



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

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February 27, 2012

The Honorable Marcus Oshiro, Chair
Committee on Finance
House of Representatives
State Capitol, Room 306
Honolulu, Hawaii 96813

Dear Chair Oshiro:

Subject: H.B. 1765, H.D. 2 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. 1765, H.D. 2, 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. 1765, H.D. 2.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or sbratakos@honolulu.gov.

Sincerely,

KENNETH G. SILVA
Chair

KGS/LR:cn



HAWAI'I CIVIL RIGHTS COMMISSION

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

February 28, 2012
3:00 p.m.
Conference Room 308

To: The Honorable Marcus Oshiro, Chair
and Members of the House Committee on Finance

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 1765, H.D.2

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.

The HCRC supports H.B. No. 1765, H.D.2.

The HCRC Supports Amendment of H.R.S. § 846-2.7(b) to Give the Counties Broader Authorization to Conduct Criminal History Background Checks.

The HCRC opposed H.B. No. 1765 in its original form, but the House Committee on Labor and Public Employment amended the bill to incorporate the changes suggested and agreed upon by the HCRC and the City and County. These agreed upon amendments

are incorporated into H.B. No. 1765, H.D.2, and renumbered in the statute for clarification. As agreed, the HCRC will not oppose the express authorization for the City and County to conduct criminal history checks by amendment of H.R.S. § 846-2.7(b).

H.B. No. 1765, HD2, amends H.R.S. §846-2.7(b) to provide the counties with express authority to conduct criminal history record checks on liquor commission employees and prospective employees involved in liquor control investigations, as well as prospective employees who will work with vulnerable adults, senior citizens or children in community based programs, with the fire department, with emergency medical services or in Homeland Security measures.

For several years, the City and County of Honolulu ("City and County") has sought this authority to conduct criminal history background checks under § 846-2.7(b). In the past, the HCRC has opposed legislation similar to H.B. No. 1765, based on concerns that it would result in overly broad exceptions to 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). Prior to the 2012 session, HCRC and City and County of Honolulu Employment and Personnel Services Division staff met to discuss this proposed bill and were able to reach agreement on amendments to the bill that would accomplish the City and County's purpose without eroding the arrest and court record protections by incorporating overly broad exception language into H.R.S. § 378-2.5(d).

H.B. No. 1765, HD2, incorporates language addressing concerns raised by the HCRC, amending the bill so that the City and County will have its needed authority to conduct criminal history record checks under H.R.S. § 846-2.7(b), and addressing the HCRC's concerns by amending §378-2.5(d)(5) to create specific narrow exceptions for

the counties where appropriate, rather than a broad exception for all county agencies authorized to conduct checks under § 846-2.7(b). The HCRC supports H.B. No. 1765, H.D.2, which accomplishes the purpose of the bill and meets the needs of the City and County.

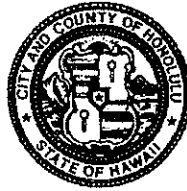
Conclusion

The HCRC and the City and County of Honolulu are in agreement that the original purpose of H.B. No. 1765 has merit, and the HCRC supports H.B. 1765, H.D.2.

Thank you for your consideration of the discussion and agreement between the City and County of Honolulu and the HCRC on this bill.

DEPARTMENT OF EMERGENCY MANAGEMENT
CITY AND COUNTY OF HONOLULU
650 South King Street Honolulu, Hawaii 96813 / (808) 723-8960

Peter B. Carlisle
MAYOR



Melvin N. Kaku
DIRECTOR

February 27, 2012

The Honorable Marcus Oshiro, Chair
and Members of the Finance Committee
House of Representatives
State Capitol, Room 308
Honolulu, Hawaii 96813

Dear Chair Oshiro:


SUBJECT: H.B. 1765 Relating to Criminal History Record Checks for County Employees

The Department of Emergency Management, City and County of Honolulu, strongly supports H.B. 1765.

When members of our community are faced with a natural or man-made hazard incident, they expect our emergency response personnel to uphold a certain standard of ethical care and professionalism. Emergency management personnel often interact with people who are in a vulnerable status. The public trust cannot be compromised and the community expects and deserves quality personnel who are entrusted with the duty to provide uncompromised emergency response services.

I urge your committee to pass H.B. 1765 and ensure our ability to have a cadre of reputable and responsible workers.

Sincerely,


Melvin N. Kaku
Director

cc: Mayor's Office
Douglas S. Chin, Managing Director

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2012 7:46 PM
To: FINTestimony
Cc: Brenda.Kosky@gmail.com
Subject: Testimony for HB1765 on 2/28/2012 3:00:00 PM

Testimony for FIN 2/28/2012 3:00:00 PM HB1765

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Brenda Kosky
Organization: Individual
E-mail: Brenda.Kosky@gmail.com
Submitted on: 2/27/2012

Comments:

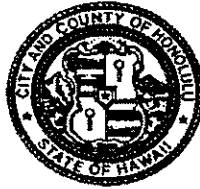
Its what actions you choose on the info you get, I think needs discussions.

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR
ROBIN CHUN-CARMICHAEL
ASSISTANT DIRECTOR

February 28, 2012

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

Subject: House Bill 1765, HD2
Relating to Criminal History Record Checks for County Employees

The City & County of Honolulu **strongly supports** House Bill 1765, HD2. The purpose of this measure 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 the employment suitability of prospective employees and employees. 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.

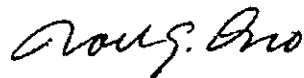
The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
February 28, 2012
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It is our duty to make prudent hiring decisions regarding the suitability of the individuals who are hired for the kinds of 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