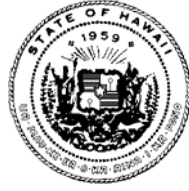


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



CATHY BETTS  
DIRECTOR  
KA LUNA HO'OKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 28, 2023

TO: The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: [HB 777 HD2 SD1](#) – RELATING TO BACKGROUND CHECKS.

Hearing: March 30, 2023, 9:35 AM  
Conference Room 016 & Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill. DHS respectfully requests that the measure be further amended to effectuate the effective date upon approval and to correct a typo in the amendment at Section 3, paragraph (13), page 9, line 9 to read as follows:

"(13) The department of human services pursuant to sections 346-2.5, 346-97, and 352-5.5;"

**PURPOSE:** Authorizes the Department of Human Services to conduct background checks for current and prospective employees, volunteers, contractors, contractors' employees and volunteers, subcontractors, and subcontractors' employees and volunteers whose position places them or would place them in close proximity to certain minors, young adults, or vulnerable adults. Effective 6/30/2050. (SD1)

The HD1 defected the effective date and made technical amendments.

The HD2 amended the measure by:

- (1) Requiring background checks on subcontractors and subcontractors' employees and volunteers instead of contractors' agents; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The SD1 amended this measure by:

- (1) Deleting technical amendments that would have renumbered and reordered the paragraphs in sections 378-2.5(d) and 846-2.7(b), Hawaii Revised Statutes;
- (2) Inserting an effective date of June 30, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS appreciates the SD1 amendments renumbering and reordering sections 378-2.5(d) and 846-2.7(b) as they currently exist. However, DHS requests further **amendment** (to correct a typo in the SD1) in Section 3, paragraph (13), page 9, line 9, to read as follows:

"(13) The department of human services pursuant to sections 346-2.5, 346-97, and 352-5.5;"

Having the statutory authority to conduct comprehensive national and State fingerprint-based criminal history record checks and periodic rechecks will allow DHS to obtain information directly from the Federal Bureau of Investigations and the Hawaii Criminal Justice Data Center. The public will benefit from the Department's ability to conduct State and national background checks as an added measure to ensure the health, safety, and well-being of minors, young adults, and vulnerable adults receiving child welfare, child protective, extended foster care, higher education supports, social services, and adult protective or community services from DHS.

The current pre-employment background clearance process includes the State of Hawaii name-based criminal history record check. It relies on prospective new hires to self-report any convictions outside of the State of Hawaii.

The proposed measure will impact the Department's Human Resources and Social Services Division staff to conduct additional State and national background checks and periodic rechecks of current and prospective employees, contractors, and their employees, subcontractors, and volunteers.

The Department's budget request includes adding one permanent full-time position to conduct background checks and the necessary funds to support the position.

The additional procedures proposed by this bill may cause a delay in hiring prospective employees. Also, the Hawaii Criminal Justice Data Center may experience an increased demand for services.

Thank you for the opportunity to provide comments on this measure.



# HAWAI‘I CIVIL RIGHTS COMMISSION

## KOMIKINA PONO KĪWILA O HAWAI‘I

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

Thursday, March 30, 2023 at 9:35 a.m.  
Conference Room 016 & Videoconference

To: The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Members of the Senate Committee on Judiciary

From: Liann Ebesugawa, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 777, H.D.2, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s 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. Art. I, Sec. 5.

H.B. No. 777, H.D.2, S.D.1 would authorize the Department of Human Services to conduct national criminal background checks for current and prospective employees; volunteers; contractors; and contractors' employees, agents, and volunteers, who are in positions that require proximity to certain minors, young adults, or vulnerable adults, and amend § 378-2.5(d)(13) to incorporate the new DHS exception by adding § 346-2.5 to the list of exceptions to the § 378-2.5 (b) and (c) limitations on pre-offer inquiries and look-back periods for felony and misdemeanor convictions.

The HCRC does not oppose this narrowly drawn statutory exception. While HCRC has concerns about creation of overly broad exceptions and the creation of a “slippery slope” where exceptions would render the rule meaningless, we understand the need for exceptions when employees, contractors, and volunteers work with vulnerable persons such as patients, youth, clients, or students. The HCRC also cautions against allowing consideration of records of arrest without conviction, as such arrests are without substantial legal meaning.

The HCRC offers no opposition to the narrowly drawn exceptions to HRS § 378-2.5 regarding arrest and court records proposed in H.B. No. 777, H.D.2., S.D.1.



CATHOLIC CHARITIES HAWAII

**TESTIMONY IN SUPPORT OF HB 777 HD2 SD1:  
RELATING TO BACKGROUND CHECKS**

TO: Senate Committee on Judiciary  
FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i  
Hearing: Thursday, 3/30/2023 at 9:35 AM; CR 016 & via videoconference  
Chair Rhoads, Vice Chair Gabbard and Members of the Committee on Judiciary

Thank you for the opportunity to provide testimony in **Support of HB 771 HD2 SD1**, which will would authorize the Department of Human Services (DHS) to conduct national background checks for state employees and volunteers working with vulnerable populations. I am Rob Van Tassell, with Catholic Charities Hawai'i.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for 75 years. CCH has programs serving children, families, homeless, elders, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

Individuals, children, and families, often put their trust in service providers to care for and provide safe services to their loved ones. The state has an obligation to ensure the safety of the public and people they serve. This bill would provide an added measure of safety by providing the authority to DHS to conduct national background checks on employees and volunteers who serve minors, young adults, individuals with developmental disabilities, individuals and families receiving social and community services, etc.

