

JAN 23 2020

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. 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

S.B. NO. 2933

- 1 volunteers, and all adults, except adults in care, at
2 healthcare facilities as defined in section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The county liquor commissions on employees and
14 prospective employees involved in liquor
15 administration, law enforcement, and liquor control
16 investigations;
- 17 (8) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;
- 21 (9) The department of human services on prospective
22 adoptive parents as established under section 346-
23 19.7;

S.B. NO. 2933

- 1 (10) The department of human services or its designee on
2 applicants to operate child care facilities, household
3 members of the applicant, prospective employees of the
4 applicant, and new employees and household members of
5 the provider after registration or licensure as
6 provided by section 346-154, and persons subject to
7 section 346-152.5;
- 8 (11) The department of human services on persons exempt
9 pursuant to section 346-152 to be eligible to provide
10 child care and receive child care subsidies as
11 provided by section 346-152.5;
- 12 (12) The department of health on operators and employees of
13 home and community-based case management agencies and
14 operators and other adults, except for adults in care,
15 residing in community care foster family homes as
16 provided by section 321-15.2;
- 17 (13) The department of human services on staff members of
18 the Hawaii youth correctional facility as provided by
19 section 352-5.5;
- 20 (14) The department of human services on employees,
21 prospective employees, and volunteers of contracted
22 providers and subcontractors in positions that place
23 them in close proximity to youth when providing

S.B. NO. 2933

- 1 services on behalf of the office or the Hawaii youth
2 correctional facility as provided by section 352D-4.3;
- 3 (15) The judiciary on employees and applicants at detention
4 and shelter facilities as provided by section 571-34;
- 5 (16) The department of public safety on employees and
6 prospective employees who are directly involved with
7 the treatment and care of persons committed to a
8 correctional facility or who possess police powers
9 including the power of arrest as provided by section
10 353C-5;
- 11 (17) The board of private detectives and guards on
12 applicants for private detective or private guard
13 licensure as provided by section 463-9;
- 14 (18) Private schools and designated organizations on
15 employees and prospective employees who may be in
16 positions that necessitate close proximity to
17 children; provided that private schools and designated
18 organizations receive only indications of the states
19 from which the national criminal history record
20 information was provided pursuant to section 302C-1;
- 21 (19) The public library system on employees and prospective
22 employees whose positions place them in close

S.B. NO. 2933

- 1 proximity to children as provided by section 302A-
2 601.5;
- 3 (20) The State of 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
22 companion program participants as provided by section
23 346-97;

S.B. NO. 2933

- 1 (24) The department of human services on contracted and
2 subcontracted service providers and their current and
3 prospective employees that provide home and community-
4 based services under section 1915(c) of the Social
5 Security Act, title 42 United States Code section
6 1396n(c), or under any other applicable section or
7 sections of the Social Security Act for the purposes
8 of providing home and community-based services, as
9 provided by section 346-97;
- 10 (25) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a bank,
12 savings bank, savings and loan association, trust
13 company, and depository financial services loan
14 company as provided by section 412:3-201;
- 15 (26) The department of commerce and consumer affairs on
16 proposed directors and executive officers of a
17 nondepository financial services loan company as
18 provided by section 412:3-301;
- 19 (27) The department of commerce and consumer affairs on the
20 original chartering applicants and proposed executive
21 officers of a credit union as provided by section
22 412:10-103;
- 23 (28) The department of commerce and consumer affairs on:

S.B. NO. 2933

- 1 (A) Each principal of every non-corporate applicant
2 for a money transmitter license;
- 3 (B) Each person who upon approval of an application
4 by a corporate applicant for a money transmitter
5 license will be a principal of the licensee; and
- 6 (C) Each person who upon approval of an application
7 requesting approval of a proposed change in
8 control of licensee will be a principal of the
9 licensee,
10 as provided by sections 489D-9 and 489D-15;
- 11 (29) The department of commerce and consumer affairs on
12 applicants for licensure and persons licensed under
13 title 24;
- 14 (30) The Hawaii health systems corporation on:
15 (A) Employees;
16 (B) Applicants seeking employment;
17 (C) Current or prospective members of the corporation
18 board or regional system board; or
19 (D) Current or prospective volunteers, providers, or
20 contractors,
21 in any of the corporation's health facilities as
22 provided by section 323F-5.5;
- 23 (31) The department of commerce and consumer affairs on:

S.B. NO. 2933

- 1 (A) An applicant for a mortgage loan originator
2 license, or license renewal; and
- 3 (B) Each control person, executive officer, director,
4 general partner, and managing member of an
5 applicant for a mortgage loan originator company
6 license or license renewal,
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;
- 20 (35) The counties on prospective employees for emergency
21 medical services positions which involve contact with
22 children or vulnerable adults;

