



**GOV. MSG. NO. 1118**

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

April 15, 2014

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

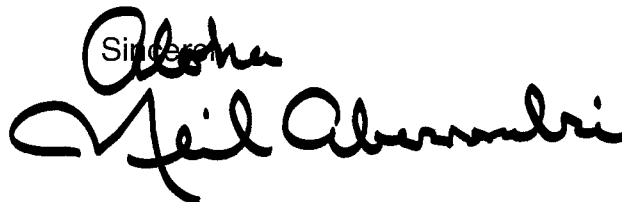
The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 15, 2014, the following bill was signed into law:

SB2420 SD1

RELATING TO CRIMINAL HISTORY RECORD  
CHECKS FOR STATE AND COUNTY  
EMPLOYEES  
**ACT 018 (14)**

*Sincerely,*  


NEIL ABERCROMBIE  
Governor, State of Hawaii

APR 15 2014

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RECEIVED  
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# A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR STATE AND COUNTY  
EMPLOYEES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1 SECTION 1. Section 378-2.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:  
3 "(d) Notwithstanding subsections (b) and (c), the  
4 requirement that inquiry into and consideration of a prospective  
5 employee's conviction record may take place only after the  
6 individual has received a conditional job offer, and the  
7 limitation to the most recent ten-year period, excluding the  
8 period of incarceration, shall not apply to employers who are  
9 expressly permitted to inquire into an individual's criminal  
10 history for employment purposes pursuant to any federal or state  
11 law other than subsection (a), including:  
12 (1) The State or any of its branches, political  
13 subdivisions, or agencies pursuant to sections 78-2.7  
14 and 831-3.1;  
15 (2) The department of education pursuant to section  
16 302A-601.5;



- 1 (3) The department of health with respect to employees,  
2 providers, or subcontractors in positions that place  
3 them in direct contact with clients when providing  
4 non-witnessed direct mental health services pursuant  
5 to section 321-171.5;
- 6 (4) The judiciary pursuant to section 571-34;
- 7 (5) The counties pursuant to section 846-2.7(b)(5), (33),  
8 (34), (35), [~~and~~] (36) [+], and (38);
- 9 (6) Armed security services pursuant to section 261-17(b);
- 10 (7) Providers of a developmental disabilities domiciliary  
11 home pursuant to section 333F-22;
- 12 (8) Private schools pursuant to sections 302C-1 and  
13 378-3(8);
- 14 (9) Financial institutions in which deposits are insured  
15 by a federal agency having jurisdiction over the  
16 financial institution pursuant to section 378-3(9);
- 17 (10) Detective agencies and security guard agencies  
18 pursuant to sections 463-6(b) and 463-8(b);
- 19 (11) Employers in the business of insurance pursuant to  
20 section 431:2-201.3;
- 21 (12) Employers of individuals or supervisors of individuals  
22 responsible for screening passengers or property under



- 1 title 49 United States Code section 44901 or  
2 individuals with unescorted access to an aircraft of  
3 an air carrier or foreign carrier or in a secured area  
4 of an airport in the United States pursuant to title  
5 49 United States Code section 44936(a);
- 6 (13) The department of human services pursuant to sections  
7 346-97 and 352-5.5;
- 8 (14) The public library system pursuant to section  
9 302A-601.5;
- 10 (15) The department of public safety pursuant to section  
11 353C-5;
- 12 (16) The board of directors of a cooperative housing  
13 corporation or the manager of a cooperative housing  
14 project pursuant to section 421I-12;
- 15 (17) The board of directors of an association of owners  
16 under chapter 514A or 514B, or the manager of a  
17 condominium project pursuant to section 514A-82.1 or  
18 514B-133; and
- 19 (18) The department of health pursuant to section  
20 321-15.2."

