



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 10, 2017

**GOV. MSG. No 1233**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 10, 2017, the following bill was signed into law:

HB1031 HD1 SD1 CD1

RELATING TO CRIMINAL HISTORY RECORD  
CHECKS  
**ACT 132 (17)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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## 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 the Internal Revenue  
2 Service has instituted a new requirement to perform background  
3 checks on all current and prospective employees and contractors  
4 who receive access to federal tax information. The background  
5 checks must be comprehensive and include a Federal Bureau of  
6 Investigation fingerprint search. To comply with this new  
7 requirement, the child support enforcement agency and the  
8 departments of taxation, human services, and labor and  
9 industrial relations require additional authorization to search  
10 criminal histories of employees, prospective employees, and  
11 contractors, and to perform a fingerprint search of these  
12 persons. Multiple other departments and agencies have received  
13 this additional authority.

14           The purpose of this Act is to extend similar authority to  
15 the child support enforcement agency and the departments of  
16 taxation, human services, and labor and industrial relations to  
17 allow them to comply with new Internal Revenue Service  
18 requirements.



1 SECTION 2. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§231- Criminal history record checks. (a) The  
5 department shall establish a personnel security program that  
6 ensures a background investigation is completed at the  
7 appropriate level designated by the federal government for any  
8 person, including any authorized contractor, to have access to  
9 federal tax information. This program shall include criminal  
10 history record checks in accordance with section 846-2.7.  
11 Information obtained pursuant to this subsection shall be used  
12 exclusively by the department for the purpose of determining  
13 whether the person is suitable for accessing federal tax  
14 information in accordance with applicable federal laws.

15 (b) The department may terminate or deny employment to any  
16 employee or applicant, or terminate or refuse to secure the  
17 services of any contractor, if the department finds by reason of  
18 the background investigation conducted under subsection (a) that  
19 the employee or applicant, or employee or agent of the  
20 contractor, poses a risk to the security of federal tax  
21 information. Termination or denial of employment, or



1 termination or refusal to secure the services of any contractor,  
2 under this subsection shall only occur after appropriate  
3 notification to the employee, applicant, or employee or agent of  
4 the contractor, of the findings of the background investigation,  
5 and after the employee, applicant, or employee or agent of the  
6 contractor is given an opportunity to meet and rebut the  
7 findings. Nothing in this subsection shall abrogate any  
8 applicable appeal rights under chapters 76 and 89, or  
9 administrative rules of the department.

10 (c) The department shall be exempt from section 831-3.1  
11 and need not conduct investigations, notifications, or hearings  
12 under this section in accordance with chapter 91."

13 SECTION 3. Chapter 346, Hawaii Revised Statutes, is  
14 amended by adding a new section to part I to be appropriately  
15 designated and to read as follows:

16 "§346- Criminal history record checks. (a) The  
17 department shall develop procedures for obtaining verifiable  
18 information regarding the criminal history of any person who is  
19 employed or seeking employment, including a contractor and its  
20 employees or agents if prior authority to access federal tax  
21 information has been provided by the United States Department of



1 the Treasury, if the person will require access to federal tax  
2 information. The procedures shall include criminal history  
3 record checks in accordance with section 846-2.7. Information  
4 obtained pursuant to this subsection shall be used exclusively  
5 by the department for the purpose of determining whether a  
6 person is suitable for accessing federal tax information in  
7 accordance with applicable federal laws.

8 (b) The department may terminate or deny employment to any  
9 employee or applicant, or terminate or refuse to secure the  
10 services of a contractor and its employees or agents authorized  
11 under subsection (a), if the department finds by reason of the  
12 nature and circumstances of the background investigation  
13 conducted under subsection (a) that the employee, applicant,  
14 contractor, or contractor's employees or agents pose a risk to  
15 the security of federal tax information. Termination or denial  
16 of employment under this subsection shall only occur after  
17 appropriate notification to the employee, applicant, or  
18 contractor of the findings of the background investigation, and  
19 after the employee, applicant, or contractor is given an  
20 opportunity to respond to the findings. Nothing in this



1 subsection shall abrogate any applicable appeal rights under  
2 chapters 76 and 89, or administrative rules of the department.

3 (c) The department shall be exempt from section 831-3.1  
4 and need not conduct investigations, notifications, or hearings  
5 under this section in accordance with chapter 91."

6 SECTION 4. Chapter 383, Hawaii Revised Statutes, is  
7 amended by adding a new section to part IV to be appropriately  
8 designated and to read as follows:

9 "§383- Criminal history record checks. (a) The  
10 department shall establish a personnel security program that  
11 ensures a background investigation is completed at the  
12 appropriate level designated by the federal government for any  
13 individual who will have access to federal tax information,  
14 including a contractor and its employees or agents, if prior  
15 authority to access federal tax information has been provided by  
16 the United States Department of the Treasury. This program  
17 shall include criminal history record checks in accordance with  
18 section 846-2.7. Information obtained pursuant to this  
19 subsection shall be used exclusively by the department for the  
20 purpose of determining whether the person is suitable for



1 accessing federal tax information in accordance with applicable  
2 federal laws.

