

S.B. NO. 2716

JAN 25 2012

A BILL FOR AN ACT

RELATING TO THE RAP BACK PROGRAM OF THE HAWAII CRIMINAL JUSTICE
DATA CENTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to allow programs
2 statutorily authorized to conduct criminal history record checks
3 to participate in a statewide rap back program. A "rap back"
4 program will inform an employer or other designated entity when
5 an individual who has undergone a fingerprint-based background
6 check, and whose fingerprints are retained by a criminal history
7 repository after the check, is subsequently arrested. His or
8 her fingerprints, obtained after the arrest, are matched against
9 a database that contains the fingerprints that were initially
10 submitted. Employers are then notified of the individual's
11 arrest.

12 The Federal Bureau of Investigation is targeting 2013-2014
13 for its national rap back program to go into effect. The
14 State's ability to take advantage of the information and
15 capabilities that other states and the FBI are using will help
16 Hawaii develop its own program and will allow the State to be

1 proactive in decision-making for our vulnerable populations
2 (children, the elderly, and the disabled).

3 The rap back program would allow a user department like the
4 department of education or the department of human services to
5 be notified proactively if an employee's or licensee's
6 fingerprints, previously authorized for retention, is matched if
7 that employee or licensee is subsequently arrested.

8 The public will be better protected because employers and
9 licensing agencies will get up-to-date criminal history
10 information. In addition, employees and licensees may not need
11 to be fingerprinted again as part of a re-application or renewal
12 process because up-to-date information will be automatically
13 forwarded to their employers or licensing agencies as part of
14 the Rap Back program.

15 SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The agencies and other entities named in subsection
18 (b) may conduct state and national criminal history record
19 checks on the personnel identified in subsection (b), and
20 participate in the rap back program, for the purpose of
21 determining suitability or fitness for a permit, license, or
22 employment; provided that the Hawaii criminal justice data
23 center may charge a reasonable fee for the criminal history

1 record checks performed. The agencies and other entities named
2 in subsection (b) shall notify applicants and employees subject
3 to a criminal history record check pursuant to this section that
4 their fingerprints shall be retained by the Hawaii criminal
5 justice data center. Notification shall also be given to the
6 applicants and employees subject to the rap back program. The
7 criminal history record check shall include the submission of
8 fingerprints to:

- 9 (1) The Federal Bureau of Investigation for a national
10 criminal history record check; and
- 11 (2) The Hawaii criminal justice data center for a state
12 criminal history record check that shall include
13 nonconviction data.

14 Except as otherwise provided in this section, criminal history
15 record information shall be used exclusively for the stated
16 purpose for which it was obtained."

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

19 "(c) The applicant or employee subject to a criminal
20 history record check shall provide to the requesting agency:

- 21 (1) Consent to obtain the applicant's or employee's
22 fingerprints [~~and~~], conduct the criminal history

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1 record check[+], and participate in the rap back
2 program;

3 (2) Identifying information required by the Federal Bureau
4 of Investigation which shall include but not be
5 limited to name, date of birth, height, weight, eye
6 color, hair color, gender, race, and place of birth;
7 and

8 (3) A statement indicating whether the applicant or
9 employee has ever been convicted of a crime."

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

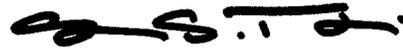
12 SECTION 5. This Act shall take effect on July 1, 2012.

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INTRODUCED BY:



16

BY REQUEST

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Report Title:

Hawaii Criminal Justice Data Center; Rap Back Program

Description:

Allows programs statutorily authorized to obtain criminal history record checks on employment and licensing applicants to participate in the rap back program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE RAP BACK PROGRAM BY THE HAWAII CRIMINAL JUSTICE DATA CENTER.

PURPOSE: To authorize the Hawaii Criminal Justice Data Center to establish the "rap back" program, which will allow entities that are statutorily authorized to obtain criminal history record checks on applicants, including employment and licensing applicants, to be notified if any applicants are arrested subsequent to their initial record checks.

MEANS: Amend section 846-2.7(a) and (c), Hawaii Revised Statutes.

JUSTIFICATION: A "rap back" program will inform an employer or other designated entity when an individual who has undergone a fingerprint-based background check, and whose fingerprints are retained by a criminal history repository after the check, is subsequently arrested. His or her fingerprints, obtained after the arrest, are matched against a database that contains the fingerprints that were initially submitted. Employers are then notified of the individual's arrest. For example, the Department of Education (DOE) hires an applicant with no criminal record and the Hawaii Criminal Justice Data Center (HCJDC) retains the fingerprints. If the applicant is later arrested and the fingerprints taken at the arrest match the previously retained applicant fingerprints, the match will trigger a notification to DOE.

The Federal Bureau of Investigation (FBI) is targeting 2013-2014 for its national rap

back program to go into effect. The State's ability to take advantage of the information and capabilities that other states and the FBI are using will help Hawaii develop its own program and will allow the State to be proactive in decision-making for our vulnerable populations (children, the elderly, and the disabled).

Impact on the public: The public will be better protected as employers and licensing agencies will get up-to-date criminal history information. In addition, employees and licensees that need to be fingerprinted again as part of a re-application or renewal process may not have to do this as up-to-date information will be automatically forwarded to the employer or licensing agency as part of the rap back program.

Impact on the department and other agencies: The HCJDC will develop the program, which may involve major programming changes to our CJIS-Hawaii and Lights Out Transaction Controller systems. The other departments and organizations that participate in the rap back program will receive proactive notification if any of their employees or licensees are arrested subsequent to their initial check. They may also have more hits (criminal history information) to review.

GENERAL FUND: None.

OTHER FUNDS: Additional funding for development and implementation will be solicited, as needed, but it is the current expectation that the development will be handled with internal information technology resources.

PPBS PROGRAM DESIGNATION: ATG-21(12)

OTHER AFFECTED AGENCIES: Department of Education, Department of Health, Department of Human Services, county departments, and any other departments or

organizations authorized to conduct criminal
history record checks in section 846-2.7.

EFFECTIVE DATE: July 1, 2012.