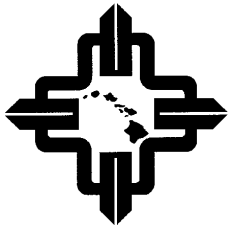
We urge your support in passing this bill to protect the vulnerable populations in our state.

Please contact our Director of Advocacy and Community Relations, Shellie Niles at (808) 527-4813 if you have any questions.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822  
Phone (808) 527-4813





**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Quality Healthcare For All"*

**Senate Committee on Judiciary**  
**Senator Karl Rhoads, Chair**  
**Senator Mike Gabbard, Vice Chair**

March 30, 2023  
Conference Room 016  
and via Videoconference  
9:35 a.m.  
Hawaii State Capitol

**Testimony Supporting House Bill 777, HD2, SD1, with a Requested Amendment  
Relating to Background Checks**

Authorizes the Department of Human Services to conduct background checks for current and prospective employees, volunteers, contractors, contractors' employees and volunteers, subcontractors, and subcontractors' employees and volunteers whose position places them or would place them in close proximity to certain minors, young adults, or vulnerable adults. Effective 6/30/2050. (SD1)

Linda Rosen, M.D., M.P.H.  
Chief Executive Officer  
Hawai'i Health Systems Corporation

Hawai'i Health Systems Corporation ("HHSC") **supports** HB 777, HD2, SD1, offers additional comment on Section 3 of the bill regarding the consideration of prospective employees' conviction records under Section 378-2.5(d), Hawaii Revised Statutes (HRS), and **respectfully requests an amendment to this measure that HHSC be specifically listed as an exempted employer under this subsection.**

Section 3 of the bill specifically amends HRS Section 378-2.5(d)'s provision regarding an employer's inquiry and consideration of a prospective employee's criminal conviction record to exempt certain listed employers from its application. While HHSC is covered under Subsection (d)(1) of HRS Section 378-2 (identifying "The State or any of its branches, political subdivisions, or agencies pursuant to sections 78-2.7 and 831-3.1") as an exempted employer, HHSC requests that it be specifically listed as an exempted employer to read:

(19) The Hawaii health systems corporation pursuant to sections 78-2.7, 323F-5.5, and 831-3.1

Specifically identifying HHSC as an exempted employer reflects HHSC's status as a separate jurisdiction established under Chapter 323F. It would also recognize critical and sensitive employment challenges inherent in HHSC's health care operations.

Thank you for the opportunity to testify on this important measure.



**HB-777-SD-1**

Submitted on: 3/28/2023 11:21:03 AM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sarah Fairchild	Individual	Support	Written Testimony Only

Comments:

I support this bill. I am surprised it is not already law.

**HB-777-SD-1**

Submitted on: 3/29/2023 2:29:00 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lisa Smith	Individual	Support	Written Testimony Only

Comments:

I support HB777, HD2, SD1 as this will allow the Department of Human Services to use national criminal background checks for their employees and all staff under the purview of the department who are in positions that require them to be near minors or vulnerable adults.

This will provide stronger protections for our minors, especially for the early learning centers and other important day care centers in our state.

**HB-777-SD-1**

Submitted on: 3/29/2023 2:30:32 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jasmine Ramos	Individual	Support	Written Testimony Only

Comments:

I support HB777, HD2, SD1

This measure will authorize the Department of Human Services (DHS) to conduct national background checks for state employees and volunteers working with vulnerable populations.

Many positions within DHS has the responsibility to serve and protect vulnerable populations throughout our state. It is crucial that DHS provide all necessary safety measures to ensure staff and volunteers provide safe and effective services. This bill would provide an additional safeguard in regards to national background checks to ensure the state is employing trusted individuals to work with the people of Hawai'i.

Thank you for the opportunity to provide testimony in support of this bill.

**HB-777-SD-1**

Submitted on: 3/29/2023 2:32:42 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Alan Garcia	Individual	Support	Written Testimony Only

Comments:

I support HB777, HD2, SD1 because it would provide national background checks for licensed or certified community-based care homes, care centers, early learning centers and staff who care for our minors as well as elderly and the disabled being under the purview by either the Department of Human Services or Department of Health.

HB 777, HD2, SD1 would require the state Department of Human Services to conduct much broader background checks including obtaining fingerprints, searching through criminal histories and looking into past employers for their applicants.

As an example of how the system works now, the DHS has oversight of the state's early education services, community-based services, and some nonprofit services including those providing guidance to kids. But it also has been legally limited in its background checks of applicants to state-only databases, relying on job applicants to self-disclose any other convictions.

This bill will provide for a national background check which will provide enhanced protection for Hawai'i's minors, elderly, and disabled.

**HB-777-SD-1**

Submitted on: 3/29/2023 2:34:40 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tiffany Sims	Individual	Support	Written Testimony Only

Comments:

I support HB777, HD2, SD1

This bill will provide the Department of Human Services the statutory authority to conduct comprehensive national and State fingerprint-based criminal history record checks and periodic rechecks will allow the Department to obtain information directly from the Federal Bureau of Investigations and the Hawai'i Criminal Justice Data Center. The public will benefit from the Department's ability to conduct State and national background checks as an added measure to ensure the health, safety, and well-being of minors, young adults, and vulnerable adults receiving child welfare, child protective, extended foster care and higher education supports, social services, and adult protective or community services from DHS.