

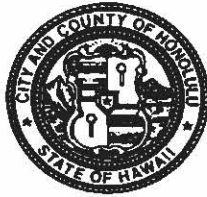
HB1765

HD2,SD1

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR
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ASSISTANT DIRECTOR

March 27, 2012

The Honorable Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: House Bill 1765, HD2, SD1
Relating to Criminal History Record Checks for County Employees

The City & County of Honolulu **strongly supports** House Bill 1765, HD2, SD1. 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 Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
The Senate
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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.

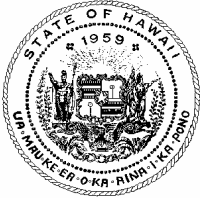
Since technological advances have made it possible for individuals outside of the State of Hawaii to view and apply for jobs in Hawaii, we have seen an increase in the number of out-of-state and recently relocated candidates who apply for civil service jobs in our jurisdiction. Without the proposed changes, 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



HAWAI‘I CIVIL RIGHTS COMMISSION

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

March 27, 2012
10:30 a.m.
Conference Room 016

To: The Honorable Clayton Hee, Chair
and Members of the Senate Committee on Judiciary and Labor

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

Re: H.B. No. 1765, H.D.2, S.D.1

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, S.D.1.

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, S.D.1 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, S.D.1, 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).

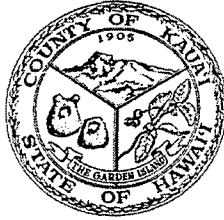
H.B. No. 1765, H.D.2, S.D.1, incorporates language addressing concerns raised by the HCRC, amending the bill so that the City and County will have its needed authority to conduct criminal history record checks under H.R.S. § 846-2.7(b), and addressing the HCRC's concerns by amending §378-2.5(d)(5) to 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, S.D.1, 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., S.D.1

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

Bernard P. Carvalho, Jr.
Mayor



Alfred B. Castillo, Jr.
County Attorney

Gary K. Heu
Managing Director

Amy I. Esaki
First Deputy

OFFICE OF THE COUNTY ATTORNEY

County of Kaua'i, State of Hawai'i

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Testimony of Amy I. Esaki

Before a Hearing of the House Committee on Labor and Public Employment
Tuesday, March 27, 2012
10:30 am
Conference Room 016

House Bill 1765, HD2, SD1
Relating to Criminal History Record Checks for County Employees

Thank you for the opportunity to submit testimony on H.B. 1765, HD2, SD1, Relating to Criminal History Record Checks for County Employees.

The County of Kaua'i supports H.B. 1765, HD2, SD1 which allows counties to conduct criminal history checks on employees and prospective employees supporting the Liquor Commission, working with vulnerable adults or seniors, and working in the field of emergency services and emergency management. Employees who are hired in the aforesaid capacities are in a sensitive area which would call for precautionary measures in hiring practices.

Mahalo,