
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS.

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

1 SECTION 1. The legislature finds that criminal background
2 checks on firearms permit applicants are critical to ensure the
3 safety of the community.

4 The rap back system is a service of the Federal Bureau of
5 Investigation that provides continuous criminal record
6 monitoring for authorized government agencies, including law
7 enforcement agencies, and notifies them when an individual
8 subject to a criminal background check is arrested for a
9 criminal offense anywhere in the country. This notification
10 will allow county police departments in Hawaii to evaluate if
11 the owner of a firearm may continue to legally possess and own
12 firearms.

13 The purpose of this Act is to authorize county police
14 departments in Hawaii to enroll firearms permit applicants and
15 individuals who are registering their firearms into the rap back
16 system.

17 SECTION 2. Section 134-2, Hawaii Revised Statutes, is
18 amended as follows:



1 1. By amending subsection (e) to read:

2 "(e) The permit application form shall be signed by the
3 applicant and by the issuing authority. One copy of the permit
4 shall be retained by the issuing authority as a permanent
5 official record. Except for sales to dealers licensed under
6 section 134-31, or dealers licensed by the United States
7 Department of Justice, or law enforcement officers, or where a
8 license is granted under section 134-9, or where any firearm is
9 registered pursuant to section 134-3(a), no permit shall be
10 issued to an applicant earlier than fourteen calendar days after
11 the date of the application; provided that a permit shall be
12 issued or the application denied before the twentieth day from
13 the date of application. Permits issued to acquire any pistol
14 or revolver shall be void unless used within ten days after the
15 date of issue. Permits to acquire a pistol or revolver shall
16 require a separate application and permit for each transaction.
17 Permits issued to acquire any rifle or shotgun shall entitle the
18 permittee to make subsequent purchases of rifles or shotguns for
19 a period of one year from the date of issue without a separate
20 application and permit for each acquisition, subject to the
21 disqualifications under section 134-7 and [~~subject to~~]



1 revocation under section 134-13; provided that if a permittee is
2 arrested for committing a felony or any crime of violence or for
3 the illegal sale of any drug, the permit shall be impounded and
4 shall be surrendered to the issuing authority. The issuing
5 authority shall perform an inquiry on an applicant [~~who is a~~
6 ~~citizen of the United States by using the National Instant~~
7 ~~Criminal Background Check System]~~ by using the International
8 Justice and Public Safety Network, including the United States
9 Immigration and Customs Enforcement query, the National Crime
10 Information Center, and the National Instant Criminal Background
11 Check System, and conduct a criminal history record check
12 pursuant to section 846-2.7 before any determination to issue a
13 permit or to deny an application is made. [~~If the applicant is~~
14 ~~not a citizen of the United States and may be eligible to~~
15 ~~acquire a firearm under this chapter, the issuing authority~~
16 ~~shall perform an inquiry on the applicant, by using the National~~
17 ~~Instant Criminal Background Check System, to include a check of~~
18 ~~the Immigration and Customs Enforcement databases, before any~~
19 ~~determination to issue a permit or to deny an application is~~
20 ~~made.] "~~

21 2. By amending subsection (i) to read:



1 "(i) No fee shall be charged for permits, or applications
2 for permits, under this section, except for a single fee
3 chargeable by and payable to the issuing county, for individuals
4 applying for their first permit, in an amount equal to the fee
5 [actually] charged for criminal history record checks by the
6 ~~[Federal Bureau of Investigation to the issuing police~~
7 ~~department for a fingerprint check in connection with that~~
8 ~~application or permit.] Hawaii criminal justice data center
9 pursuant to section 846-2.7. In the case of a joint
10 application, the fee provided for in this section may be charged
11 to each person to whom no previous permit has been issued."~~

12 SECTION 3. Section 134-3, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) Every person arriving in the State who brings or by
16 any other manner causes to be brought into the State a firearm
17 of any description, whether usable or unusable, serviceable or
18 unserviceable, modern or antique, shall register the firearm
19 within five days after arrival of the person or of the firearm,
20 whichever arrives later, with the chief of police of the county
21 of the person's place of business or, if there is no place of



1 business, the person's residence or, if there is neither a place
2 of business nor residence, the person's place of sojourn. A
3 nonresident alien may bring firearms not otherwise prohibited by
4 law into the State for a continuous period not to exceed ninety
5 days; provided that the person meets the registration
6 requirement of this section and the person possesses:

- 7 (1) A valid Hawaii hunting license procured under chapter
8 183D, part II, or a commercial or private shooting
9 preserve permit issued pursuant to section 183D-34;
- 10 (2) A written document indicating the person has been
11 invited to the State to shoot on private land; or
- 12 (3) Written notification from a firing range or target
13 shooting business indicating that the person will
14 actually engage in target shooting.

15 The nonresident alien shall be limited to a nontransferable
16 registration of not more than ten firearms for the purpose of
17 the ~~[above]~~ activities ~~[-]~~ enumerated in paragraphs (1) to (3).

18 Every person registering a firearm under this subsection
19 shall be fingerprinted and photographed by the police department
20 of the county of registration; provided that this requirement
21 shall be waived where fingerprints and photographs are already



1 on file with the police department. The police department shall
2 perform an inquiry on the person by using the [~~National Instant~~
3 ~~Criminal Background Check System~~] International Justice and
4 Public Safety Network, including the United States Immigration
5 and Customs Enforcement query, the National Crime Information
6 Center, and the National Instant Criminal Background Check
7 System, and conduct a criminal history record check pursuant to
8 section 846-2.7 before any determination to register a firearm
9 is made."

