

JAN 23 2014

A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR NURSES.

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

1 SECTION 1. The legislature finds that thirty-six states,
2 not including Hawaii, require the fingerprinting of nurse
3 applicants for licensure. Accordingly, the purpose of this Act
4 is to require applicants for licensure under chapter 457, Hawaii
5 Revised Statutes, to submit fingerprints for criminal history
6 record checks as a condition of licensure.

7 SECTION 2. Chapter 457, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§457- Criminal history record checks. (a) The board
11 shall request a criminal history record check of each applicant
12 for initial licensure or licensure by endorsement under this
13 chapter, in accordance with section 846-2.7. The fee charged by
14 the Hawaii criminal justice data center to perform criminal
15 history record checks may be passed on to the applicant and
16 shall be paid to the board along with any other fees required
17 under section 457-7, 457-8, or 457-8.5.



1 (b) The information obtained pursuant to this section
2 shall be used exclusively by the board for the purposes of
3 determining whether an applicant is suitable for working within
4 the scope of nursing practices established in this chapter and
5 by rules of the board. All such decisions shall be subject to
6 federal laws and regulations currently or hereafter in effect.

7 (c) The board may revoke, refuse to issue, or refuse to
8 renew the license of an applicant who has been convicted of one
9 or more of the following felonies: murder, felonious assault,
10 kidnapping, rape, aggravated robbery, sexual crimes involving
11 children or vulnerable adults, criminal mistreatment of children
12 or vulnerable adults, or financial exploitation of a vulnerable
13 adult.

14 (d) The board may revoke, refuse to issue, or refuse to
15 renew the license of an applicant who has been convicted of one
16 or more of the following felonies: drug trafficking,
17 embezzlement, theft, or arson; provided that the applicant has
18 not received an absolute discharge from the sentences of these
19 felony convictions three or more years prior to the date of
20 filing an application for licensure under this chapter. Persons
21 who have an absolute discharge from one of the felony
22 convictions listed in this subsection may apply to the board for



1 licensure under this chapter, at which time the board may issue
2 a license pursuant to this chapter, deny licensure, or otherwise
3 discipline the applicant in accordance with this chapter."

4 SECTION 3. Section 457-7, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The applicant applying for a license to practice as a
7 registered nurse by examination shall pay application,
8 examination, and reexamination fees, if applicable, as
9 prescribed by the board. Each applicant who successfully passes
10 the examination shall pay a license fee. The applicant applying
11 for a license to practice as a registered nurse by endorsement
12 shall pay application and license fees. All applicants under
13 this section shall also pay any fee charged by the Hawaii
14 criminal justice data center to perform criminal history record
15 checks pursuant to section 846-2.7."

16 SECTION 4. Section 457-8, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) The applicant applying for a license to practice as a
19 licensed practical nurse by examination shall pay application,
20 examination, and reexamination fees, if applicable, as
21 prescribed by the board. Each applicant who successfully passes
22 the examination shall pay a license fee. The applicant applying



1 for a license to practice as a licensed practical nurse by
2 endorsement shall pay application and license fees. All
3 applicants under this section shall also pay any fee charged by
4 the Hawaii criminal justice data center to perform criminal
5 history record checks pursuant to section 846-2.7."

6 SECTION 5. Section 846-2.7, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Criminal history record checks may be conducted by:

9 (1) The department of health or the department's designee
10 on operators of adult foster homes or developmental
11 disabilities domiciliary homes and their employees, as
12 provided by section 333F-22;

13 (2) The department of health or the department's designee
14 on prospective employees, persons seeking to serve as
15 providers, or subcontractors in positions that place
16 them in direct contact with clients when providing
17 non-witnessed direct mental health services as
18 provided by section 321-171.5;

19 (3) The department of health or the department's designee
20 on all applicants for licensure for, operators for,
21 prospective employees, and volunteers at one or more
22 of the following: skilled nursing facility,



1 intermediate care facility, adult residential care
2 home, expanded adult residential care home, assisted
3 living facility, home health agency, hospice, adult
4 day health center, special treatment facility,
5 therapeutic living program, intermediate care facility
6 for individuals with intellectual disabilities,
7 hospital, rural health center and rehabilitation
8 agency, and, in the case of any of the above
9 facilities operating in a private residence, on any
10 adult living in the facility other than the client as
11 provided by section 321-15.2;

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

16 (5) The counties on employees and prospective employees
17 who may be in positions that place them in close
18 proximity to children in recreation or child care
19 programs and services;

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



- 1 (7) The county liquor commissions on employees and
2 prospective employees involved in liquor
3 administration, law enforcement, and liquor control
4 investigations;
- 5 (8) The department of human services on operators and
6 employees of child caring institutions, child placing
7 organizations, and foster boarding homes as provided
8 by section 346-17;
- 9 (9) The department of human services on prospective
10 adoptive parents as established under section
11 346-19.7;
- 12 (10) The department of human services on applicants to
13 operate child care facilities, prospective employees
14 of the applicant, and new employees of the provider
15 after registration or licensure as provided by section
16 346-154;
- 17 (11) The department of human services on persons exempt
18 pursuant to section 346-152 to be eligible to provide
19 child care and receive child care subsidies as
20 provided by section 346-152.5;
- 21 (12) The department of health on operators and employees of
22 home and community-based case management agencies and



