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HAWAI'I CIVIL RIGHTS COMMISSION

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March 13, 2012
2:45 p.m.
Conference Room 224

To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Government
Operations and Military Affairs

The Honorable Suzanne Chun Oakland, Chair
and Members of the Senate Committee on Human Services

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, H.D.2, 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, H.D.2, 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.