3 (b) The department may terminate or deny employment to any  
4 employee or applicant, or terminate or refuse to secure the  
5 services of a contractor and its employees or agents authorized  
6 under subsection (a), if the department finds by reason of the  
7 background investigation conducted under subsection (a) that the  
8 employee, applicant, contractor, or contractor's employees or  
9 agents pose a risk to the security of federal tax information.  
10 Termination or denial of employment under this subsection shall  
11 only occur after appropriate notification to the employee,  
12 applicant, or contractor of the findings of the background  
13 investigation, and after the employee, applicant, or contractor  
14 is given an opportunity to meet and rebut the findings. Nothing  
15 in this subsection shall abrogate any applicable appeal rights  
16 under chapters 76 and 89, or administrative rules of the  
17 department.

18 (c) The department shall be exempt from section 831-3.1  
19 and need not conduct investigations, notifications, or hearings  
20 under this section in accordance with chapter 91."



1 SECTION 5. Chapter 576D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§576D- Criminal history record checks. (a) The agency  
5 shall develop procedures for obtaining verifiable information  
6 regarding the criminal history of any person, including any  
7 contractor, who is employed, seeking employment with, or  
8 provides or seeks to provide services to the agency if this  
9 person will require access to federal tax information. These  
10 procedures shall include criminal history record checks in  
11 accordance with section 846-2.7.

12 Information obtained pursuant to this subsection shall be  
13 used exclusively by the agency for the purpose of determining  
14 whether a person is suitable for accessing federal tax  
15 information. All decisions shall be subject to applicable  
16 federal laws and regulations currently or hereafter in effect.

17 (b) The agency may terminate or deny employment to any  
18 employee or applicant, or terminate or refuse to secure the  
19 services of any contractor, if the agency finds by reason of the  
20 background investigation conducted under subsection (a) that the  
21 employee, applicant, or employee or agent of the contractor





1 poses a risk to the security of federal tax information.  
2 Termination or denial of employment, or termination or refusal  
3 to secure the services of any contractor under this subsection  
4 shall only occur after appropriate notification to the employee,  
5 applicant, or employee or agent of the contractor of the  
6 findings of the background investigation, and after the  
7 employee, applicant, or employee or agent of the contractor is  
8 given an opportunity to respond to the findings. Nothing in  
9 this subsection shall abrogate any applicable appeal rights  
10 under chapters 76 and 89, or administrative rules of the agency.

11 (c) The agency shall be exempt from section 831-3.1 and  
12 need not conduct investigations, notifications, or hearings  
13 under this section in accordance with chapter 91."

14 SECTION 6. Section 831-3.1, Hawaii Revised Statutes, is  
15 amended by amending subsection (f) to read as follows:

16 "(f) Notwithstanding any law to the contrary, this section  
17 shall not apply to:

- 18 (1) Denials by the department of human services, the  
19 department of health, or any other branch, political  
20 subdivision, or agency of any certificate of approval,  
21 license, or permit to any organization, institution,



1 home, or facility subject to licensure under chapters  
2 321, 333F, and 346;

3 (2) Denials of employment as a staff member of a youth  
4 correctional facility operated under chapter 352;

5 (3) Denials of employment as an employee of a detention or  
6 shelter facility established or designated pursuant to  
7 section 571-33;

8 (4) Denials of employment as a staff member of a  
9 correctional facility pursuant to chapter 353, or as a  
10 staff member that requires the exercise of police  
11 powers, including the power to arrest, in the  
12 performance of the staff member's duties pursuant to  
13 chapter 353C; [~~and~~]

14 (5) Denials of employment of applicants or employees  
15 pursuant to section 78-2.7[-];

16 (6) Denials or termination of employment as an employee,  
17 employee applicant, or employee or agent of a  
18 contractor of the department of taxation with access  
19 to federal tax information pursuant to section 231- ;

20 (7) Denials or termination of employment as an employee,  
21 employee applicant, or employee or agent of a



1 contractor of the department of human services with  
2 access to federal tax information pursuant to section  
3 346- ;

4 (8) Denials or termination of employment as an employee,  
5 employee applicant, or employee or agent of a  
6 contractor of the department of labor and industrial  
7 relations pursuant to section 383- ; and

8 (9) Denials or termination of employment as an employee,  
9 employee applicant, or employee or agent of a  
10 contractor of the child support enforcement agency  
11 with access to federal tax information pursuant to  
12 section 576D- ."

