

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2454, H.D. 1, RELATING TO THE RAP BACK PROGRAM OF THE HAWAII CRIMINAL JUSTICE DATA CENTER.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Thursday, February 23, 2012

**TIME:** 6:00 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Liane M. Moriyama, Administrator, Hawaii Criminal Justice Data Center

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Chair Oshiro and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to allow entities that are statutorily authorized to obtain fingerprint-based criminal history record checks on applicants, including employment and licensing applicants, to participate in a statewide rap back program where they will be notified if any applicants are arrested subsequent to their initial record checks.

Act 117, Session Laws of Hawaii 2011, authorized the State to retain the fingerprints of applicants requesting a statutorily authorized fingerprint-based criminal history record check. This was the first step in developing a rap back program. A rap back program will inform authorized recipients (e.g., criminal justice agencies and government agencies servicing Hawaii's vulnerable population as listed in section 846-2.7, Hawaii Revised Statutes (HRS), such as the Department of Education, the Department of Health, and the Department of Human Services) when an applicant who has undergone a fingerprint-based criminal history record check, and whose fingerprints are retained by the criminal history repository after the check, is subsequently arrested. The fingerprints, obtained after the arrest, are matched against a database that contains the fingerprints that were initially submitted. The authorized recipient is then notified and can take appropriate action.

Initially, the plan was to first develop and implement the fingerprint retention system prior to establishing the rap back program. The State, however, has an opportunity to apply for a grant from the Centers for Medicare & Medicaid Services to develop a background checks

system. One requirement of the grant is to develop a rap back system. The grant will be awarded later this year and, if Hawaii is selected, then work on the rap back program can begin sooner than had been anticipated. Therefore, this bill updates section 846-2.7, HRS, to implement the program.

The FBI is also targeting 2014 to implement a similar program at the national level, which will be made available to the states. To help ensure that the FBI will have the identifying information it needs to complete its fingerprint-based criminal history record checks and implement the national rap back program, we are requesting that, on page 4, lines 6-7 be replaced with "...of Investigation [~~which shall include but not be limited to~~] such as the applicant's or employee's name, date of birth, height, weight, ..."

The rap back programs at the state and national levels will allow Hawaii's employers and licensing agencies to make better and faster decisions that affect the safety and well-being of Hawaii's vulnerable populations such as children, the elderly, and the disabled.

We respectfully ask the Committee to pass this bill with the recommended amendment.



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 23, 2012

**MEMORANDUM**

TO: The Honorable Marcus R. Oshiro, Chair  
House Committee on Finance

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2454, H.D.1 - RELATING TO THE RAP BACK PROGRAM OF  
THE HAWAII CRIMINAL JUSTICE DATA CENTER**

Hearing: Thursday, February 23, 2012; 6:00 p.m.  
Conference Room 308, State Capitol

**PURPOSE:** The purpose of H.B. 2454, H.D.1 is to allow programs statutorily authorized to obtain criminal history record checks on employment and licensing applicants to participate in the rap back program.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) strongly supports this Administration bill. The DHS is interested in protecting its most vulnerable populations - children, the elderly, and the disabled. One way to protect vulnerable populations is through the implementation of the proposed rap back initiative. Having the ability to obtain information immediately about the arrests of any employees or licensing applicants who have already been fingerprinted through our department will assist us in maintaining the health and safety of all of our vulnerable populations while they participate in our programs and services.

Thank you for the opportunity to provide testimony on this bill.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
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KEALI'I S. LOPEZ  
DIRECTOR

TO THE  
HOUSE COMMITTEE ON FINANCE

THE TWENTY-SIXTH STATE LEGISLATURE  
REGULAR SESSION OF 2012

Thursday, February 23, 2012  
6:00 p.m.

TESTIMONY ON HB 2454, H.D. 1  
RELATING TO THE RAP BACK PROGRAM OF THE  
HAWAII CRIMINAL JUSTICE DATA CENTER

THE HONORABLE MARCUS R. OSHIRO, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"). Thank you for the opportunity to testify on behalf of the Department of Commerce and Consumer Affairs ("the Department") in support of House Bill No. 2454, H.D. 1.

This Bill allows agencies like the Department to receive immediate notification if its licensees have been arrested. Immediate notification of such an event enables the Department to make quick and accurate determinations on whether the arrest affects the licensee's qualifications to hold licenses under the purview of the Department.

TESTIMONY ON HOUSE BILL NO. 2454, H.D. 1

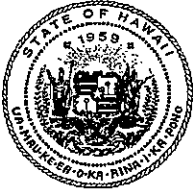
Thursday, February 23, 2012, 6:00 p.m.

