

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

January 22, 2014

**TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT**

For Hearing on Friday, January 24, 2014
8:30 a.m., Conference Room 309

BY

BARBARA A. KRIEG
DIRECTOR

House Bill No. 1975

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

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON MARK M. NAKASHIMA AND MEMBERS OF THE COMMITTEE:

H.B. 1975 allows the State and counties to perform criminal history record checks on employees, prospective employees, volunteers, and contractors whose positions allow them access to sensitive information, firearms, and secured areas and on employees, prospective employees, volunteers, and contractors whose positions require them to work with county community-based programs for children.

The Department of Human Resources Development **supports** this measure.

However, we request two amendments to H.B. 1975. Section 2 amends Section 846-2.7, Hawaii Revised Statutes subsection b, to the new numbers (38) and (39) on page 12 and 13. We request that the State be included in these amendments, along with the counties, so the requested new language would read:

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

- (39) The State and the counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information; and

Thank you for the opportunity to testify on this matter.



HAWAI'I CIVIL RIGHTS COMMISSION

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

January 24, 2014
8:30 a.m.
Conference Room 309

To: The Honorable Mark M. Nakashima, Chair
and Members of the House Committee on Labor and
Public Employment

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

Re: H.B. No. 1975

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._

Section 2 of H.B. No. 1975 amends HRS § 846-2.7(b) to provide express authority for the conduct of criminal history record checks on 1) state and county employees, applicants, volunteers and contractors who require unescorted access to secured areas and equipment related to a traffic management center; 2) county employees and applicants whose positions involve the handling or use of firearms for other than law enforcement purposes; and 3) county employees and applicants involved in an agency's

information technology operations who have access to proprietary, confidential or sensitive information. Section 1 of H.B. No. 1975 amends HRS § 378-2.5(d) to allow pre-offer criminal history background checks on all three of the above categories of employees, volunteer and applicants.

Over the years, the City and County of Honolulu has sought authority to conduct criminal history background checks under § 846-2.7(b) for various categories of employees and applicants as well as exemptions from HRS § 378-2.5 for pre-offer background checks. In the past, the HCRC has expressed concerns that this would result in overly broad exceptions to the requirements and limitations imposed on employer inquiries into and consideration of conviction records.

Prior to this 2014 session, HCRC and City and County of Honolulu Employment and Personnel Services Division staff met to discuss this bill and were able to reach agreement on amendments to the bill that would accomplish the City and County's purposes without eroding the arrest and court record protections by incorporating overly broad exception language into H.R.S. § 378-2.5(d). The HCRC and City and County of Honolulu agreed that only the second group of employees and applicants in H.B. 1975 (employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes) should be exempt from the provisions of HRS § 378-2.5.

With the amendment agreed upon by the City and County of Honolulu, the HCRC does not oppose H.B. No. 1975; with only the exemption in HRS § 378-2.5(d)(5) in Section 1 of the bill is amended to only add employees and prospective employees whose

positions involve the handling or use of firearms for other than law enforcement purposes, listed in the Section 2 of the bill as HRS § 846-2.7(b)(38).

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

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

January 24, 2014

The Honorable Mark M. Nakashima, Chair
and Members of the Committee
on Labor and Public Employment
The State House of Representatives
State Capitol, Room 406
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members of the Committee:

SUBJECT: House Bill No. 1975
Relating to Criminal History Record Checks for
State and County Employees

The City & County of Honolulu **strongly supports** House Bill 1975 with a suggested amendment. The purpose of this measure is to provide State and 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 current and prospective employees. Specifically, this bill will enable us to obtain criminal history record information for current and prospective employees whose job duties and responsibilities warrant the additional evaluation—such as employees whose positions involve the handling of firearms for other than law enforcement purposes. Housekeeping changes are also included.

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 Mark M. Nakashima, Chair
and Members of the Committee
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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 continued to see 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 for our employees and prospective employees in the specified categories of work.

We have met with the Hawaii Civil Rights Commission regarding this measure and are in agreement with them on certain amendments to the measure. Our agencies are in agreement that we will not pursue the addition of State and county employees involved in a traffic management center (item 37) and those involved in the information technology operations (item 39) to the list of employees for whom criminal history records checks are permitted prior to an offer of employment. Accordingly, we request these new sections be deleted.

Thank you for the opportunity to testify.

Sincerely,



Carolee C. Kubo
Director

cc: Mayor's Office

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE **SN-AS**

January 24, 2014

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Labor and Public Employment
House of Representatives
Hawaii State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

Subject: House Bill No. 1975, Relating to Criminal History Record Checks
for State and County Employees

I am Sean C. Naito, Major of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1975, Relating to Criminal History Record Checks for State and County Employees. This bill provides State and County agencies the ability to access national criminal information history and state conviction information for employees who will be working in the future Joint Traffic Management Center (JTMC). The clearance is needed to determine the employment suitability of current and prospective employees.