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

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

16 (1) The department of health or its designee on operators  
17 of adult foster homes for individuals with  
18 developmental disabilities or developmental  
19 disabilities domiciliary homes and their employees, as  
20 provided by section 321-15.2;



- 1           (2) The department of health or its designee on  
2           prospective employees, persons seeking to serve as  
3           providers, or subcontractors in positions that place  
4           them in direct contact with clients when providing  
5           non-witnessed direct mental health or health care  
6           services as provided by section 321-171.5;
- 7           (3) The department of health or its designee on all  
8           applicants for licensure or certification for,  
9           operators for, prospective employees, adult  
10          volunteers, and all adults, except adults in care, at  
11          healthcare facilities as defined in 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 or its designee on  
13          applicants to operate child care facilities, household  
14          members of the applicant, prospective employees of the  
15          applicant, and new employees and household members of  
16          the provider after registration or licensure as  
17          provided by section 346-154, and persons subject to  
18          section 346-152.5;
- 19          (11) The department of human services on persons exempt  
20          pursuant to section 346-152 to be eligible to provide



- 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



- 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





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;



- 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; and
- 5 (C) The persons who are to assume control of a money  
6 transmitter licensee in connection with an  
7 application requesting approval of a proposed  
8 change in control of licensee,  
9 as provided by sections 489D-9 and 489D-15;
- 10 (29) The department of commerce and consumer affairs on  
11 applicants for licensure and persons licensed under  
12 title 24;
- 13 (30) The Hawaii health systems corporation on:
- 14 (A) Employees;
- 15 (B) Applicants seeking employment;
- 16 (C) Current or prospective members of the corporation  
17 board or regional system board; or
- 18 (D) Current or prospective volunteers, providers, or  
19 contractors,  
20 in any of the corporation's health facilities as  
21 provided by section 323F-5.5;



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



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



- 1           responsibilities provide them with access to  
2           proprietary, confidential, or sensitive information;
- 3       (40) The department of commerce and consumer affairs on  
4           applicants for real estate appraiser licensure or  
5           certification as provided by chapter 466K;
- 6       (41) The department of health or its designee on all  
7           license applicants, licensees, employees, contractors,  
8           and prospective employees of medical marijuana  
9           dispensaries, and individuals permitted to enter and  
10          remain in medical marijuana dispensary facilities as  
11          provided under sections 329D-15(a)(4) and  
12          329D-16(a)(3);
- 13       (42) The department of commerce and consumer affairs on  
14          applicants for nurse licensure or license renewal,  
15          reactivation, or restoration as provided by sections  
16          457-7, 457-8, 457-8.5, and 457-9;
- 17       [+] (43) [+] The county police departments on applicants for  
18          permits to acquire firearms pursuant to section 134-2  
19          and on individuals registering their firearms pursuant  
20          to section 134-3;
- 21       [+] (44) [+] The department of commerce and consumer affairs on:



1 (A) Each of the controlling persons of the applicant  
2 for licensure as an escrow depository, and each  
3 of the officers, directors, and principals who  
4 will be in charge of the escrow depository's  
5 activities upon licensure; and

6 (B) Each of the controlling persons of an applicant  
7 for proposed change in control of an escrow  
8 depository licensee, and each of the officers,  
9 directors, and principals who will be in charge  
10 of the licensee's activities upon approval of  
11 such application,

12 as provided by chapter 449; [~~and~~]

13 (45) The department of taxation on current or prospective  
14 employees or contractors who have access to federal  
15 tax information in order to comply with requirements  
16 of federal law, regulation, or procedure, as provided  
17 by section 231- ;

18 (46) The department of labor and industrial relations on  
19 current or prospective employees or contractors who  
20 have access to federal tax information in order to



1 comply with requirements of federal law, regulation,  
2 or procedure, as provided by section 383- ;

3 (47) The department of human services on current or  
4 prospective employees or contractors who have access  
5 to federal tax information in order to comply with  
6 requirements of federal law, regulation, or procedure,  
7 as provided by section 346- ;

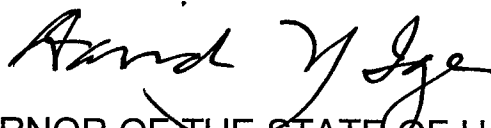
8 (48) The child support enforcement agency on current or  
9 prospective employees, or contractors who have access  
10 to federal tax information in order to comply with  
11 federal law, regulation, or procedure, as provided by  
12 section 576D- ; and

13 [~~45~~] (49) Any other organization, entity, or the State,  
14 its branches, political subdivisions, or agencies as  
15 may be authorized by state law."

16 SECTION 8. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect upon its approval.

APPROVED this 10 day of JUL , 2017



GOVERNOR OF THE STATE OF HAWAII

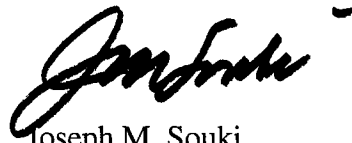


HB No. 1031, HD 1, SD 1, CD 1

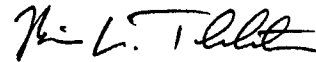
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives




Brian L. Takeshita  
Chief Clerk  
House of Representatives




**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

  
Clerk of the Senate