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Specifically, the Division of Financial Institutions' licensees would benefit from the rap back program. Many of DFI's licensees must get fingerprinted annually to determine whether they are in compliance with the license requirements in order to renew their licenses. We believe this program will save our licensee's time by only having to do the fingerprinting one time.

This bill would provide current and up-to-date information to the Department. By eliminating duplication of efforts like annual fingerprinting, we believe it will allow licensees to continue to meet licensing requirements. For these reasons, the Department supports H.B. 2454, H.D. 1.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.



# HAWAI'I CIVIL RIGHTS COMMISSION

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

February 23, 2012  
6:00 pm  
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

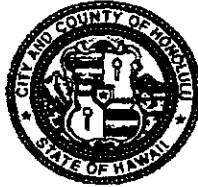
Re: H.B. No. 2454, H.D.1

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.

H.B. No. 2454, H.D.1 amends H.R.S. § 846-2.7 to allow agencies and entities authorized to conduct criminal history record checks to participate in the statewide rap back program, in preparation for the implementation of a national rap back program in 2013- 2014. The program notifies an employer when an individual, who has undergone a fingerprint-based background check and whose fingerprints are retained, is subsequently arrested. The HCRC takes no position on this bill regarding authorization of participation in the rap back program. However, the HCRC notes that H.R.S. §378-2 prohibits an employer from discriminating against an employee based on an arrest record without conviction, so while arrest information may be accessible, it is not a lawful basis for employment decisions and actions.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**  
650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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PETER B. CARLISLE  
MAYOR



NOEL T. ONO  
DIRECTOR  
ROBIN CHUN-CARMICHAEL  
ASSISTANT DIRECTOR

February 23, 2012

The Honorable Marcus 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 No. 2454, HD1 - Relating to the RAP BACK Program of the  
Hawaii Criminal Justice Data Center

The Department of Human Resources **supports** HB 2454, HD1. The purpose of this bill is to allow certain statutorily authorized programs to participate in the RAP BACK program. The RAP BACK program enables designated entities to receive relevant information when individuals who had previously undergone a fingerprint based criminal history record check, are subsequently arrested.

This measure will permit the City & County of Honolulu to obtain important, up-to-date criminal history record information for employees who work in positions that involve contact with vulnerable populations such as children, the elderly and the disabled. The updated criminal history information will help us to ensure that our employees continue to be suitable for their public service positions involving our most vulnerable citizens.

Thank you for the opportunity to testify on this measure.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono", is written over a faint, larger version of the same signature.

Noel T. Ono  
Director



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Everyday"*

**House Committee on Finance**  
**Representative Marcus R. Oshiro, Chair**  
**Representative Marilyn B. Lee, Vice Chair**

Thursday, February 23, 2012

6:00 P.M.

Conference Room 308

Hawaii State Capitol

**Testimony Supporting House Bill 2454, HD 1, Relating to the Rap Back Program  
of the Hawaii Criminal Justice Data Center**

Allows programs statutorily authorized to obtain criminal history record checks on employment and licensing applicants to participate in the rap back program. Effective January 7, 2009. (HB 2454, HD 1)

Bruce S. Anderson, Ph.D.  
President and Chief Executive Officer  
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC), thank you for the opportunity to present testimony in support of HB 2454, HD 1, which allows programs statutorily authorized to conduct criminal history record checks to participate in a statewide rap back program. Such a program, modeled after the Federal Bureau of Investigation's (FBI) rap back program, would benefit HHSC by providing updated criminal history information for its existing employees, current members of the corporate board or regional system boards, or current volunteers, providers, or contractors.

HHSC is a separate State jurisdiction which employs the largest contingent of health care employees among the public employers (4000 employees), and it is imperative that we protect the safety and general welfare of our patients and residents in our thirteen (13) medical acute and long term facilities on Oahu and the neighbor islands. The statewide rap back program will allow HHSC to request notification through the Hawaii Criminal Justice Data Center (HCJDC) if our employees are arrested any time after their initial fingerprinting and background check. Currently, we have no way of knowing if our employees, volunteers, providers, contractors, corporation board or regional system board members are subsequently arrested and convicted of a criminal violation that could be detrimental to their suitability or fitness for employment and/or services with HHSC. However, by participating in the statewide rap back program, the fingerprints taken at the time of arrest will be compared to the fingerprints in the applicant fingerprint file and a match will be made. HHSC will subsequently be notified and can take



appropriate action as deemed necessary. More importantly, the rap back programs at the state and national level will allow HHSC to make expeditious and appropriate decisions that affect the safety and well-being of not only our patients and residents in our medical facilities but also our employees.

For the above-stated reasons, HHSC supports HB 2454, HD 1 and respectfully requests that this committee vote to advance the bill forward.

Thank you for the opportunity to testify before this committee.