



HAWAI`I CIVIL RIGHTS COMMISSION

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

February 6, 2009
Rm. 309, 8:30 a.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Labor and Public Employment

From: Coral Wong Pietsch, Chair, and Commissioners of the Hawai`i Civil Rights
Commission

Re: H.B. No. 955

The Hawai`i Civil Rights Commission (HCRC) has enforcement jurisdiction over state 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 because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC opposes H.B. No. 955, which amends §846-2.7 to allow criminal history record checks for several classes of prospective county employees, because these amendments would be incorporated into the enumerated exceptions to protections against pre-offer criminal history record checks under §368-2.5. The HCRC has not opposed narrowly drawn exceptions allowing pre-offer inquiries into records of criminal convictions for positions that involve unsupervised contact with vulnerable persons – children, the elderly, persons with disabilities.

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However, the proposed exceptions are not narrowly drawn, and there is no reason that the counties interests are not addressed by the post-offer inquiry and consideration of record of criminal conviction allowed under §378-2.5. Requests for this kind of statutory exception should be carefully scrutinized, or an endless line of requestors for similar exceptions will threaten to swallow up the rule.

Under Chapter 378, persons with an arrest and court record are protected against employment discrimination. These provisions were passed in 1974 to promote the rehabilitation and employment of convicted persons because the legislature recognized that such persons are not inherently and permanently bad and that opportunities afforded to other citizens should be made available to them. SCRep 862-74, 1974 Senate Journal at 1079. Thus, §378-2.5 limits employer inquiries into conviction records only where employment involves:

a) **unsupervised** contact with vulnerable persons (children, the elderly, the disabled, prisoners, etc.); 2) protection of property (detective or security guard agencies); 3) schools; 4) financial institutions and positions involving the handling of money; 5) co-op and AOA managers; and 6) police and the courts. In all other employment situations, employers can make post-offer inquiries and consider convictions if the convictions are rationally related to the duties and responsibilities of the job and occurred within 10 years of the application.

The HCRC opposes H.B. No. 955 which amends § 846-2.7 to allow counties to conduct criminal history record checks on certain prospective employees because it is not clear that the positions are unsupervised, and there is no express reason why the counties cannot make post-offer inquiries and consider convictions if the convictions are rationally related to the duties and responsibilities of those jobs, in the same manner that all employers are allowed.

The Commission urges the legislature exercise restraint in granting requests for statutory exceptions to arrest and court record protections under Chapter 378, in order to maintain the original rehabilitative and employment purposes of the statute.

Linda Lingle
Governor



Darwin L.D. Ching
Director

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
State Fire Council
830 Punchbowl Street
Honolulu, Hawaii 96813

February 4, 2009

The Honorable Karl Rhoads, Chair
Committee on Labor and Public Employment
House of Representatives
State Capitol, Room 326
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: H.B. 955 Relating to Criminal History Record Checks for County Employees

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 955, which proposes to allow criminal history record checks on prospective county fire department employees who may have contact with children or dependent adults.

With the elimination of residency requirements for prospective fire department employment, the number of out-of-state applicants has increased with no legal means to verify whether or not these individuals possess the necessary qualities for dealing with children or disadvantaged adults in emergency and nonemergency situations.

Public trust cannot be compromised when individuals are hired as emergency responders. The public expects and deserves the utmost quality and care from the people who are entrusted to provide emergency services. Conducting criminal record checks is one way to ensure that prospective fire department employees have no criminal or child/adult abuse record.

The SFC and the HFD urge your committee's support on the passage of H.B. 955.

Should you have any questions, please call HFD Legislative Liaison Lloyd Rogers at 723-7171.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA
Chair

KGS/LR:cn

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DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

MUFI HANNEMANN
MAYOR



KENNETH Y. NAKAMATSU
DIRECTOR

February 4, 2009

The Honorable Karl Rhoads, Chair
and Members of the Committee on
Labor & Public Employment
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads:

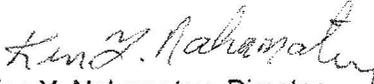
**Subject: House Bill No. 955
Relating to Criminal History Record Checks for County Employees**

The Department of Human Resources **strongly supports** HB 955. The purpose of this bill is to provide county agencies the ability to access national criminal history record information in addition to state conviction information for the purpose of determining employment suitability. Specifically, this bill will enable us to obtain criminal history record information for current and prospective employees involved in liquor control investigations, and prospective employees for firefighting, emergency medical services, emergency management, and for community based personnel who work with vulnerable adults.

This bill is especially relevant since we have seen an increase in the number of out-of-state applicants who are applying for jobs with the City. This measure will permit us to efficiently evaluate the suitability of individuals selected for these sensitive jobs.

Thank you for the opportunity to testify.

Sincerely yours,


Ken Y. Nakamatsu, Director
Department of Human Resources

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HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1869
Phone: (808) 723-7800 • Fax: (808) 833-3934

MUFI HANNEMANN
MAYOR



ELIZABETH A. CHAR, M.D.
DIRECTOR

February 5, 2009

The Honorable Karl Rhoads, Chair
and Members
Committee on Labor & Public Employment
House of Representatives
28th Representative District
Hawaii State Capitol, Room 326
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Rhoads and Committee Members:

Re: House Bill No. 955
Relating to Criminal History Record Checks for County Employees

The Honolulu's Emergency Services Department, City and County of Honolulu, strongly supports HB955.

