



GOV. MSG. NO. 1313

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 03, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

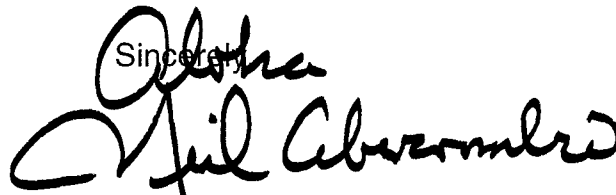
Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 03, 2012, the following bill was signed into law:

HB2454 HD1 SD1

RELATING TO THE RAP BACK PROGRAM OF
THE HAWAII CRIMINAL JUSTICE DATA
CENTER.

Act 210 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on JUL 3 2012

ORIGINAL

ACT 210

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO. 2454
H.D. 1
S.D. 1

A BILL FOR AN ACT

RELATING TO THE RAP BACK PROGRAM OF THE HAWAII CRIMINAL JUSTICE
DATA CENTER.

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

1 SECTION 1. The purpose of this Act is to allow programs
2 statutorily authorized to conduct criminal history record checks
3 to participate in a statewide rap back program. A rap back
4 program will inform an employer or other designated entity when
5 an individual, who has undergone a fingerprint-based background
6 check and whose fingerprints are retained by a criminal history
7 repository after the check, is subsequently arrested. Such
8 employers will be notified of an individual's arrest, if the
9 individual's fingerprints, obtained after the arrest, are
10 matched against the fingerprints that were initially submitted
11 to the repository.

12 The Federal Bureau of Investigation is targeting 2013-2014
13 for its national rap back program to go into effect. The
14 State's ability to take advantage of the information and
15 capabilities that other states and the Federal Bureau of
16 Investigation are using will help Hawaii develop its own program
17 and will allow the State to be proactive in decision making for



1 our vulnerable populations: children, the elderly, and the
2 disabled.

3 The rap back program would allow a user department like the
4 department of education or the department of human services to
5 be affirmatively notified if an employee's or licensee's
6 fingerprints, previously authorized for retention, are matched
7 upon subsequent arrest.

8 The public will be better protected because employers and
9 licensing agencies will get up-to-date criminal history
10 information. In addition, employees and licensees may not need
11 to be fingerprinted again as part of a re-application or renewal
12 process because up-to-date information will be automatically
13 forwarded to employers and licensing agencies as part of the rap
14 back program.

15 SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) The agencies and other entities named in subsection
19 (b) may conduct state and national criminal history record
20 checks on the personnel identified in subsection (b), and
21 participate in the rap back program, for the purpose of
22 determining suitability or fitness for a permit, license, or



1 employment; provided that the Hawaii criminal justice data
2 center may charge a reasonable fee for the criminal history
3 record checks performed. The agencies and other entities named
4 in subsection (b) shall notify applicants and employees subject
5 to a criminal history record check pursuant to this section that
6 their fingerprints shall be retained by the Hawaii criminal
7 justice data center[-] and the Federal Bureau of Investigation.
8 Notification shall also be given to the applicants and employees
9 subject to the rap back program. The criminal history record
10 check shall include the submission of fingerprints to:

- 11 (1) The Federal Bureau of Investigation for a national
12 criminal history record check; and
13 (2) The Hawaii criminal justice data center for a state
14 criminal history record check that shall include
15 nonconviction data.

16 Except as otherwise provided in this section, criminal history
17 record information shall be used exclusively for the stated
18 purpose for which it was obtained."

19 2. By amending subsection (c) to read:

20 "(c) The applicant or employee subject to a criminal
21 history record check shall provide to the requesting agency:



- 1 (1) Consent to obtain the applicant's or employee's
- 2 fingerprints [~~and~~], conduct the criminal history
- 3 record check[+], and participate in the rap back
- 4 program;
- 5 (2) Identifying information required by the Federal Bureau
- 6 of Investigation [~~which shall include but not be~~
- 7 ~~limited to~~], such as the applicant's or employee's
- 8 name, date of birth, height, weight, eye color, hair
- 9 color, gender, race, and place of birth; and
- 10 (3) A statement indicating whether the applicant or
- 11 employee has ever been convicted of a crime."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 3 day of JUL, 2012

Neil Abernethy
GOVERNOR OF THE STATE OF HAWAII

