
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORDS CHECKS UNDER THE CHILD
PROTECTIVE ACT.

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

1 SECTION 1. The purpose of this Act is to amend the Child
2 Protective Act, chapter 587A, Hawaii Revised Statutes, to allow
3 the department of human services to conduct initial and periodic
4 criminal history records checks of alleged perpetrators of harm
5 of child abuse or neglect, and all individuals who may reside in
6 the same household with the alleged child victim, to better
7 identify and address immediate and potential safety and risk
8 factors.

9 SECTION 2. Section 587A-9, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) When the department receives protective custody of a
12 child from the police, the department shall:

13 (1) Assume temporary foster custody of the child if, in
14 the discretion of the department, the department
15 determines that the child is subject to imminent harm
16 while in the custody of the child's family;



- 1 (2) Make every reasonable effort to inform the child's
2 parents of the actions taken, unless doing so would
3 put another person at risk of harm;
- 4 (3) Unless the child is admitted to a hospital or similar
5 institution, place the child in emergency foster care
6 while the department conducts an appropriate
7 investigation, with placement preference being given
8 to an approved relative;
- 9 (4) With authorized agencies, make reasonable efforts to
10 identify and notify all relatives within thirty days
11 of assuming temporary foster custody of the child; and
- 12 (5) Within three days, excluding Saturdays, Sundays, and
13 holidays:
- 14 (A) Relinquish temporary foster custody, return the
15 child to the child's parents, and proceed
16 pursuant to section ~~[587A-11(3), 587A-11(4), or~~
17 ~~587A-11(5);]~~ 587A-11(4), 587A-11(5), or
18 587A-11(6);
- 19 (B) Secure a voluntary placement agreement from the
20 child's parents to place the child in foster



1 care, and proceed pursuant to section [~~587A-11(5)~~

2 ~~or 587A-11(7);~~] 587A-11(6) or 587A-11(8); or

3 (C) File a petition with the court."

4 SECTION 3. Section 587A-11, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§587A-11[+] Investigation; department powers. Upon
7 receiving a report that a child is subject to imminent harm, has
8 been harmed, or is subject to threatened harm, the department
9 shall cause such investigation to be made as it deems to be
10 appropriate. In conducting the investigation, the department
11 may:

12 (1) Enlist the cooperation and assistance of appropriate
13 state and federal law enforcement authorities, who may
14 conduct an investigation and, if an investigation is
15 conducted, shall provide the department with all
16 preliminary findings, including the results of a
17 criminal history record check of an alleged
18 perpetrator of harm or threatened harm to the child;

19 (2) Conduct a criminal history record check of an alleged
20 perpetrator and all adults living in the family home,



1 with or without consent, to ensure the safety of the
2 child;

3 ~~[(+2)]~~ (3) Interview the child without the presence or prior
4 approval of the child's family and temporarily assume
5 protective custody of the child for the purpose of
6 conducting the interview;

7 ~~[(+3)]~~ (4) Resolve the matter in an informal fashion that it
8 deems appropriate under the circumstances;

9 ~~[(+4)]~~ (5) Close the matter if the department finds, after
10 an assessment, that the child is residing with a
11 caregiver who is willing and able to meet the child's
12 needs and provide a safe and appropriate placement for
13 the child;

14 ~~[(+5)]~~ (6) Immediately enter into a service plan:

15 (A) To safely maintain the child in the family home;

16 or

17 (B) To place the child in voluntary foster care
18 pursuant to a written agreement with the child's
19 parent.

20 If the child is placed in voluntary foster care and
21 the family does not successfully complete the service



1 plan within three months after the date on which the
2 department assumed physical custody of the child, the
3 department shall file a petition. The department is
4 not required to file a petition if the parents agree
5 to adoption or legal guardianship of the child and the
6 child's safety is ensured; provided that the adoption
7 or legal guardianship hearing is conducted within six
8 months of the date on which the department assumed
9 physical custody of the child;

10 ~~[(+6)]~~ (7) Assume temporary foster custody of the child and
11 file a petition with the court within three days,
12 excluding Saturdays, Sundays, and holidays, after the
13 date on which the department assumes temporary foster
14 custody of the child, with placement preference being
15 given to an approved relative; or

16 ~~[(+7)]~~ (8) File a petition or ensure that a petition is
17 filed by another appropriate authorized agency in
18 court under this chapter."

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

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



- 1 (1) The department of health or its designee on operators
2 of adult foster homes for individuals with
3 developmental disabilities or developmental
4 disabilities domiciliary homes and their employees, as
5 provided by section 321-15.2;
- 6 (2) The department of health or its designee on
7 prospective employees, persons seeking to serve as
8 providers, or subcontractors in positions that place
9 them in direct contact with clients when providing
10 non-witnessed direct mental health or health care
11 services as provided by section 321-171.5;
- 12 (3) The department of health or its designee on all
13 applicants for licensure or certification for,
14 operators for, prospective employees, adult
15 volunteers, and all adults, except adults in care, at
16 health care facilities as defined in section 321-15.2;
- 17 (4) The department of education on employees, prospective
18 employees, and teacher trainees in any public school
19 in positions that necessitate close proximity to
20 children as provided by section 302A-601.5;



- 1 (5) The counties on employees and prospective employees
2 who may be in positions that place them in close
3 proximity to children in recreation or child care
4 programs and services;
- 5 (6) The county liquor commissions on applicants for liquor
6 licenses as provided by section 281-53.5;
- 7 (7) The county liquor commissions on employees and
8 prospective employees involved in liquor
9 administration, law enforcement, and liquor control
10 investigations;
- 11 (8) The department of human services on operators and
12 employees of child caring institutions, child placing
13 organizations, and foster boarding homes as provided
14 by section 346-17;
- 15 (9) The department of human services on prospective
16 adoptive parents as established under section
17 346-19.7;
- 18 (10) The department of human services ~~[on]~~ on;
19 (A) On applicants to operate child care facilities,
20 prospective employees of the applicant, and new



employees of the provider after registration or
licensure as provided by section 346-154; and