When members of our community have a medical emergency, they expect the responding Emergency Medical Services personnel to uphold a certain standard of care, medically, ethically and professionally. Paramedics often interact with people who are in vulnerable states and HB 955 will allow us to perform national criminal history information reviews to ensure that our workforce is suitable for employment and can fulfill this role.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "E.A. Char".

Elizabeth A. Char, M.D., Director
Honolulu Emergency Services Department

000202

CHARMAINE TAVARES
Mayor



LYNN G. KRIEG
Director

LANCE T. HIROMOTO
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF PERSONNEL SERVICES

200 SOUTH HIGH STREET • WAILUKU, MAUI, HAWAII 96793-2155
PHONE (808) 270-7850 • FAX (808) 270-7969

Website: www.mauicounty.gov/departments/Personnel • Email: personnel.services@mauicounty.gov

February 4, 2009

(Electronic Transmission)

The Honorable Karl Rhoads, Chair
Committee on Labor & Public Employment
State House of Representatives
Conference Room 309
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Representative Rhoads and Committee Members:

RE: H.B. 955, RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR
COUNTY EMPLOYEES

I am Lynn G. Krieg, Director of Personnel Services, County of Maui, writing in support of H.B. 955.

The proposed changes will expand and clarify certain conditions under which the counties may conduct a criminal history check. Such statutory recognition will further enhance the employer's ability to complete criminal history record checks via databases not otherwise accessible, such as the FBI's National Crime Information Center (NCIC). Without such accessibility, the counties would be limited to an individual's criminal history in the State of Hawaii only.

In the interest of enhancing our ability to develop a reputable and responsible workforce, we ask you to pass H.B. 955.

Sincerely,

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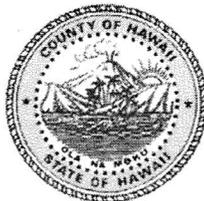
LYNN G. KRIEG
Director of Personnel Services

cc: Mayor Charmaine Tavares
Justin Gruenstein

AN EQUAL OPPORTUNITY EMPLOYER

000203

Harry Kim
Mayor



Michael R. Ben, SPHR
Director of Human Resources

Ronald K. Takahashi
Deputy Director of Human Resources

County of Hawai'i Department of Human Resources

Aupuni Center * 101 Pauahi Street, Suite 2 * Hilo, Hawai'i 96720 * (808) 961-8361 * Fax (808) 961-8617
TTY (808) 961-8619 * Jobs Information: Job Hotline (808) 961-8618 e-mail: jobs@co.hawaii.hi

February 5, 2009

The Honorable Karl Rhoads, Chair
And Members of the Committee on Labor and Public Employment
House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chair Rhoads and Members of the Committee on Labor and Public Employment:

Re: HB No. 955 Relating to Criminal History Record Checks for County Employees

I am Michael R. Ben, Director of Human Resources for the County of Hawai'i. The County of Hawai'i strongly supports HB 955 and I ask that you support and approve this bill.

HB 955 will provide the counties with the authority and ability to access national criminal history record information for current and prospective employees involved in liquor control investigations, and prospective employees for fire department and emergency medical services that involve contact with children or dependent adults, emergency management positions, and for prospective employees who work with community-based programs for vulnerable adults or senior citizens.

As we increasingly have seen applicants from all over the country applying for our jobs, this bill permits us to thoroughly check the suitability of individuals selected for jobs performing in the aforementioned areas. Conducting these criminal history checks will help ensure the safety of not only our public but our employees as well.

Hawai'i County is an Equal Opportunity Provider and Employer.

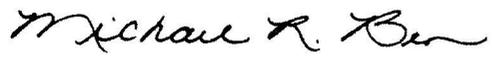
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The Honorable Karl Rhoads, Chair
And Members of the Committee on Labor & Public Employment
February 6, 2009
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Again, I ask for your support and approval of this bill.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Michael R. Ben".

Michael R. Ben, SPHR
Director of Human Resources

MRB:gmc

000205

Bernard P. Carvalho, Jr.
Mayor

Robert F. Westerman
Fire Chief

John T. Blalock
Deputy Fire Chief



COUNTY OF KAUAI
Fire Department
Mo'ikeha Building
4444 Rice Street, Suite 295
Lihu'e, Kaua'i, Hawaii 96766

February 3, 2009

The Honorable Karl Rhoads, Chair
Committee on Labor and Public Employment
House of Representatives
State Capitol, Room 326
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: H.B. 955 Relating to Criminal Background Checks

I am Robert F. Westerman, member of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support H.B. 955, which proposes to allow criminal history record checks of prospective employees of county fire departments that involve contact with children and/or dependent adults. With the elimination of residency requirements for prospective fire department employment, out-of-state applicants have increased with no legal means to verify that these potential employees possess the needed qualities for dealing with children or disadvantaged adults in emergency and non-emergency situations. The public trust cannot be compromised when individuals are hired as emergency responders. They expect and deserve the utmost quality and care from the people who are entrusted with the duty to provide emergency services. Conducting criminal record checks is one way to ensure prospective employees of fire departments have no criminal or child/adult abuse record.

The SFC and the KFD urge your committee's support on the passage of H.B. 955. Should you have any questions, please call me at 241-4980.

Sincerely,

A handwritten signature in black ink, appearing to read "RFW", is written over a horizontal line.

Robert F. Westerman
Fire Chief

RFW/crz

AN EQUAL OPPORTUNITY EMPLOYER

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