
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 requires fingerprint-based background checks on current
3 and prospective employees and contractors who receive access to
4 federal tax information. Authorization to access
5 fingerprint-based background checks is provided through state
6 statute approved by the Federal Bureau of Investigation. Act
7 35, Session Laws of Hawaii 2021, established sections 28-17 and
8 846-2.7(b)(49), Hawaii Revised Statutes, to authorize the
9 department of the attorney general to conduct fingerprint-based
10 background checks through the Federal Bureau of Investigation on
11 current or prospective employees or employees or agents of
12 contractors. Upon review of section 846-2.7(b)(49), Hawaii
13 Revised Statutes, the Federal Bureau of Investigation determined
14 that the statute failed the requirement of identifying the
15 specific category of persons falling within the statute's
16 purview, as the term "agents of contractors" was overly broad
17 and not defined in the statute.



1 Accordingly, the purpose of this Act is to repeal the term
2 "agents of contractors" and clarify that a contractor,
3 contractor's employee, or subcontractor who has access to
4 federal tax information held by the department of the attorney
5 general may be subject to fingerprint-based background checks.

6 SECTION 2. Section 28-17, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The department of the attorney general may terminate
9 or deny employment to any current or prospective employee, or
10 terminate or refuse to secure the services of any contractor, if
11 the department of the attorney general finds by reason of the
12 background investigation conducted under subsection (a) that the
13 current or prospective employee [~~or employee or agent of the]~~,
14 contractor, contractor's employee, or subcontractor poses a risk
15 to the security of federal tax information. Termination or
16 denial of employment, or termination or refusal to secure the
17 services of any contractor, under this subsection, shall only
18 occur after appropriate notification to the current or
19 prospective employee [~~or employee or agent of the]~~, contractor,
20 contractor's employee, or subcontractor of the findings of the
21 background investigation, and after the current or prospective



1 employee [or employee or agent of the], contractor, contractor's
2 employee, or subcontractor is given an opportunity to meet and
3 rebut the findings. Nothing in this subsection shall abrogate
4 any applicable appeal rights under chapters 76 and 89 or
5 administrative rules of the department of the attorney general."

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

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

- 9 (1) The department of health or its designee on operators
10 of adult foster homes for individuals with
11 developmental disabilities or developmental
12 disabilities domiciliary homes and their employees, as
13 provided by section 321-15.2;
- 14 (2) The department of health or its designee on
15 prospective employees, persons seeking to serve as
16 providers, or subcontractors in positions that place
17 them in direct contact with clients when providing
18 non-witnessed direct mental health or health care
19 services, as provided by section 321-171.5;
- 20 (3) The department of health or its designee on all
21 applicants for licensure or certification for,



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



- 1 (9) The department of human services on prospective
2 adoptive parents as established under section 346-
3 19.7;
- 4 (10) The department of human services or its designee on
5 applicants to operate child care facilities, household
6 members of the applicant, prospective employees of the
7 applicant, and new employees and household members of
8 the provider after registration or licensure, as
9 provided by section 346-154, and persons subject to
10 section 346-152.5;
- 11 (11) The department of human services on persons exempt
12 pursuant to section 346-152 to be eligible to provide
13 child care and receive child care subsidies, as
14 provided by section 346-152.5;
- 15 (12) The department of health on operators and employees of
16 home and community-based case management agencies and
17 operators and other adults, except for adults in care,
18 residing in community care foster family homes, as
19 provided by section 321-15.2;



- 1 (13) The department of human services on staff members of
2 the Hawaii youth correctional facility, as provided by
3 section 352-5.5;
- 4 (14) The department of human services on employees,
5 prospective employees, and volunteers of contracted
6 providers and subcontractors in positions that place
7 them in close proximity to youth when providing
8 services on behalf of the office of youth services or
9 the Hawaii youth correctional facility, as provided by
10 section 352D-4.3;
- 11 (15) The judiciary on employees and applicants at detention
12 and shelter facilities, as provided by section 571-34;
- 13 (16) The department of corrections and rehabilitation on
14 employees and prospective employees, volunteers,
15 contract service providers, and subcontract service
16 providers who are directly involved with the treatment
17 and care of, or directly involved in providing
18 correctional programs and services to, persons
19 committed to a correctional facility, or placed in
20 close proximity to persons committed when providing
21 services on behalf of the department or the



1 correctional facility, as provided by section 353-1.5,
2 and the department of law enforcement on employees and
3 prospective employees whose duties involve or may
4 involve the exercise of police powers including the
5 power of arrest, as provided by section 353C-5;

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

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

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

20 (20) The State or any of its branches, political
21 subdivisions, or agencies on applicants and employees



1 holding a position that has the same type of contact
2 with children, vulnerable adults, or persons committed
3 to a correctional facility as other public employees
4 who hold positions that are authorized by law to
5 require criminal history record checks as a condition
6 of employment, as provided by section 78-2.7;

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

11 (22) The department of human services on purchase of
12 service contracted and subcontracted service providers
13 and their employees and volunteers, as provided by
14 sections 346-2.5 and 346-97;

