

LATE



HAWAI'I CIVIL RIGHTS COMMISSION

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

January 28, 2014
2:45 p.m.
Conference Room 224

To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety,
Intergovernmental and Military Affairs

The Honorable Suzanne Chun Oakland, Chair
and Members of the Senate Committee on Human Services

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

Re: S.B. No. 2420

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 S.B. No. 2420 amends HRS § 846-2.7(b) to provide express authority for 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 S.B. No. 2420 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 SB 2420 (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. The HCRC agreed it would not oppose the bill if Section 1 is amended to remove the HRS § 378-2.5 exemption by reference for the new HRS § 847-2.7 (b)(37) and (39).

CONCLUSION

The HCRC's concerns are limited to amendments adding to the list of exemptions/exceptions provided under HRS § 368-2, found in Section 1 of the bill.

The HCRC is not concerned over the amendments to HRS § 846-2.7(B), adding express authority for the City and County or State to conduct criminal history record checks, found in Section 2 of the bill. Again, the HCRC's only concern is whether those authorized checks are then exempted from the HRS § 38-2.5 limitations on pre-offer inquiries and the 10 year look-back period.

With the amendment agreed upon by the City and County of Honolulu, the HCRC does not oppose S.B. No. 2420; with the exemption in HRS § 378-2.5(d)(5) in Section 1 of the bill 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.

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DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



MICHAEL D. FORMBY
DIRECTOR

MARK N. GARRITY, AICP
DEPUTY DIRECTOR

January 27, 2014

The Honorable Will Espero, Chair
and Members of the Committee on
Public Safety, Intergovernmental and Military Affairs
State Senate
Capitol, Room 406
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Espero and Members of the Committee:

**SUBJECT: Testimony on Senate Bill No. 2420 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 Senate Bill 2420. 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 co-location 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 Senate Bill 2420.

Very truly yours,


for Michael D. Formby
Director

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January 27, 2014

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Suzanne Chun, Chair
Senator Josh Green, Vice Chair
Committee on Human Services
The Senate
The Twenty-Seventh Legislature
Regular Session of 2014

Re: SB 2420, Relating to Criminal History Record Checks for State and County Employees

Dear Chairs Espero, Chun, Vice-Chairs Baker, Green, and Committee Members:

The Honolulu Emergency Services Department is in support of the passage of SB 2420.

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 SB 2420.

Thank you in advance for your favorable consideration.

Sincerely,

A handwritten signature in black ink that reads "James D. Howe, Jr." with a stylized flourish at the end.

James D. Howe, Jr.
JTMC Steering Committee