
A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS.

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

1 SECTION 1. The Internal Revenue Service requires that
2 background checks be performed on all current and prospective
3 employees and contractors who receive access to federal tax
4 information. The background checks must be comprehensive and
5 must include a state and Federal Bureau of Investigation
6 fingerprint-based background check. To comply with this
7 requirement, the department of the attorney general requires
8 additional authorization. Multiple other departments and
9 agencies have received this authority.

10 The purpose of this Act is to authorize the department of
11 the attorney general to search criminal histories and
12 fingerprint records of current and prospective employees and
13 employees or agents of contractors who receive access to federal
14 tax information to allow it to comply with the Internal Revenue
15 Service's requirement.



1 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
2 by adding a new section to part I to be appropriately designated
3 and to read as follows:

4 "§28- Criminal history record checks. (a) The
5 department of the attorney general shall ensure that a
6 background investigation is completed at the appropriate level
7 designated by the federal government for any person, including
8 any authorized contractor, to have access to federal tax
9 information. This background investigation shall include
10 criminal history record checks in accordance with section
11 846-2.7. Information obtained pursuant to this subsection shall
12 be used exclusively by the department of the attorney general
13 for the purpose of determining whether the person is suitable
14 for accessing federal tax information in accordance with
15 applicable federal laws.

16 (b) The department of the attorney general may terminate
17 or deny employment to any current or prospective employee, or
18 terminate or refuse to secure the services of any contractor, if
19 the department of the attorney general finds by reason of the
20 background investigation conducted under subsection (a) that the
21 current or prospective employee or employee or agent of the



1 contractor poses a risk to the security of federal tax
2 information. Termination or denial of employment, or
3 termination or refusal to secure the services of any contractor,
4 under this subsection, shall only occur after appropriate
5 notification to the current or prospective employee or employee
6 or agent of the contractor of the findings of the background
7 investigation, and after the current or prospective employee or
8 employee or agent of the contractor is given an opportunity to
9 meet and rebut the findings. Nothing in this subsection shall
10 abrogate any applicable appeal rights under chapters 76 and 89
11 or administrative rules of the department of the attorney
12 general.

13 (c) Investigations conducted by the department of the
14 attorney general pursuant to this section shall be exempt from
15 section 831-3.1."

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

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

19 (1) The department of health or its designee on operators
20 of adult foster homes for individuals with
21 developmental disabilities or developmental



1 disabilities domiciliary homes and their employees, as
2 provided by section 321-15.2;

3 (2) The department of health or its designee on
4 prospective employees, persons seeking to serve as
5 providers, or subcontractors in positions that place
6 them in direct contact with clients when providing
7 non-witnessed direct mental health or health care
8 services as provided by section 321-171.5;

9 (3) The department of health or its designee on all
10 applicants for licensure or certification for,
11 operators for, prospective employees, adult
12 volunteers, and all adults, except adults in care, at
13 healthcare facilities as defined in section 321-15.2;

14 (4) The department of education on employees, prospective
15 employees, and teacher trainees in any public school
16 in positions that necessitate close proximity to
17 children as provided by section 302A-601.5;

18 (5) The counties on employees and prospective employees
19 who may be in positions that place them in close
20 proximity to children in recreation or child care
21 programs and services;



- 1 (6) The county liquor commissions on applicants for liquor
2 licenses as provided by section 281-53.5;
- 3 (7) The county liquor commissions on employees and
4 prospective employees involved in liquor
5 administration, law enforcement, and liquor control
6 investigations;
- 7 (8) The department of human services on operators and
8 employees of child caring institutions, child placing
9 organizations, and foster boarding homes as provided
10 by section 346-17;
- 11 (9) The department of human services on prospective
12 adoptive parents as established under section
13 346-19.7;
- 14 (10) The department of human services or its designee on
15 applicants to operate child care facilities, household
16 members of the applicant, prospective employees of the
17 applicant, and new employees and household members of
18 the provider after registration or licensure as
19 provided by section 346-154, and persons subject to
20 section 346-152.5;