15 (23) The department of human services on foster grandparent
16 program, senior companion program, and respite
17 companion program participants, as provided by section
18 346-97;

19 (24) The department of human services on contracted and
20 subcontracted service providers and their current and
21 prospective employees that provide home and



1 community-based services under section 1915(c) of the
2 Social Security Act, title 42 United States Code
3 section 1396n(c), or under any other applicable
4 section or sections of the Social Security Act for the
5 purposes of providing home and community-based
6 services, as provided by section 346-97;

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

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

16 (27) The department of commerce and consumer affairs on the
17 original chartering applicants and proposed executive
18 officers of a credit union, as provided by section
19 412:10-103;

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



- 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,



1 in any of the corporation's health facilities, as
2 provided by section 323F-5.5;

3 (31) The department of commerce and consumer affairs on:

4 (A) An applicant for a mortgage loan originator
5 license, or license renewal; and

6 (B) Each control person, executive officer, director,
7 general partner, and managing member of an
8 applicant for a mortgage loan originator company
9 license or license renewal,

10 as provided by chapter 454F;

11 (32) The state public charter school commission or public
12 charter schools on employees, teacher trainees,
13 prospective employees, and prospective teacher
14 trainees in any public charter school for any position
15 that places them in close proximity to children, as
16 provided in section 302D-33;

17 (33) The counties on prospective employees who work with
18 children, vulnerable adults, or senior citizens in
19 community-based programs;



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



- 1 (39) The State and counties on current and prospective
2 systems analysts and others involved in an agency's
3 information technology operation whose position
4 responsibilities provide them with access to
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on:
- 7 (A) Applicants for real estate appraiser licensure or
8 certification, as provided by chapter 466K;
- 9 (B) Each person who owns more than ten per cent of an
10 appraisal management company who is applying for
11 registration as an appraisal management company,
12 as provided by section 466M-7; and
- 13 (C) Each of the controlling persons of an applicant
14 for registration as an appraisal management
15 company, as provided by section 466M-7;
- 16 (41) The department of health or its designee on:
- 17 (A) Individual applicants or individuals acting on
18 behalf of applying entities for hemp processor
19 permits, as provided under section 328G-2; and
- 20 (B) All license applicants, licensees, employees,
21 contractors, and prospective employees of medical



1 cannabis dispensaries, and individuals permitted
2 to enter and remain in medical cannabis
3 dispensary facilities, as provided under sections
4 329D-15(a) (4) and 329D-16(a) (3);

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

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

15 (44) The department of commerce and consumer affairs on:
16 (A) Each of the controlling persons of the applicant
17 for licensure as an escrow depository, and each
18 of the officers, directors, and principals who
19 will be in charge of the escrow depository's
20 activities upon licensure; and



1 (B) Each of the controlling persons of an applicant
2 for proposed change in control of an escrow
3 depository licensee, and each of the officers,
4 directors, and principals who will be in charge
5 of the licensee's activities upon approval of the
6 application,

7 as provided by chapter 449;

8 (45) The department of taxation on current or prospective
9 employees or contractors who have access to federal
10 tax information in order to comply with requirements
11 of federal law, regulation, or procedure, as provided
12 by section 231-1.6;

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

18 (47) The department of human services on current or
19 prospective employees or contractors who have access
20 to federal tax information in order to comply with
21 requirements of federal law, regulation, or procedure,



1 and on current or prospective employees, volunteers,
2 contractors, or contractors' employees or volunteers,
3 subcontractors, or subcontractors' employees or
4 volunteers, whose position places or would place them
5 in close proximity to minors, young adults, or
6 vulnerable adults, as provided by section 346-2.5;

7 (48) The child support enforcement agency on current or
8 prospective employees, or contractors who have access
9 to federal tax information [~~in order~~] to comply with
10 federal law, regulation, or procedure, as provided by
11 section 576D-11.5;

12 (49) The department of the attorney general on current or
13 prospective employees [~~or employees or agents of~~],
14 contractors, contractor's employees, or subcontractors
15 who have access to federal tax information to comply
16 with [~~requirements of~~] federal law, regulation, or
17 procedure, as provided by section 28-17;

18 (50) The department of commerce and consumer affairs on
19 each control person, executive officer, director,
20 general partner, and managing member of an installment



1 loan licensee, or an applicant for an installment loan
2 license, as provided in chapter 480J;

3 (51) The university of Hawaii on current and prospective
4 employees and contractors whose duties include
5 ensuring the security of campus facilities and
6 persons; and

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

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval;
13 provided that the amendments made to section 846-2.7(b), Hawaii
14 Revised Statutes, by this Act shall not be repealed when section
15 846-2.7(b), Hawaii Revised Statutes, is reenacted on July 1,
16 2027, pursuant to section 4 of Act 110, Session Laws of Hawaii
17 2024.



H.B. NO. 991
H.D. 1
S.D. 1
C.D. 1

Report Title:

ATG; Criminal History Record Checks

Description:

Clarifies that contractors, contractor's employees, and subcontractors who have access to federal tax information held by the Department of the Attorney General may be subject to fingerprint-based background checks. (CD1)

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