

ACT 74

S.B. NO. 647

A Bill for an Act Relating to Correctional Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§353- Criminal history record checks. The department shall develop standards to assure the reputable and responsible characters of staff members of its correctional facilities which shall include but not be limited to criminal history record checks. For the purposes of this section, “staff member” means any employee of the department of corrections who is directly involved with the treatment and care of persons committed to a facility, and “prospective staff member” means any applicant for a job in the department of corrections that is directly involved with the treatment and care of persons committed to a facility.

Every staff member and prospective staff member shall submit a statement under penalty of perjury indicating whether the staff member or prospective staff member was ever convicted of a crime other than a minor traffic violation involving a fine of fifty dollars or less and providing consent to the department to conduct a criminal history record check and to obtain other criminal history record information for verification. The staff member shall be fingerprinted for the purpose of complying with the criminal history record check. The prospective staff member shall be fingerprinted and the criminal history record check shall be completed prior to beginning employment.

The department shall obtain criminal history record information through the Hawaii criminal justice data center on all staff and prospective staff members of the department of corrections. The Hawaii criminal justice data center may assess prospective staff members a reasonable fee for each criminal history record check conducted. The information obtained shall be used exclusively for the stated purpose for which it was obtained, and shall be subject to such federal laws and federal regulations as may be now or hereafter adopted.

The department may deny employment to a prospective staff member who was convicted of a crime other than a minor traffic violation involving a fine of fifty dollars or less and if the department finds from the prospective staff member's criminal history record that the prospective staff member poses a risk to the health, safety, security, or well-being of inmates under supervision and confinement or other staff.

Staff members shall not be subject to termination based on findings in their criminal records except for those whose conviction of a crime occurred after the effective date of this Act, or under circumstances in which a staff member is a fugitive from justice. The convictions of staff members subject to termination must be for crimes other than a minor traffic violation involving a fine of fifty dollars or less, and the staff member must pose a risk to the health, safety, security, or well-being of inmates under supervision and confinement or other staff.”

SECTION 2. Section 831-3.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) This section shall prevail over any other law which purports to govern the denial or issuance of any permit, license, registration, or certificate by the State or any of its political subdivisions or agencies; provided that this section shall not apply to:

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- (1) Denials by the department of human services of any certificate of approval, license, or permit to any organization, institution, home, or facility subject to licensure under chapter 346;
- (2) Denials of employment as a staff member of a youth correctional facility operated under chapter 352; [and]
- (3) Denials of employment as an employee of a detention or shelter facility established or designated pursuant to section 571-33[.]; and
- (4) Denials of employment as a staff member of a correctional facility operated under chapter 353."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1989.)

Note

1. Edited pursuant to HRS §23G-16.5.