21 SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



- 1           "(b) Criminal history record checks may be conducted by:
- 2           (1) The department of health or the department's designee
- 3           on operators of adult foster homes or developmental
- 4           disabilities domiciliary homes and their employees, as
- 5           provided by section 333F-22;
- 6           (2) The department of health or the department's designee
- 7           on prospective employees, persons seeking to serve as
- 8           providers, or subcontractors in positions that place
- 9           them in direct contact with clients when providing
- 10          non-witnessed direct mental health services as
- 11          provided by section 321-171.5;
- 12          (3) The department of health or the department's designee
- 13          on all applicants for licensure for, operators for,
- 14          prospective employees, and volunteers at one or more
- 15          of the following: skilled nursing facility,
- 16          intermediate care facility, adult residential care
- 17          home, expanded adult residential care home, assisted
- 18          living facility, home health agency, hospice, adult
- 19          day health center, special treatment facility,
- 20          therapeutic living program, intermediate care facility
- 21          for individuals with intellectual disabilities,
- 22          hospital, rural health center and rehabilitation



1 agency, and, in the case of any of the above  
2 facilities operating in a private residence, on any  
3 adult living in the facility other than the client as  
4 provided by section 321-15.2;

5 (4) The department of education on employees, prospective  
6 employees, and teacher trainees in any public school  
7 in positions that necessitate close proximity to  
8 children as provided by section 302A-601.5;

9 (5) The counties on employees and prospective employees  
10 who may be in positions that place them in close  
11 proximity to children in recreation or child care  
12 programs and services;

13 (6) The county liquor commissions on applicants for liquor  
14 licenses as provided by section 281-53.5;

15 (7) The county liquor commissions on employees and  
16 prospective employees involved in liquor  
17 administration, law enforcement, and liquor control  
18 investigations;

19 (8) The department of human services on operators and  
20 employees of child caring institutions, child placing  
21 organizations, and foster boarding homes as provided  
22 by section 346-17;



- 1           (9) The department of human services on prospective  
2           adoptive parents as established under section  
3           346-19.7;
- 4           (10) The department of human services on applicants to  
5           operate child care facilities, prospective employees  
6           of the applicant, and new employees of the provider  
7           after registration or licensure as provided by section  
8           346-154;
- 9           (11) The department of human services on persons exempt  
10          pursuant to section 346-152 to be eligible to provide  
11          child care and receive child care subsidies as  
12          provided by section 346-152.5;
- 13          (12) The department of health on operators and employees of  
14          home and community-based case management agencies and  
15          operators and other adults, except for adults in care,  
16          residing in foster family homes as provided by section  
17          321-484;
- 18          (13) The department of human services on staff members of  
19          the Hawaii youth correctional facility as provided by  
20          section 352-5.5;
- 21          (14) The department of human services on employees,  
22          prospective employees, and volunteers of contracted





1 providers and subcontractors in positions that place  
2 them in close proximity to youth when providing  
3 services on behalf of the office or the Hawaii youth  
4 correctional facility as provided by section 352D-4.3;  
5 (15) The judiciary on employees and applicants at detention  
6 and shelter facilities as provided by section 571-34;  
7 (16) The department of public safety on employees and  
8 prospective employees who are directly involved with  
9 the treatment and care of persons committed to a  
10 correctional facility or who possess police powers  
11 including the power of arrest as provided by section  
12 353C-5;  
13 (17) The board of private detectives and guards on  
14 applicants for private detective or private guard  
15 licensure as provided by section 463-9;  
16 (18) Private schools and designated organizations on  
17 employees and prospective employees who may be in  
18 positions that necessitate close proximity to  
19 children; provided that private schools and designated  
20 organizations receive only indications of the states  
21 from which the national criminal history record  
22 information was provided pursuant to section 302C-1;



- 1       (19) The public library system on employees and prospective  
2           employees whose positions place them in close  
3           proximity to children as provided by section  
4           302A-601.5;
- 5       (20) The State or any of its branches, political  
6           subdivisions, or agencies on applicants and employees  
7           holding a position that has the same type of contact  
8           with children, vulnerable adults, or persons committed  
9           to a correctional facility as other public employees  
10          who hold positions that are authorized by law to  
11          require criminal history record checks as a condition  
12          of employment as provided by section 78-2.7;
- 13       (21) The department of health on licensed adult day care  
14          center operators, employees, new employees,  
15          subcontracted service providers and their employees,  
16          and adult volunteers as provided by section 321-496;
- 17       (22) The department of human services on purchase of  
18          service contracted and subcontracted service providers  
19          and their employees serving clients of the adult and  
20          community care services branch, as provided by section  
21          346-97;



1 (23) The department of human services on foster grandparent  
2 program, senior companion program, and respite  
3 companion program participants as provided by section  
4 346-97;

