

JAN 27 2016

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 for applicants to acquire firearms are critical to ensure
3 the safety of the community. The purpose of this Act is to
4 allow the county police department to enroll firearms applicants
5 granted a permit into the federal rap back program. The rap
6 back program will provide a mechanism to alert the county police
7 department when the owner of a firearm is arrested for a
8 criminal offense anywhere in the country. This notification
9 will allow the county police department to evaluate if the owner
10 of a firearm may continue to legally possess and own firearms.

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

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

14 (1) The department of health or its designee on operators
15 of adult foster homes for individuals with
16 developmental disabilities or developmental



1 disabilities domiciliary homes and their employees, as
2 provided by section 321-15.2;

3 (2) The department of health or its designee on
4 prospective employees, persons seeking to serve as
5 providers, or subcontractors in positions that place
6 them in direct contact with clients when providing
7 non-witnessed direct mental health or health care
8 services as provided by section 321-171.5;

9 (3) The department of health or its designee on all
10 applicants for licensure or certification for,
11 operators for, prospective employees, adult
12 volunteers, and all adults, except adults in care, at
13 health care facilities as defined in section 321-15.2;

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

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



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- 1 (6) The county liquor commissions on applicants for liquor
2 licenses as provided by section 281-53.5;
- 3 (7) The county liquor commissions on employees and
4 prospective employees involved in liquor
5 administration, law enforcement, and liquor control
6 investigations;
- 7 (8) The department of human services on operators and
8 employees of child caring institutions, child placing
9 organizations, and foster boarding homes as provided
10 by section 346-17;
- 11 (9) The department of human services on prospective
12 adoptive parents as established under section
13 346-19.7;
- 14 (10) The department of human services on applicants to
15 operate child care facilities, prospective employees
16 of the applicant, and new employees of the provider
17 after registration or licensure as provided by section
18 346-154;
- 19 (11) The department of human services on persons exempt
20 pursuant to section 346-152 to be eligible to provide



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1 child care and receive child care subsidies as
2 provided by section 346-152.5;

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

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

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

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

19 (16) The department of public safety on employees and
20 prospective employees who are directly involved with
21 the treatment and care of persons committed to a



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1 correctional facility or who possess police powers
2 including the power of arrest as provided by section
3 353C-5;

4 (17) The board of private detectives and guards on
5 applicants for private detective or private guard
6 licensure as provided by section 463-9;

7 (18) Private schools and designated organizations on
8 employees and prospective employees who may be in
9 positions that necessitate close proximity to
10 children; provided that private schools and designated
11 organizations receive only indications of the states
12 from which the national criminal history record
13 information was provided pursuant to section 302C-1;

14 (19) The public library system on employees and prospective
15 employees whose positions place them in close
16 proximity to children as provided by section
17 302A-601.5;

18 (20) The State or any of its branches, political
19 subdivisions, or agencies on applicants and employees
20 holding a position that has the same type of contact
21 with children, vulnerable adults, or persons committed



1 to a correctional facility as other public employees
2 who hold positions that are authorized by law to
3 require criminal history record checks as a condition
4 of employment as provided by section 78-2.7;

5 (21) The department of health on licensed adult day care
6 center operators, employees, new employees,
7 subcontracted service providers and their employees,
8 and adult volunteers as provided by section 321-15.2;

9 (22) The department of human services on purchase of
10 service contracted and subcontracted service providers
11 and their employees serving clients of the adult
12 protective and community services branch, as provided
13 by section 346-97;

14 (23) The department of human services on foster grandparent
15 program, senior companion program, and respite
16 companion program participants as provided by section
17 346-97;

18 (24) The department of human services on contracted and
19 subcontracted service providers and their current and
20 prospective employees that provide home and community-
21 based services under section 1915(c) of the Social



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1 Security Act, title 42 United States Code section
2 1396n(c), or under any other applicable section or
3 sections of the Social Security Act for the purposes
4 of providing home and community-based services, as
5 provided by section 346-97;