- 1 (11) The department of human services on persons exempt
2 pursuant to section 346-152 to be eligible to provide
3 child care and receive child care subsidies as
4 provided by section 346-152.5;
- 5 (12) The department of health on operators and employees of
6 home and community-based case management agencies and
7 operators and other adults, except for adults in care,
8 residing in community care foster family homes as
9 provided by section 321-15.2;
- 10 (13) The department of human services on staff members of
11 the Hawaii youth correctional facility as provided by
12 section 352-5.5;
- 13 (14) The department of human services on employees,
14 prospective employees, and volunteers of contracted
15 providers and subcontractors in positions that place
16 them in close proximity to youth when providing
17 services on behalf of the office or the Hawaii youth
18 correctional facility as provided by section 352D-4.3;
- 19 (15) The judiciary on employees and applicants at detention
20 and shelter facilities as provided by section 571-34;



- 1 (16) The department of public safety on employees and
2 prospective employees who are directly involved with
3 the treatment and care of persons committed to a
4 correctional facility or who possess police powers
5 including the power of arrest as provided by section
6 353C-5;
- 7 (17) The board of private detectives and guards on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;
- 10 (18) Private schools and designated organizations on
11 employees and prospective employees who may be in
12 positions that necessitate close proximity to
13 children; provided that private schools and designated
14 organizations receive only indications of the states
15 from which the national criminal history record
16 information was provided pursuant to section 302C-1;
- 17 (19) The public library system on employees and prospective
18 employees whose positions place them in close
19 proximity to children as provided by section
20 302A-601.5;



- 1 (20) The State or any of its branches, political
2 subdivisions, or agencies on applicants and employees
3 holding a position that has the same type of contact
4 with children, vulnerable adults, or persons committed
5 to a correctional facility as other public employees
6 who hold positions that are authorized by law to
7 require criminal history record checks as a condition
8 of employment as provided by section 78-2.7;
- 9 (21) The department of health on licensed adult day care
10 center operators, employees, new employees,
11 subcontracted service providers and their employees,
12 and adult volunteers as provided by section 321-15.2;
- 13 (22) The department of human services on purchase of
14 service contracted and subcontracted service providers
15 and their employees serving clients of the adult
16 protective and community services branch, as provided
17 by section 346-97;
- 18 (23) The department of human services on foster grandparent
19 program, senior companion program, and respite
20 companion program participants as provided by section
21 346-97;



- 1 (24) The department of human services on contracted and
2 subcontracted service providers and their current and
3 prospective employees that provide home and community-
4 based services under section 1915(c) of the Social
5 Security Act, title 42 United States Code section
6 1396n(c), or under any other applicable section or
7 sections of the Social Security Act for the purposes
8 of providing home and community-based services, as
9 provided by section 346-97;
- 10 (25) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a bank,
12 savings bank, savings and loan association, trust
13 company, and depository financial services loan
14 company as provided by section 412:3-201;
- 15 (26) The department of commerce and consumer affairs on
16 proposed directors and executive officers of a
17 nondepository financial services loan company as
18 provided by section 412:3-301;
- 19 (27) The department of commerce and consumer affairs on the
20 original chartering applicants and proposed executive



- 1 officers of a credit union as provided by section
2 412:10-103;
- 3 (28) The department of commerce and consumer affairs on:
- 4 (A) Each principal of every non-corporate applicant
5 for a money transmitter license;
- 6 (B) Each person who upon approval of an application
7 by a corporate applicant for a money transmitter
8 license will be a principal of the licensee; and
- 9 (C) Each person who upon approval of an application
10 requesting approval of a proposed change in
11 control of licensee will be a principal of the
12 licensee,
- 13 as provided by sections 489D-9 and 489D-15;
- 14 (29) The department of commerce and consumer affairs on
15 applicants for licensure and persons licensed under
16 title 24;
- 17 (30) The Hawaii health systems corporation on:
- 18 (A) Employees;
- 19 (B) Applicants seeking employment;
- 20 (C) Current or prospective members of the corporation
21 board or regional system board; or