5 (24) The department of human services on contracted and  
6 subcontracted service providers and their current and  
7 prospective employees that provide home and community-  
8 based services under section 1915(c) of the Social  
9 Security Act, title 42 United States Code section  
10 1396n(c), or under any other applicable section or  
11 sections of the Social Security Act for the purposes  
12 of providing home and community-based services, as  
13 provided by section 346-97;

14 (25) The department of commerce and consumer affairs on  
15 proposed directors and executive officers of a bank,  
16 savings bank, savings and loan association, trust  
17 company, and depository financial services loan  
18 company as provided by section 412:3-201;

19 (26) The department of commerce and consumer affairs on  
20 proposed directors and executive officers of a  
21 nondepository financial services loan company as  
22 provided by section 412:3-301;



1 (27) The department of commerce and consumer affairs on the  
2 original chartering applicants and proposed executive  
3 officers of a credit union as provided by section  
4 412:10-103;

5 (28) The department of commerce and consumer affairs on:  
6 (A) Each principal of every non-corporate applicant  
7 for a money transmitter license; and  
8 (B) The executive officers, key shareholders, and  
9 managers in charge of a money transmitter's  
10 activities of every corporate applicant for a  
11 money transmitter license,

12 as provided by sections 489D-9 and 489D-15;

13 (29) The department of commerce and consumer affairs on  
14 applicants for licensure and persons licensed under  
15 title 24;

16 (30) The Hawaii health systems corporation on:

- 17 (A) Employees;
- 18 (B) Applicants seeking employment;
- 19 (C) Current or prospective members of the corporation  
20 board or regional system board; or
- 21 (D) Current or prospective volunteers, providers, or  
22 contractors,



- 1 in any of the corporation's health facilities as  
2 provided by section 323F-5.5;
- 3 (31) The department of commerce and consumer affairs on:  
4 (A) An applicant for a mortgage loan originator  
5 license; and  
6 (B) Each control person, executive officer, director,  
7 general partner, and manager of an applicant for  
8 a mortgage loan originator company license,  
9 as provided by chapter 454F;
- 10 (32) The state public charter school commission or public  
11 charter schools on employees, teacher trainees,  
12 prospective employees, and prospective teacher  
13 trainees in any public charter school for any position  
14 that places them in close proximity to children, as  
15 provided in section 302D-33;
- 16 (33) The counties on prospective employees who work with  
17 children, vulnerable adults, or senior citizens in  
18 community-based programs;
- 19 (34) The counties on prospective employees for fire  
20 department positions which involve contact with  
21 children or [~~dependent~~] vulnerable adults;



1 (35) The counties on prospective employees for emergency  
2 medical services positions which involve contact with  
3 children or [~~dependent~~] vulnerable adults;

4 (36) The counties on prospective employees for emergency  
5 management positions and community volunteers whose  
6 responsibilities involve planning and executing  
7 homeland security measures including viewing,  
8 handling, and engaging in law enforcement or  
9 classified meetings and assisting vulnerable [~~and~~  
10 ~~disabled~~] citizens during emergencies or crises; [~~and~~

11 (37) The State and counties on employees, prospective  
12 employees, volunteers, and contractors whose position  
13 responsibilities require unescorted access to secured  
14 areas and equipment related to a traffic management  
15 center;

16 (38) The State and counties on employees and prospective  
17 employees whose positions involve the handling or use  
18 of firearms for other than law enforcement purposes;

19 (39) The State and counties on current and prospective  
20 systems analysts and others involved in an agency's  
21 information technology operation whose position  
22 responsibilities provide them with access to



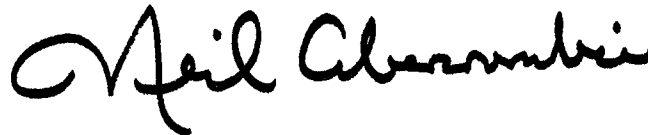
1           proprietary, confidential, or sensitive information;  
2           and  
3       [~~(37)~~] (40) Any other organization, entity, or the State,  
4           its branches, political subdivisions, or agencies as  
5           may be authorized by state law."

6           SECTION 3. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 4. This Act shall take effect on July 1, 2014.

9

APPROVED this 15 day of APR, 2014



GOVERNOR OF THE STATE OF HAWAII