(B) Pursuant to section 578A-11, during the
department's investigation resulting from a
report that a child is subject to imminent harm,
has been harmed, or is subject to threatened
harm, on an alleged perpetrator and all adults
living in the family home, with or without
consent, to ensure the safety of the child;

(11) The department of human services on persons exempt
pursuant to section 346-152 to be eligible to provide
child care and receive child care subsidies as
provided by section 346-152.5;

(12) The department of health on operators and employees of
home and community-based case management agencies and
operators and other adults, except for adults in care,
residing in community care foster family homes as
provided by section 321-15.2;

(13) The department of human services on staff members of
the Hawaii youth correctional facility as provided by
section 352-5.5;



- 1 (14) The department of human services on employees,
2 prospective employees, and volunteers of contracted
3 providers and subcontractors in positions that place
4 them in close proximity to youth when providing
5 services on behalf of the office or the Hawaii youth
6 correctional facility as provided by section 352D-4.3;
- 7 (15) The judiciary on employees and applicants at detention
8 and shelter facilities as provided by section 571-34;
- 9 (16) The department of public safety on employees and
10 prospective employees who are directly involved with
11 the treatment and care of persons committed to a
12 correctional facility or who possess police powers
13 including the power of arrest as provided by section
14 353C-5;
- 15 (17) The board of private detectives and guards on
16 applicants for private detective or private guard
17 licensure as provided by section 463-9;
- 18 (18) Private schools and designated organizations on
19 employees and prospective employees who may be in
20 positions that necessitate close proximity to
21 children; provided that private schools and designated



1 organizations receive only indications of the states
2 from which the national criminal history record
3 information was provided pursuant to section 302C-1;

4 (19) The public library system on employees and prospective
5 employees whose positions place them in close
6 proximity to children as provided by section
7 302A-601.5;

8 (20) The State or any of its branches, political
9 subdivisions, or agencies on applicants and employees
10 holding a position that has the same type of contact
11 with children, vulnerable adults, or persons committed
12 to a correctional facility as other public employees
13 who hold positions that are authorized by law to
14 require criminal history record checks as a condition
15 of employment as provided by section 78-2.7;

16 (21) The department of health on licensed adult day care
17 center operators, employees, new employees,
18 subcontracted service providers and their employees,
19 and adult volunteers as provided by section 321-15.2;

20 (22) The department of human services on purchase of
21 service contracted and subcontracted service providers



1 and their employees serving clients of the adult
2 protective and community services branch, as provided
3 by section 346-97;

4 (23) The department of human services on foster grandparent
5 program, senior companion program, and respite
6 companion program participants as provided by section
7 346-97;

8 (24) The department of human services on contracted and
9 subcontracted service providers and their current and
10 prospective employees that provide home and community-
11 based services under section 1915(c) of the Social
12 Security Act, title 42 United States Code section
13 1396n(c), or under any other applicable section or
14 sections of the Social Security Act for the purposes
15 of providing home and community-based services, as
16 provided by section 346-97;

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



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

5 (27) The department of commerce and consumer affairs on the
6 original chartering applicants and proposed executive
7 officers of a credit union as provided by section
8 412:10-103;

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

10 (A) Each principal of every non-corporate applicant
11 for a money transmitter license; and

12 (B) The executive officers, key shareholders, and
13 managers in charge of a money transmitter's
14 activities of every corporate applicant for a
15 money transmitter license,

16 as provided by sections 489D-9 and 489D-15;

17 (29) The department of commerce and consumer affairs on
18 applicants for licensure and persons licensed under
19 title 24;

20 (30) The Hawaii health systems corporation on:

21 (A) Employees;



1 (B) Applicants seeking employment;

2 (C) Current or prospective members of the corporation
3 board or regional system board; or

4 (D) Current or prospective volunteers, providers, or
5 contractors,

6 in any of the corporation's health facilities as
7 provided by section 323F-5.5;

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

9 (A) An applicant for a mortgage loan originator
10 license; and

11 (B) Each control person, executive officer, director,
12 general partner, and manager of an applicant for
13 a mortgage loan originator company license,
14 as provided by chapter 454F;

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



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



1 (38) The State and counties on employees and prospective
2 employees whose positions involve the handling or use
3 of firearms for other than law enforcement purposes;

4 (39) The State and counties on current and prospective
5 systems analysts and others involved in an agency's
6 information technology operation whose position
7 responsibilities provide them with access to
8 proprietary, confidential, or sensitive information;

9 (40) The department of commerce and consumer affairs on
10 applicants for real estate appraiser licensure or
11 certification as provided by chapter 466K;

12 (41) The department of health or its designee on all
13 license applicants, licensees, employees, contractors,
14 and prospective employees of medical marijuana
15 dispensaries, and individuals permitted to enter and
16 remain in medical marijuana dispensary facilities as
17 provided under sections 329D-15(a)(4) and
18 329D-16(a)(3); and

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



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4



Report Title:

Child Protective Act; Criminal History Record Checks

Description:

Amends the Child Protective Act to allow the Department of Human Services to access criminal history records without consent of individuals identified as alleged perpetrators of harm or threatened harm to a child, and individuals identified as adult household members living in the family home with the alleged victim child. (SD1)

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