10 2. By amending subsection (e) to read:

11 "(e) No fee shall be charged for the registration of a
12 firearm under this section, except for a fee chargeable by and
13 payable to the registering county for persons registering a
14 firearm under subsection (a), in an amount equal to the fee
15 [~~actually~~] charged for criminal history record checks by the
16 [~~Federal Bureau of Investigation to the registering police~~
17 ~~department for a fingerprint check in connection with the~~
18 ~~registration.~~] Hawaii criminal justice data center pursuant to
19 section 846-2.7. In the case of a joint registration, the fee
20 provided for in this section may be charged to each person."



1 SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

4 (1) The department of health or its designee on operators
5 of adult foster homes for individuals with
6 developmental disabilities or developmental
7 disabilities domiciliary homes and their employees, as
8 provided by section 321-15.2;

9 (2) The department of health or its designee on
10 prospective employees, persons seeking to serve as
11 providers, or subcontractors in positions that place
12 them in direct contact with clients when providing
13 non-witnessed direct mental health or health care
14 services as provided by section 321-171.5;

15 (3) The department of health or its designee on all
16 applicants for licensure or certification for,
17 operators for, prospective employees, adult
18 volunteers, and all adults, except adults in care, at
19 health care facilities as defined in section 321-15.2;

20 (4) The department of education on employees, prospective
21 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees
4 who may be in positions that place them in close
5 proximity to children in recreation or child care
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and
10 prospective employees involved in liquor
11 administration, law enforcement, and liquor control
12 investigations;
- 13 (8) The department of human services on operators and
14 employees of child caring institutions, child placing
15 organizations, and foster boarding homes as provided
16 by section 346-17;
- 17 (9) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;
- 20 (10) The department of human services on applicants to
21 operate child care facilities, prospective employees



1 of the applicant, and new employees of the provider
2 after registration or licensure as provided by section
3 346-154;

4 (11) The department of human services on persons exempt
5 pursuant to section 346-152 to be eligible to provide
6 child care and receive child care subsidies as
7 provided by section 346-152.5;

8 (12) The department of health on operators and employees of
9 home and community-based case management agencies and
10 operators and other adults, except for adults in care,
11 residing in community care foster family homes as
12 provided by section 321-15.2;

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

16 (14) The department of human services on employees,
17 prospective employees, and volunteers of contracted
18 providers and subcontractors in positions that place
19 them in close proximity to youth when providing
20 services on behalf of the office or the Hawaii youth
21 correctional facility as provided by section 352D-4.3;



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



- 1 proximity to children as provided by section
2 302A-601.5;
- 3 (20) The State or any of its branches, political
4 subdivisions, or agencies on applicants and employees
5 holding a position that has the same type of contact
6 with children, vulnerable adults, or persons committed
7 to a correctional facility as other public employees
8 who hold positions that are authorized by law to
9 require criminal history record checks as a condition
10 of employment as provided by section 78-2.7;
- 11 (21) The department of health on licensed adult day care
12 center operators, employees, new employees,
13 subcontracted service providers and their employees,
14 and adult volunteers as provided by section 321-15.2;
- 15 (22) The department of human services on purchase of
16 service contracted and subcontracted service providers
17 and their employees serving clients of the adult
18 protective and community services branch, as provided
19 by section 346-97;
- 20 (23) The department of human services on foster grandparent
21 program, senior companion program, and respite



1 companion program participants as provided by section
2 346-97;

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

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

17 (26) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a
19 nondepository financial services loan company as
20 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



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



- 1 (34) The counties on prospective employees for fire
2 department positions which involve contact with
3 children or vulnerable adults;
- 4 (35) The counties on prospective employees for emergency
5 medical services positions which involve contact with
6 children or vulnerable adults;
- 7 (36) The counties on prospective employees for emergency
8 management positions and community volunteers whose
9 responsibilities involve planning and executing
10 homeland security measures including viewing,
11 handling, and engaging in law enforcement or
12 classified meetings and assisting vulnerable citizens
13 during emergencies or crises;
- 14 (37) The State and counties on employees, prospective
15 employees, volunteers, and contractors whose position
16 responsibilities require unescorted access to secured
17 areas and equipment related to a traffic management
18 center;
- 19 (38) The State and counties on employees and prospective
20 employees whose positions involve the handling or use
21 of firearms for other than law enforcement purposes;



- 1 (39) The State and counties on current and prospective
2 systems analysts and others involved in an agency's
3 information technology operation whose position
4 responsibilities provide them with access to
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on
7 applicants for real estate appraiser licensure or
8 certification as provided by chapter 466K;
- 9 (41) The department of health or its designee on all
10 license applicants, licensees, employees, contractors,
11 and prospective employees of medical marijuana
12 dispensaries, and individuals permitted to enter and
13 remain in medical marijuana dispensary facilities as
14 provided under sections 329D-15(a)(4) and
15 329D-16(a)(3); [and]
- 16 (42) The county police departments on applicants for
17 permits to acquire firearms pursuant to section 134-2
18 and on individuals registering their firearms pursuant
19 to section 134-3; and



1 [~~42~~] (43) Any other organization, entity, or the State,
2 its branches, political subdivisions, or agencies as
3 may be authorized by state law."

4 SECTION 5. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

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

9 SECTION 7. This Act shall take effect on July 1, 2016.



Report Title:

Criminal History Record Checks; Police; Permits to Acquire
Firearms; Firearm Registration; Rap Back System

Description:

Authorizes county police departments to enroll firearms permit
applicants and individuals who are registering their firearms
into a criminal record monitoring service used to alert police
when an owner of a firearm is arrested for a criminal offense
anywhere in the country. (SD2)

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