

S.B. NO. 1048

JAN 27 2021

A BILL FOR AN ACT

RELATING TO HAWAII CRIMINAL JUSTICE DATA CENTER FEES.

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

1 SECTION 1. Section 846-10.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except for services provided to criminal justice
4 agencies and state [~~or county~~] agencies for employment purposes,
5 the Hawaii criminal justice data center and state and county
6 criminal justice agencies shall assess [~~the following~~] fees for
7 services provided or to be provided, which shall be deposited
8 into the criminal history record improvement revolving fund[~~;~~

9 ~~(1) For each criminal history record check or criminal~~
10 ~~history record name inquiry conducted by the data~~
11 ~~center and other state and county agencies, \$20;~~

12 ~~(2) For each criminal history record name inquiry via an~~
13 ~~electronic database maintained by the data center that~~
14 ~~is accessible to users through an interactive~~
15 ~~computer-based system, for which a certified printout~~
16 ~~is requested, \$10 per printout;~~

17 ~~(3) For processing of each application for the expungement~~
18 ~~of arrest records, \$25;~~

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Report Title:

Hawaii Criminal Justice Data Center Fees

Description:

Provides authority for the Hawaii criminal justice data center to set and collect fees for services provided.

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SB. NO. 1048

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO HAWAII
CRIMINAL JUSTICE DATA CENTER FEES.

PURPOSE: To provide authority for the Hawaii criminal justice data center to determine reasonable fees for services provided and to collect fees from non-law enforcement county agencies that process fingerprint based criminal history background employment checks processed by the data center.

MEANS: Amend section 846-10.5(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: All fees for services provided by the Hawaii criminal justice data center are deposited into the criminal history record improvement revolving fund, established by section 846-10.6, HRS, which is used to maintain and improve the statewide criminal history record information systems of the State. Currently there is an ambiguity as to whether statutorily set fees were intended to be amended by administrative rules.

Prior to the COVID-19 outbreak, the demand for the Hawaii criminal justice data center services was growing each year, as more agencies and organizations were conducting criminal history record checks on applicants, employees, volunteers, and licensees that are in a position of trust or that provide care for Hawaii's vulnerable population, and more individuals were submitting applications for the expungement of arrest records. That growth created a need to address the increasing volume and workload. Since the COVID-19 outbreak, a decline in requests for services has caused a decrease in fee collection of about \$299,603 for the period of March 2020 to September 2020. If the decrease in fees continues, it will affect the data center's

ability to maintain and update its criminal history systems. Allowing the Hawaii criminal justice data center the flexibility to set fees by administrative rulemaking to respond to changes in the demand for services will enable the Hawaii criminal justice data center to provide the level of service needed to ensure public safety.

The collection of fees from county agencies to complete criminal history checks for employment purposes is estimated to allow the Hawaii criminal justice data center to recover an additional \$55,000.00 yearly to help loss of revenue due to COVID-19.

Impact on the public: The Hawaii criminal justice data center will be able to set fees based on the demands of its criminal history record information systems. Fees may be reduced or increased as necessary. The public will be able to provide comments during the administrative rulemaking process allowed by section 846-10.5(d), HRS.

Impact on the department and other agencies: Approval of this bill will have a positive effect on the Hawaii criminal justice data center's ability to improve and sustain its identification services to both criminal justice and non-criminal justice agencies, thereby enhancing public safety.

Section 846-10.5(a), HRS, currently provides an exemption from the fees for services provided to criminal justice agencies and state and county agencies for employment purposes. Upon approval of this bill, processing fees will be borne by county agencies and left up to the county if they choose to pass the fee onto the applicant. Requiring non-criminal justice county agencies to pay fees when requesting criminal history background checks will provide the revenue lost as a result of the COVID-19 pandemic.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: ATG-231/BC.

OTHER AFFECTED
AGENCIES: Non-criminal justice county agencies will be required to pay \$25 for taking digital fingerprints and \$30 for the State criminal history check. Non-criminal justice county agencies are currently charged \$13.25 for the Federal Bureau of Investigation criminal history checks. The fee to complete an employment criminal history background check for non-exempt agencies would be \$68.25, if digital prints are not taken by the non-exempt agency, and \$43.25, if the non-exempt agencies submits electronic prints directly to the data center. Hawaii criminal justice data center estimates that an additional \$55,000.00 would be collected annually.

EFFECTIVE DATE: Upon approval.