6 (25) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a bank,
8 savings bank, savings and loan association, trust
9 company, and depository financial services loan
10 company as provided by section 412:3-201;

11 (26) The department of commerce and consumer affairs on
12 proposed directors and executive officers of a
13 nondepository financial services loan company as
14 provided by section 412:3-301;

15 (27) The department of commerce and consumer affairs on the
16 original chartering applicants and proposed executive
17 officers of a credit union as provided by section
18 412:10-103;

19 (28) The department of commerce and consumer affairs on:
20 (A) Each principal of every non-corporate applicant
21 for a money transmitter license; and



- 1 (B) The executive officers, key shareholders, and
- 2 managers in charge of a money transmitter's
- 3 activities of every corporate applicant for a
- 4 money transmitter license,
- 5 as provided by sections 489D-9 and 489D-15;
- 6 (29) The department of commerce and consumer affairs on
- 7 applicants for licensure and persons licensed under
- 8 title 24;
- 9 (30) The Hawaii health systems corporation on:
- 10 (A) Employees;
- 11 (B) Applicants seeking employment;
- 12 (C) Current or prospective members of the corporation
- 13 board or regional system board; or
- 14 (D) Current or prospective volunteers, providers, or
- 15 contractors,
- 16 in any of the corporation's health facilities as
- 17 provided by section 323F-5.5;
- 18 (31) The department of commerce and consumer affairs on:
- 19 (A) An applicant for a mortgage loan originator
- 20 license; and



- 1 (B) Each control person, executive officer, director,
2 general partner, and manager of an applicant for
3 a mortgage loan originator company license,
4 as provided by chapter 454F;
- 5 (32) The state public charter school commission or public
6 charter schools on employees, teacher trainees,
7 prospective employees, and prospective teacher
8 trainees in any public charter school for any position
9 that places them in close proximity to children, as
10 provided in section 302D-33;
- 11 (33) The counties on prospective employees who work with
12 children, vulnerable adults, or senior citizens in
13 community-based programs;
- 14 (34) The counties on prospective employees for fire
15 department positions which involve contact with
16 children or vulnerable adults;
- 17 (35) The counties on prospective employees for emergency
18 medical services positions which involve contact with
19 children or vulnerable adults;
- 20 (36) The counties on prospective employees for emergency
21 management positions and community volunteers whose



1 responsibilities involve planning and executing
2 homeland security measures including viewing,
3 handling, and engaging in law enforcement or
4 classified meetings and assisting vulnerable citizens
5 during emergencies or crises;

6 (37) The State and counties on employees, prospective
7 employees, volunteers, and contractors whose position
8 responsibilities require unescorted access to secured
9 areas and equipment related to a traffic management
10 center;

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

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

19 (40) The department of commerce and consumer affairs on
20 applicants for real estate appraiser licensure or
21 certification as provided by chapter 466K;



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- 1 (41) The department of health or its designee on all
- 2 license applicants, licensees, employees, contractors,
- 3 and prospective employees of medical marijuana
- 4 dispensaries, and individuals permitted to enter and
- 5 remain in medical marijuana dispensary facilities as
- 6 provided under sections 329D-15(a)(4) and
- 7 329D-16(a)(3); [and]
- 8 (42) Any other organization, entity, or the State, its
- 9 branches, political subdivisions, or agencies as may
- 10 be authorized by state law[-]; and
- 11 (43) The county police departments on applicants who are
- 12 granted permits to acquire firearms pursuant to
- 13 section 134-2."

14 SECTION 3. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 4. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.


19 SECTION 5. This Act shall take effect upon its approval.

20

INTRODUCED BY:

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Report Title:

Criminal History Record Checks; Police Department; Rap Back Program; Firearm Possession

Description:

Allows the county police departments to receive notification if a new applicant who is granted a permit to possess a firearm is arrested for a criminal offense anywhere in the country.

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