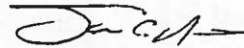
The JTMC is scheduled for completion in 2016. It will be comprised of personnel from the HPD, Department of Transportation Services, Honolulu Fire Department, Department of Emergency Management Services, and the Department of Transportation. Due to the sensitivity of information that will be discussed and accessed during daily operations within the JTMC, we feel that it is in the public's best interest to have personnel who have been subjected to both a national and state criminal history record check.

The HPD urges you to support House Bill No. 1975.

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Labor and Public Employment
January 24, 2014
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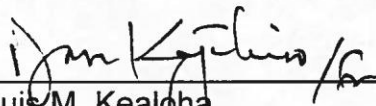
Thank you for the opportunity to testify.

Sincerely,



Sean C. Naito, Major
Communications Division

APPROVED:



Louis M. Kealoha
Chief of Police

LATE

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1869
Phone: (808) 723-7800 • Fax: (808) 833-3934



KIRK CALDWELL
MAYOR

MARK K. RIGG
DIRECTOR

IAN T.T. SANTEE
DEPUTY DIRECTOR

January 23, 2014

The Honorable Mark Nakashima, Chair
The Honorable Kyle T. Yamashita, Vice Chair
Committee on Labor and Public Employment
House of Representatives
Twenty-Seventh Legislature
Regular Session of 2014

Re: HB1975, Relating to Criminal History Record Checks for State and County Employees

Dear Chair Nakashima, Vice-Chair Yamashita, and Committee Members:

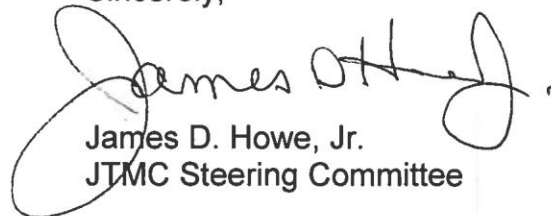
The Honolulu Emergency Services Department is in support of the passage of HB1975.

The Department provides Emergency Medical Services and Ocean Safety Services for the City and County of Honolulu. The Department has been involved in the planning of the Joint Traffic Management Center and intends to relocate its Public Safety Answering Point 911 service functions to the new Center.

Due to the sensitivity and the legal requirement for privacy related to personal health information which is used in daily operations by Department personnel, the Department supports HB1975.

Thank you in advance for your favorable consideration.

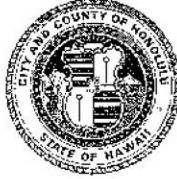
Sincerely,


James D. Howe, Jr.
JTMC Steering Committee

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8305 • Fax: (808) 768-4730 • Internet: www.honolulu.gov

KIRK CALDWELL
MAYOR



MICHAEL D. FORMBY
DIRECTOR

MARK N. GARRITY, AICP
DEPUTY DIRECTOR

January 23, 2014

The Honorable Mark M. Nakashima, Chair
and Members of the Committee
on Labor and Public Employment
House of Representatives
State Capitol, Room 406
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members of the Committee:

Subject: Testimony on House Bill No. 1975
Relating to Criminal History Record Checks for State and County Employees

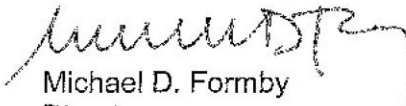
I am Michael D. Formby, Director of the Department of Transportation Services of the City and County of Honolulu.

The Department of Transportation Services strongly supports House Bill 1975. The purpose of this measure is to provide State and 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 current and prospective employees.

The Joint Traffic Management Center (JTMC), which is scheduled for completion in 2016, will improve public safety through collocation of traffic managers and public safety dispatchers from the City's Departments of Transportation Services, Police, Fire, Emergency Services and the State Department of Transportation. Due to the sensitivity of information discussed and accessed in daily operations within the JTMC, we feel that it is in the public's best interest that personnel who have access to privileged information be subject to a criminal history record check involving national criminal history record information rather than only State of Hawaii information, as applicants for these positions come from all over the nation.

Thank you for the opportunity to testify on House Resolution No. 26 and House Concurrent Resolution No. 30.

Very truly yours,


Michael D. Formby
Director

yamashita1

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 24, 2014 8:42 AM
To: LABtestimony
Cc: amybrinker@mac.com
Subject: *Submitted testimony for HB1975 on Jan 24, 2014 08:30AM*

HB1975

Submitted on: 1/24/2014

Testimony for LAB on Jan 24, 2014 08:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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