

Honolulu, Hawaii

Feb 2, 2012

RE: H.B. No. 1765
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1765 entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR COUNTY EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to protect Hawaii's people by allowing criminal history record checks to be conducted by:

- (1) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations; and
- (2) The counties on prospective employees:
 - (A) Who will work with vulnerable adults or senior citizens in community based programs;
 - (B) For fire department positions which involve contact with children or dependent adults;
 - (C) For emergency medical services positions which involve contact with children or dependent adults; and



- (D) For emergency management positions and community volunteers whose responsibilities involve planning and executing Homeland Security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable and disabled citizens during emergencies or crises.

The State Fire Council, Department of Human Resources of the City and County of Honolulu, Honolulu Fire Department, Department of Emergency Management of the City and County of Honolulu, Department of Fire and Public Safety of the County of Maui, and Liquor Commission of the City and County of Honolulu testified in support of this measure. The Hawaii Civil Rights Commission testified in opposition to this measure.

Under current law, certain agencies at both the state and county levels, as well as private entities are allowed to conduct state and national criminal history record checks on specific types of personnel for the purposes of determining suitability or fitness, for among other things, employment. However, counties are currently only allowed to conduct these types of checks on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services. Changing missions and duties of various county departments have resulted in employees within those departments coming into contact, and dealing with, children in situations other than recreation or child care programs and services, and vulnerable adults. In addition, with the elimination of residency requirements, as well as the recent economic downturn, applications for civil service positions, including positions in these departments, have increased. This presents a dilemma for these departments because they have no legal means to verify whether or not applicants for these positions possess the qualities to deal with children and vulnerable adults. This measure attempts to correct this problem.

However, your Committee notes the concerns raised by the Hawaii Civil Rights Commission that providing counties with the express authority to conduct criminal history record checks on certain employees and prospective employees may result in an overly broad exception to the statutory limitations and requirements imposed on employer inquiries into and consideration of records of conviction. Your Committee also finds that limiting the criminal history record check to ten years into an employee's past is insufficient. Accordingly, your Committee has amended this measure by:



- (1) Applying the post-job offer and conviction look-back period restrictions only to employees and prospective employees of county liquor commissions involved in liquor control investigations, liquor administration, and law enforcement; and
- (2) Allowing criminal history record checks to be conducted 15 years into an employee's past.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1765, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



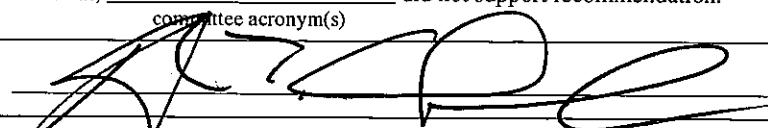
KARL RHOADS, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSCR 54

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 1765	Committee Referral: LABS JUD FIN	Date: 1-24-2012		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	/			
4. CULLEN, Ty	/			
5. ICHIYAMA, Linda	/			
6. LEE, Marilyn B.	/			
7. LUKE, Sylvia	/			
8. OKAMURA, Tom	/			
9. SAIKI, Scott K.	/			
10. SOUKI, Joseph M.	/			
11. TAKUMI, Roy M.	/			
12. FONTAINE, George R.	/			
13. JOHANSON, Aaron Ling	/			
TOTAL (13)	13	-	-	-
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				