- 1 (D) Current or prospective volunteers, providers, or
2 contractors,
3 in any of the corporation's health facilities as
4 provided by section 323F-5.5;
- 5 (31) The department of commerce and consumer affairs on:
- 6 (A) An applicant for a mortgage loan originator
7 license, or license renewal; and
- 8 (B) Each control person, executive officer, director,
9 general partner, and managing member of an
10 applicant for a mortgage loan originator company
11 license or license renewal,
12 as provided by chapter 454F;
- 13 (32) The state public charter school commission or public
14 charter schools on employees, teacher trainees,
15 prospective employees, and prospective teacher
16 trainees in any public charter school for any position
17 that places them in close proximity to children, as
18 provided in section 302D-33;
- 19 (33) The counties on prospective employees who work with
20 children, vulnerable adults, or senior citizens in
21 community-based programs;



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



- 1 (39) The State and counties on current and prospective
2 systems analysts and others involved in an agency's
3 information technology operation whose position
4 responsibilities provide them with access to
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on:
- 7 (A) Applicants for real estate appraiser licensure or
8 certification as provided by chapter 466K;
- 9 (B) Each person who owns more than ten per cent of an
10 appraisal management company who is applying for
11 registration as an appraisal management company,
12 as provided by section 466L-7; and
- 13 (C) Each of the controlling persons of an applicant
14 for registration as an appraisal management
15 company, as provided by section 466L-7;
- 16 (41) The department of health or its designee on all
17 license applicants, licensees, employees, contractors,
18 and prospective employees of medical cannabis
19 dispensaries, and individuals permitted to enter and
20 remain in medical cannabis dispensary facilities as



- 1 provided under sections 329D-15(a)(4) and 329D-
2 16(a)(3);
- 3 (42) The department of commerce and consumer affairs on
4 applicants for nurse licensure or license renewal,
5 reactivation, or restoration as provided by sections
6 457-7, 457-8, 457-8.5, and 457-9;
- 7 (43) The county police departments on applicants for
8 permits to acquire firearms pursuant to section 134-2
9 and on individuals registering their firearms pursuant
10 to section 134-3;
- 11 (44) The department of commerce and consumer affairs on:
- 12 (A) Each of the controlling persons of the applicant
13 for licensure as an escrow depository, and each
14 of the officers, directors, and principals who
15 will be in charge of the escrow depository's
16 activities upon licensure; and
- 17 (B) Each of the controlling persons of an applicant
18 for proposed change in control of an escrow
19 depository licensee, and each of the officers,
20 directors, and principals who will be in charge



1 of the licensee's activities upon approval of
2 such application,
3 as provided by chapter 449;

4 (45) The department of taxation on current or prospective
5 employees or contractors who have access to federal
6 tax information in order to comply with requirements
7 of federal law, regulation, or procedure, as provided
8 by section 231-1.6;

9 (46) The department of labor and industrial relations on
10 current or prospective employees or contractors who
11 have access to federal tax information in order to
12 comply with requirements of federal law, regulation,
13 or procedure, as provided by section 383-110;

14 (47) The department of human services on current or
15 prospective employees or contractors who have access
16 to federal tax information in order to comply with
17 requirements of federal law, regulation, or procedure,
18 as provided by section 346-2.5;

19 (48) The child support enforcement agency on current or
20 prospective employees[7] or contractors who have
21 access to federal tax information in order to comply



1 with federal law, regulation, or procedure, as
2 provided by section 576D-11.5; [~~and~~]
3 (49) The department of the attorney general on current or
4 prospective employees or employees or agents of
5 contractors who have access to federal tax information
6 to comply with requirements of federal law,
7 regulation, or procedure, as provided by section
8 28- ; and

9 [~~(49)~~] (50) Any other organization, entity, or the State, its
10 branches, political subdivisions, or agencies as may
11 be authorized by state law."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Criminal History Record Checks; Department of the Attorney General

Description:

Adds the Department of the Attorney General to the list of agencies that are authorized to conduct criminal history record checks on current or prospective employees or employees or agents of contractors who have access to federal tax information. (SD1)

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