S.B. NO. 2133

- 1 (36) The counties on prospective employees for emergency
2 management positions and community volunteers whose
3 responsibilities involve planning and executing
4 homeland security measures including viewing,
5 handling, and engaging in law enforcement or
6 classified meetings and assisting vulnerable citizens
7 during emergencies or crises;
- 8 (37) The State and counties on employees, prospective
9 employees, volunteers, and contractors whose position
10 responsibilities require unescorted access to secured
11 areas and equipment related to a traffic management
12 center;
- 13 (38) The State and counties on employees and prospective
14 employees whose positions involve the handling or use
15 of firearms for other than law enforcement purposes;
- 16 (39) The State and counties on current and prospective
17 systems analysts and others involved in an agency's
18 information technology operation whose position
19 responsibilities provide them with access to
20 proprietary, confidential, or sensitive information;
- 21 (40) The department of commerce and consumer affairs on:
22 (A) Applicants for real estate appraiser licensure or
23 certification as provided by chapter 466K;

S.B. NO. 2933

1 (B) Each person who owns more than ten per cent of an
2 appraisal management company who is applying for
3 registration as an appraisal management company,
4 as provided by section 466L-7; and

5 (C) Each of the controlling persons of an applicant
6 for registration as an appraisal management
7 company, as provided by section 466L-7;

8 (41) The department of health or its designee on all
9 license applicants, licensees, employees, contractors,
10 and prospective employees of medical cannabis
11 dispensaries, and individuals permitted to enter and
12 remain in medical cannabis dispensary facilities as
13 provided under sections 329D-15(a)(4) and 329D-
14 16(a)(3);

15 (42) The department of commerce and consumer affairs on
16 applicants for nurse licensure or license renewal,
17 reactivation, or restoration as provided by sections
18 457-7, 457-8, 457-8.5, and 457-9;

19 (43) The county police departments on applicants for
20 permits to acquire firearms pursuant to section 134-2
21 and on individuals registering their firearms pursuant
22 to section 134-3;

S.B. NO. 2933

- 1 (44) The department of commerce and consumer affairs on:
- 2 (A) Each of the controlling persons of the applicant
- 3 for licensure as an escrow depository, and each
- 4 of the officers, directors, and principals who
- 5 will be in charge of the escrow depository's
- 6 activities upon licensure; and
- 7 (B) Each of the controlling persons of an applicant
- 8 for proposed change in control of an escrow
- 9 depository licensee, and each of the officers,
- 10 directors, and principals who will be in charge
- 11 of the licensee's activities upon approval of
- 12 such application,
- 13 as provided by chapter 449;
- 14 (45) The department of taxation on current or prospective
- 15 employees or contractors who have access to federal
- 16 tax information in order to comply with requirements
- 17 of federal law, regulation, or procedure, as provided
- 18 by section 231-1.6;
- 19 (46) The department of labor and industrial relations on
- 20 current or prospective employees or contractors who
- 21 have access to federal tax information in order to

S.B. NO. 2933

1 comply with requirements of federal law, regulation,
2 or procedure, as provided by section 383-110;

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 346-2.5;

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-11.5; [and]

13 (49) The University of Hawaii, or its designee, on current
14 or prospective employees, including student employees
15 and contractors and their employees, whose duties
16 include ensuring the security of campus facilities and
17 persons; and

18 ~~(49)~~ (50) Any other organization, entity, or the State,
19 its branches, political subdivisions, or agencies as
20 may be authorized by state law."

21 SECTION 2. Statutory material to be repealed is bracketed

S.B. NO. 2933

1 and stricken. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Wesley K.*

5

BY REQUEST

S.B. NO. 2933

Report Title:

Criminal History Record Checks; University of Hawaii

Description:

Adds the University of Hawaii to the list of agencies that are authorized to conduct criminal history record checks on current or prospective employees, including student employees and contractors and their employees, whose positions or duties are related to public safety.

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

JUSTIFICATION SHEET

SB. NO. 2933

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS.

PURPOSE: To add the University of Hawaii to the list of agencies that are authorized to conduct criminal history record checks.

MEANS: Amend section 846-2.7(b), Hawaii Revised Statutes.

JUSTIFICATION: University of Hawaii campuses have departments of public safety with responsibilities such as protecting persons and property; receiving reports of crimes; including sexual assaults; and providing walking escorts and vehicle transportation from dusk to dawn for persons alone on campus at night.

This bill is to expressly provide authority to the University of Hawaii to conduct criminal background checks on persons who will be entrusted with the security of campus facilities and persons.

Impact on the public: The impact on the public should be positive in that the bill allows the University of Hawaii to ensure the reputable and responsible character of applicants, employees, contractors and students who are entrusted with the safety of employees, students, and visitors at the University.

Impact on the department and other agencies: The University of Hawaii may incur a small financial cost to conduct the criminal history records checks, but the cost is outweighed by the gain of ensuring the reputable and responsible character of

persons entrusted with the safety of persons and facilities at the University. The University anticipates absorbing the additional costs used to conduct any criminal background checks. On average, the University hires approximately fifteen (15) Security Officers annually.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: UOH-100, UOH-110, UOH-210, UOH-220, UOH-700, UOH-800, UOH-881, UOH-900.

OTHER AFFECTED AGENCIES: Department of Human Resources Development.

EFFECTIVE DATE: Upon approval.