuesday, February 15, 2011, at 2:00 p.m. for HB268 relating to Criminal History Record Checks For County Employees. The committee requests twenty-four (24) copies.

Thank you.

Charlene Lee for Noel T. Ono
Department of Human Resources
T: 808.768.8521

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
850 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR

February 15, 2011

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
The House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chair Keith-Agaran and Members:

Subject: House Bill No. 268
Relating to Criminal History Record Checks for County Employees

The Department of Human Resources **strongly supports** HB 268. The purpose of this bill is to provide county agencies the ability to access national criminal history record information in addition to state conviction information for the purpose of determining employment suitability. Specifically, this bill will enable us to obtain criminal history record information for current and prospective employees involved in liquor control investigations, and prospective employees for firefighting, emergency medical services, emergency management, and for community based personnel who work with vulnerable adults.

The Hawaii Revised Statutes, the Revised Charter of the City and County of Honolulu, and our Civil Service Rules require that our system of personnel administration be based on merit principles. State law defines the merit principle as it pertains to employment and selection, as "the selection of persons based on their fitness and ability for public employment and the retention of employees based on their demonstrated appropriate conduct and productive performance." Part of the City's process in determining the "fitness" of prospective employees is reviewing whether or not they have a criminal history record, and if they do, determining the relevancy and impact that the conviction(s) would have on their fitness (i.e., suitability) for the job for which they are being considered.

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
February 15, 2011
Page 2

We are cognizant and respectful of the concerns expressed by the Hawaii Civil Rights Commission as well as State and Federal laws that protect citizens' arrest and court records. We are also cognizant of our duty to make prudent hiring decisions regarding the suitability of the individuals who are hired for the kinds of jobs that this bill addresses. Applicants are NOT automatically disqualified for having an arrest or court record. Rather, a careful study is done which includes an opportunity for the prospective candidate to provide relevant information or input on the findings.

Since technological advances have made it possible for individuals outside of the State of Hawaii to view and apply for jobs in Hawaii, we have seen an increase in the number of out-of-state and recently relocated candidates who apply for civil service jobs in our jurisdiction. Without the proposed changes, we will not have an effective means of reviewing prospective employees' convictions that occurred out-of-state. The proposed legislation will give us the ability to efficiently obtain national criminal history record information not just for our prospective employees in recreational or child care programs who work in close proximity to children, but also for the other specified categories of employees/prospective employees who we believe work with similarly vulnerable citizens.

Thank you for the opportunity to testify.

Yours truly,



Noel T. Ono
Director

JUDtestimony

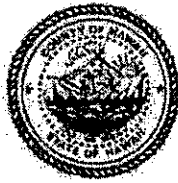
From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 10:25 AM
To: JUDtestimony
Cc: fire@co.hawaii.hi.us
Subject: Testimony for HB268 on 2/15/2011 2:00:00 PM
Attachments: 2011-02-11 HB 268 Criminal History Record Checks.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB268

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Darryl Oliveira
Organization: Hawaii Fire Department
Address:
Phone:
E-mail: fire@co.hawaii.hi.us
Submitted on: 2/14/2011

Comments:

William P. Kenoi
Mayor



Darryl J. Oliveira
Fire Chief

Glen P. I. Honda
Deputy Fire Chief

County of Hawai'i

FIRE DEPARTMENT

25 Aupuni Street • Suite 2501 • Hilo, Hawaii 96720
(808) 932-2900 • Fax (808) 932-2928

February 11, 2011

TO : REPRESENTATIVE GILBERT S. C. KEITH-AGARAN, CHAIR, COMMITTEE ON JUDICIARY

FROM : DARRYL OLIVEIRA, FIRE CHIEF, HAWAII FIRE DEPARTMENT

SUBJECT: HB 268 RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR COUNTY EMPLOYEES
DATE/TIME OF HEARING: TUESDAY, FEBRUARY 15, 2011 / 2:00 PM

As the Fire Chief for the Hawaii Fire Department, I would like to ask for your support of HB 268 which proposes to allow criminal history record checks on prospective county fire department employees whose positions involve contact with children or dependent adults.

With the elimination of residency requirements for prospective fire department employment, the number of out-of-state applicants has increased, with no legal means to verify whether or not these individuals possess the necessary qualities for dealing with children or vulnerable adults.

Public trust must not be compromised when individuals are hired as emergency responders. The public expects and deserves the utmost quality and care from the people who are entrusted to provide emergency services and fire and life safety education presentations. Conducting criminal record checks is one way to ensure that prospective fire department employees have no criminal or abuse records.

On behalf of the Hawaii Fire Department, I request your committee's support on the passage of HB 268.

Sincerely,

A handwritten signature in black ink that reads "Darryl Oliveira".

DARRYL OLIVEIRA
Fire Chief

DO:lk

Hawai'i County is an Equal Opportunity Provider and Employer.



JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 4:37 PM
To: JUDtestimony
Cc: William.D.Hoshijo@hawaii.gov
Subject: Testimony for HB268 on 2/15/2011 2:00:00 PM
Attachments: HB 268 HCRC test. House JUD 2-15-11.doc

Testimony for JUD 2/15/2011 2:00:00 PM HB268

Conference room: 325
Testifier position: oppose
Testifier will be present: Yes
Submitted by: William Hoshijo
Organization: Hawai`i Civil Rights Commission
Address:
Phone:
E-mail: William.D.Hoshijo@hawaii.gov
Submitted on: 2/14/2011

Comments:

Testimony in support in part, oppose in part.

If there is any problem or question regarding this testimony, please email Bill Hoshijo at the email address above.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 ·PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 15, 2011
2:00 pm
Conference room 325

To: The Honorable Gilbert Keith-Agaran, Chair
and Members of the House Committee on Judiciary

From: Coral Wong Pietsch, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 268

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

H.B. No. 268 would amend H.R.S. §846-2.7 to expand the counties' authority to conduct criminal history record checks on prospective employees who work with vulnerable adults or senior citizens, prospective employees for fire department positions that involve contact with children or dependent adults, prospective employees for emergency medical services positions that involve contact with children or dependent adults, emergency management positions that involve planning and executing measures

for security, and liquor commission employees who are involved in liquor control investigations.

By incorporation and reference in H.R.S. §378-2.5(d)(5), the counties would then be excepted from the requirements and limitations imposed on employer inquiries into and consideration of records of conviction under H.R.S. §378-2.5(b) and (c). In effect, this would except the counties by reference from three important limitations in the balanced approach of §378-2.5: 1) employers are allowed to make *post-offer* inquiries into a prospective employee's conviction records and consider conviction records that are rationally related to the duties and responsibilities of the position; 2) employers are only allowed to consider convictions within the most recent ten year period, excluding periods of incarceration; and 3) employers would be able to withdraw the conditional offer of employment only if the conviction record bears a rational relationship to the duties and responsibilities of the position.. These limitations were created by the legislature to promote the rehabilitation and employment of people with convictions because the legislature recognized that such people were not inherently and permanently bad and deserved a second chance.

The Commission does not oppose adding the proposed exemptions (6), (7) and (8) for prospective employees who work with vulnerable adults or senior citizens in community based programs; prospective employees for fire department positions that involve contact with children or dependent adults, or prospective employees for emergency medical services positions that involve contact with children or dependent adults because these exemptions are narrowly drawn and may involve unsupervised contact with vulnerable persons. However, the Commission opposes exemptions (9) and

(11) for prospective employees for emergency management positions that involve planning and executing measures for the security of their respective jurisdictions, and county liquor commission employees and prospective employees involved in liquor control investigations because these positions do not involve unsupervised contact with vulnerable persons. There is no reason why those positions should not be subject to the post offer, time period and rational relationship limitations required under H.R.S. §378-2.5. We therefore urge you to delete these proposed exemptions.

Thank you for your consideration of the Commission's comments and concerns.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 2:30 PM
To: JUDtestimony
Cc: rwesterman@kauai.gov
Subject: Testimony for HB268 on 2/15/2011 2:00:00 PM
Attachments: HB 286 Relating to Criminal History Record Checks for County Employees.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB268

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Robert Westerman
Organization: Individual
Address:
Phone:
E-mail: rwesterman@kauai.gov
Submitted on: 2/11/2011

Comments:

Bernard P. Carvalho, Jr.
Mayor



Robert F. Westerman
Fire Chief

Gary K. Heu
Managing Director

John T. Blalock
Deputy Fire Chief

KAUA'I FIRE DEPARTMENT
County of Kaua'i, State of Hawai'i
3083 Akahi Street, Suite 101, Lihu'e, Hawai'i 96766
TEL (808) 241-4980 FAX (808) 241-6508

February 14, 2011

The Honorable Gilbert Keith-Agaran, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 302
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran:

Subject: H.B. 268 Relating to Criminal History Record Checks for County Employees

I am Robert F. Westerman, member of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support H.B. 268, which proposes to allow criminal history record checks on prospective county fire department employees who may have contact with children or dependent adults.

With the elimination of residency requirements for prospective fire department employment, the number of out-of-state applicants has increased with no legal means to verify whether or not these individuals possess the necessary qualities for dealing with children or vulnerable adults.

Public trust must not be compromised when individuals are hired as emergency responders. The public expects and deserves the utmost quality and care from the people who are entrusted to provide emergency services and fire and life safety education presentations. Conducting criminal record checks is one way to ensure that prospective fire department employees have no criminal or abuse record.

The SFC and the KFD urge your committee's support on the passage of H.B. 268.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

Sincerely,

Robert F. Westerman
Fire Chief
KGS/LR:cz