
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 department of
2 corrections and rehabilitation requires that background checks
3 be performed on all current and prospective volunteers and
4 contracted and subcontracted service providers and their
5 employees who are directly involved in providing correctional
6 programs, treatment, and services to persons committed to a
7 correctional facility. The background checks must be
8 comprehensive and include a state and federal fingerprint-based
9 background check.

10 The legislature further finds that the department of
11 corrections and rehabilitation does not have the statutory
12 authority to conduct criminal history record checks on
13 volunteers and contracted and subcontracted service providers.

14 The purpose of this Act is to authorize the department of
15 corrections and rehabilitation to search criminal histories and
16 fingerprint records of current and prospective volunteers and
17 contracted and subcontracted service providers and their



1 employees who are directly involved in providing correctional
2 programs, treatment, and services to persons committed to a
3 correctional facility or placed in close proximity to persons
4 committed when providing services on behalf of the department or
5 the correctional facility.

6 SECTION 2. Section 353-1.5, Hawaii Revised Statutes, is
7 amended by amending subsections (a), (b), and (c) to read as
8 follows:

9 "(a) The department shall develop standards to ensure the
10 reputable and responsible characters of staff members,
11 volunteers, contract service providers, and subcontract service
12 providers of the State's correctional facilities, which shall
13 include criminal history record checks.

14 (b) For purposes of this section:

15 "Contract service provider" means an individual or employee
16 of an entity contracted directly by the department to provide a
17 specific service. "Contract service provider" includes students
18 who, as a part of their educational curriculum or assigned
19 internship from a college or university, regardless of whether
20 or not they receive a stipend, are assigned to the department to



1 provide or learn how to provide a specific service for the
2 department.

3 "Prospective staff member" means any applicant for a job in
4 the department that is directly involved in the treatment and
5 care of persons committed to a facility.

6 "Staff member" means any employee of the department who is
7 directly involved with the treatment and care of persons
8 committed to a facility.

9 "Subcontract service provider" means an individual or
10 employee of an entity hired by a contract service provider.

11 "Volunteer" means an individual or organization who
12 provides goods or services to the department without monetary or
13 material compensation from the department.

14 (c) The department shall obtain criminal history record
15 information through the Hawaii criminal justice data center in
16 accordance with section 846-2.7, on all staff members and
17 prospective staff members, volunteers, contract service
18 providers, and subcontract service providers of the department.
19 Prospective staff members, volunteers, contract service
20 providers, and subcontract service providers shall be
21 fingerprinted and the criminal history record check shall be



1 completed before beginning employment[-], providing contracted
2 services, or volunteering."

3 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

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

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

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



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



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



1 providers and subcontractors in positions that place
2 them in close proximity to youth when providing
3 services on behalf of the office or the Hawaii youth
4 correctional facility as provided by section 352D-4.3;
5 (15) The judiciary on employees and applicants at detention
6 and shelter facilities as provided by section 571-34;
7 (16) The department of corrections and rehabilitation on
8 employees and prospective employees, volunteers,
9 contract service providers, and subcontract service
10 providers who are directly involved with the treatment
11 and care of, or directly involved in providing
12 correctional programs and services to, persons
13 committed to a correctional facility, or placed in
14 close proximity to persons committed when providing
15 services on behalf of the department or the
16 correctional facility, as provided by section 353-1.5
17 and the department of law enforcement on employees and
18 prospective employees whose duties involve or may
19 involve the exercise of police powers including the
20 power of arrest as provided by section 353C-5;



- 1 (17) The board of private detectives and guards on
- 2 applicants for private detective or private guard
- 3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
- 5 employees and prospective employees who may be in
- 6 positions that necessitate close proximity to
- 7 children; provided that private schools and designated
- 8 organizations receive only indications of the states
- 9 from which the national criminal history record
- 10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
- 12 employees whose positions place them in close
- 13 proximity to children as provided by section 302A-
- 14 601.5;
- 15 (20) The State or any of its branches, political
- 16 subdivisions, or agencies on applicants and employees
- 17 holding a position that has the same type of contact
- 18 with children, vulnerable adults, or persons committed
- 19 to a correctional facility as other public employees
- 20 who hold positions that are authorized by law to



- 1 require criminal history record checks as a condition
2 of employment as provided by section 78-2.7;
- 3 (21) The department of health on licensed adult day care
4 center operators, employees, new employees,
5 subcontracted service providers and their employees,
6 and adult volunteers as provided by section 321-15.2;
- 7 (22) The department of human services on purchase of
8 service contracted and subcontracted service providers
9 and their employees and volunteers, as provided by
10 sections 346-2.5 and 346-97;
- 11 (23) The department of human services on foster grandparent
12 program, senior companion program, and respite
13 companion program participants as provided by section
14 346-97;
- 15 (24) The department of human services on contracted and
16 subcontracted service providers and their current and
17 prospective employees that provide home and community-
18 based services under section 1915(c) of the Social
19 Security Act, title 42 United States Code section
20 1396n(c), or under any other applicable section or
21 sections of the Social Security Act for the purposes