1 operators and other adults, except for adults in care,
2 residing in foster family homes as provided by section
3 321-484;

4 (13) The department of human services on staff members of
5 the Hawaii youth correctional facility as provided by
6 section 352-5.5;

7 (14) The department of human services on employees,
8 prospective employees, and volunteers of contracted
9 providers and subcontractors in positions that place
10 them in close proximity to youth when providing
11 services on behalf of the office or the Hawaii youth
12 correctional facility as provided by section 352D-4.3;

13 (15) The judiciary on employees and applicants at detention
14 and shelter facilities as provided by section 571-34;

15 (16) The department of public safety on employees and
16 prospective employees who are directly involved with
17 the treatment and care of persons committed to a
18 correctional facility or who possess police powers
19 including the power of arrest as provided by section
20 353C-5;



- 1 (17) The board of private detectives and guards on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
12 employees whose positions place them in close
13 proximity to children as provided by section
14 302A-601.5;
- 15 (20) The State or any of its branches, political
16 subdivisions, or agencies on applicants and employees
17 holding a position that has the same type of contact
18 with children, vulnerable adults, or persons committed
19 to a correctional facility as other public employees
20 who hold positions that are authorized by law to
21 require criminal history record checks as a condition
22 of employment as provided by section 78-2.7;



- 1 (21) The department of health on licensed adult day care
2 center operators, employees, new employees,
3 subcontracted service providers and their employees,
4 and adult volunteers as provided by section 321-496;
- 5 (22) The department of human services on purchase of
6 service contracted and subcontracted service providers
7 and their employees serving clients of the adult and
8 community care services branch, as provided by section
9 346-97;
- 10 (23) The department of human services on foster grandparent
11 program, senior companion program, and respite
12 companion program participants as provided by section
13 346-97;
- 14 (24) The department of human services on contracted and
15 subcontracted service providers and their current and
16 prospective employees that provide home and community-
17 based services under section 1915(c) of the Social
18 Security Act, title 42 United States Code section
19 1396n(c), or under any other applicable section or
20 sections of the Social Security Act for the purposes
21 of providing home and community-based services, as
22 provided by section 346-97;



- 1 (25) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a bank,
3 savings bank, savings and loan association, trust
4 company, and depository financial services loan
5 company as provided by section 412:3-201;
- 6 (26) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;
- 10 (27) The department of commerce and consumer affairs on the
11 original chartering applicants and proposed executive
12 officers of a credit union as provided by section
13 412:10-103;
- 14 (28) The department of commerce and consumer affairs on:
15 (A) Each principal of every non-corporate applicant
16 for a money transmitter license; and
17 (B) The executive officers, key shareholders, and
18 managers in charge of a money transmitter's
19 activities of every corporate applicant for a
20 money transmitter license,
21 as provided by sections 489D-9 and 489D-15;



- 1 (29) The department of commerce and consumer affairs on
2 applicants for licensure and persons licensed under
3 title 24;
- 4 (30) The Hawaii health systems corporation on:
5 (A) Employees;
6 (B) Applicants seeking employment;
7 (C) Current or prospective members of the corporation
8 board or regional system board; or
9 (D) Current or prospective volunteers, providers, or
10 contractors,
11 in any of the corporation's health facilities as
12 provided by section 323F-5.5;
- 13 (31) The department of commerce and consumer affairs on:
14 (A) An applicant for a mortgage loan originator
15 license; and
16 (B) Each control person, executive officer, director,
17 general partner, and manager of an applicant for
18 a mortgage loan originator company license,
19 as provided by chapter 454F;
- 20 (32) The state public charter school commission or public
21 charter schools on employees, teacher trainees,
22 prospective employees, and prospective teacher



1 trainees in any public charter school for any position
2 that places them in close proximity to children, as
3 provided in section 302D-33;

4 (33) The counties on prospective employees who work with
5 vulnerable adults or senior citizens in community-
6 based programs;

7 (34) The counties on prospective employees for fire
8 department positions which involve contact with
9 children or dependent adults;

10 (35) The counties on prospective employees for emergency
11 medical services positions which involve contact with
12 children or dependent adults;

13 (36) The counties on prospective employees for emergency
14 management positions and community volunteers whose
15 responsibilities involve planning and executing
16 homeland security measures including viewing,
17 handling, and engaging in law enforcement or
18 classified meetings and assisting vulnerable and
19 disabled citizens during emergencies or crises; [~~and~~]

20 (37) The board of nursing on applicants for licensure to
21 practice nursing as a registered nurse, licensed



1 practical nurse, or advanced practice registered
2 nurse, as provided under chapter 457; and
3 ~~[(37)]~~ (38) Any other organization, entity, or the State,
4 its branches, political subdivisions, or agencies as
5 may be authorized by state law."

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

8 SECTION 7. This Act shall take effect on July 1, 2014.

9

INTRODUCED BY: *Ronald H. Baber*



S.B. NO. 3044

Report Title:

Nurses; Criminal History Record Checks; Licensure

Description:

Requires applicants for licensure under chapter 457, Hawaii Revised Statutes, to submit fingerprints for criminal history record checks as a condition of licensure.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