1 of providing home and community-based services, as
2 provided by section 346-97;

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

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

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

16 (28) The department of commerce and consumer affairs on:

17 (A) Each principal of every non-corporate applicant
18 for a money transmitter license;

19 (B) Each person who upon approval of an application
20 by a corporate applicant for a money transmitter
21 license will be a principal of the licensee; and



1 (C) Each person who upon approval of an application
2 requesting approval of a proposed change in
3 control of licensee will be a principal of the
4 licensee,

5 as provided by sections 489D-9 and 489-D-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, or license renewal; and



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



- 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:



- 1 (A) Applicants for real estate appraiser licensure or
- 2 certification as provided by chapter 466K;
- 3 (B) Each person who owns more than ten per cent of an
- 4 appraisal management company who is applying for
- 5 registration as an appraisal management company,
- 6 as provided by section 466L-7; and
- 7 (C) Each of the controlling persons of an applicant
- 8 for registration as an appraisal management
- 9 company, as provided by section 466L-7;
- 10 (41) The department of health or its designee on all
- 11 license applicants, licensees, employees, contractors,
- 12 and prospective employees of medical cannabis
- 13 dispensaries, and individuals permitted to enter and
- 14 remain in medical cannabis dispensary facilities as
- 15 provided under sections 329D-15(a)(4) and 329D-
- 16 16(a)(3);
- 17 (42) The department of commerce and consumer affairs on
- 18 applicants for nurse licensure or license renewal,
- 19 reactivation, or restoration as provided by sections
- 20 457-7, 457-8, 457-8.5, and 457-9;



1 (43) The county police departments on applicants for
2 permits to acquire firearms pursuant to section 134-2,
3 on individuals registering their firearms pursuant to
4 section 134-3, and on applicants for new or renewed
5 licenses to carry a pistol or revolver and ammunition
6 pursuant to section 134-9;

7 (44) The department of commerce and consumer affairs on:

8 (A) Each of the controlling persons of the applicant
9 for licensure as an escrow depository, and each
10 of the officers, directors, and principals who
11 will be in charge of the escrow depository's
12 activities upon licensure; and

13 (B) Each of the controlling persons of an applicant
14 for proposed change in control of an escrow
15 depository licensee, and each of the officers,
16 directors, and principals who will be in charge
17 of the licensee's activities upon approval of the
18 application, as provided by chapter 449;

19 (45) The department of taxation on current or prospective
20 employees or contractors who have access to federal
21 tax information in order to comply with requirements



1 of federal law, regulation, or procedure, as provided
2 by section 231-1.6;

3 (46) The department of labor and industrial relations on
4 current or prospective employees or contractors who
5 have access to federal tax information in order to
6 comply with requirements of federal law, regulation,
7 or procedure, as provided by section 383-110;

8 (47) The department of human services on current or
9 prospective employees or contractors who have access
10 to federal tax information in order to comply with
11 requirements of federal law, regulation, or procedure,
12 and on current or prospective employees, volunteers,
13 contractors, or contractors' employees or volunteers,
14 subcontractors, or subcontractors' employees or
15 volunteers, whose position places or would place them
16 in close proximity to minors, young adults, or
17 vulnerable adults, as provided by section 346-2.5;

18 (48) The child support enforcement agency on current or
19 prospective employees, or contractors who have access
20 to federal tax information in order to comply with



1 federal law, regulation, or procedure, as provided by
2 section 576D-11.5;

3 (49) The department of the attorney general on current or
4 prospective employees or employees or agents of
5 contractors who have access to federal tax information
6 to comply with requirements of federal law,
7 regulation, or procedure, as provided by section 28-
8 17;

9 (50) The department of commerce and consumer affairs on
10 each control person, executive officer, director,
11 general partner, and managing member of an installment
12 loan licensee, or an applicant for an installment loan
13 license, as provided in chapter 480J;

14 (51) The University of Hawaii on current and prospective
15 employees and contractors whose duties include
16 ensuring the security of campus facilities and
17 persons; and

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



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 5. This Act shall take effect upon its approval.



Report Title:

DCR; Corrections and Rehabilitation; Department of the Attorney General Hawaii Criminal Justice Data Center; Background Checks

Description:

Authorizes the Department of Corrections and Rehabilitation to search criminal histories and fingerprint records of current and prospective volunteers and contracted and subcontracted service providers and their employees who are directly involved in providing correctional programs, treatment, and services to persons committed to a correctional facility or places them in close proximity to persons committed when providing services on behalf of the Department or the correctional facility. (SD2)

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