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# 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 legislature finds that the department of  
2 corrections and rehabilitation requires that background checks  
3 be performed on all current and prospective volunteers and  
4 contracted and subcontracted service providers and their  
5 employees who are directly involved in providing correctional  
6 programs, treatment, and services to persons committed to a  
7 correctional facility. The background checks must be  
8 comprehensive and include a state and federal fingerprint-based  
9 background check.

10           The legislature further finds that the department of  
11 corrections and rehabilitation does not have the statutory  
12 authority to conduct criminal history record checks on  
13 volunteers and contracted and subcontracted service providers.

14           The purpose of this Act is to authorize the department of  
15 corrections and rehabilitation to search criminal histories and  
16 fingerprint records of current and prospective volunteers and  
17 contracted and subcontracted service providers and their



1 employees who are directly involved in providing correctional  
2 programs, treatment, and services to persons committed to a  
3 correctional facility or placed in close proximity to persons  
4 committed when providing services on behalf of the department or  
5 the correctional facility.

6 SECTION 2. Section 353-1.5, Hawaii Revised Statutes, is  
7 amended by amending subsections (a), (b), and (c) to read as  
8 follows:

9 "(a) The department shall develop standards to ensure the  
10 reputable and responsible characters of staff members,  
11 volunteers, and contract and subcontract service providers of  
12 the State's correctional facilities, which shall include  
13 criminal history record checks.

14 (b) For purposes of this section:

15 "Contract service provider" means an individual or employee  
16 of an entity contracted directly by the department to provide a  
17 specific service. "Contract service provider" includes students  
18 who, as a part of their educational curriculum or assigned  
19 internship from a college or university, regardless of whether  
20 or not they receive a stipend, are assigned to the department to



1 provide or learn how to provide a specific service for the  
2 department.

3 "Prospective staff member" means any applicant for a job in  
4 the department that is directly involved in the treatment and  
5 care of persons committed to a facility.

6 "Staff member" means any employee of the department who is  
7 directly involved with the treatment and care of persons  
8 committed to a facility.

9 "Subcontract service provider" means an individual or  
10 employee of an entity hired by a contract service provider.

11 "Volunteer" means an individual or organization who  
12 provides goods or services to the department without monetary or  
13 material compensation from the department.

14 (c) The department shall obtain criminal history record  
15 information through the Hawaii criminal justice data center in  
16 accordance with section 846-2.7, on all staff members and  
17 prospective staff members, volunteers, and contract and  
18 subcontract service providers of the department. Prospective  
19 staff members, volunteers, and contract and subcontract service  
20 providers shall be fingerprinted and the criminal history record



1 check shall be completed before beginning employment[+]     
2 providing contracted services, or volunteering."

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

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

6 (1) The department of health or its designee on operators  
7 of adult foster homes for individuals with  
8 developmental disabilities or developmental  
9 disabilities domiciliary homes and their employees, as  
10 provided by section 321-15.2;

11 (2) The department of health or its designee on  
12 prospective employees, persons seeking to serve as  
13 providers, or subcontractors in positions that place  
14 them in direct contact with clients when providing  
15 non-witnessed direct mental health or health care  
16 services as provided by section 321-171.5;

17 (3) The department of health or its designee on all  
18 applicants for licensure or certification for,  
19 operators for, prospective employees, adult  
20 volunteers, and all adults, except adults in care, at  
21 healthcare facilities as defined in section 321-15.2;



- 1           (4) The department of education on employees, prospective  
2           employees, and teacher trainees in any public school  
3           in positions that necessitate close proximity to  
4           children as provided by section 302A-601.5;
- 5           (5) The counties on employees and prospective employees  
6           who may be in positions that place them in close  
7           proximity to children in recreation or child care  
8           programs and services;
- 9           (6) The county liquor commissions on applicants for liquor  
10          licenses as provided by section 281-53.5;
- 11          (7) The county liquor commissions on employees and  
12          prospective employees involved in liquor  
13          administration, law enforcement, and liquor control  
14          investigations;
- 15          (8) The department of human services on operators and  
16          employees of child caring institutions, child placing  
17          organizations, and resource family homes as provided  
18          by section 346-17;
- 19          (9) The department of human services on prospective  
20          adoptive parents as established under section 346-  
21          19.7;



- 1           (10) The department of human services or its designee on  
2                    applicants to operate child care facilities, household  
3                    members of the applicant, prospective employees of the  
4                    applicant, and new employees and household members of  
5                    the provider after registration or licensure as  
6                    provided by section 346-154, and persons subject to  
7                    section 346-152.5;
- 8           (11) The department of human services on persons exempt  
9                    pursuant to section 346-152 to be eligible to provide  
10                  child care and receive child care subsidies as  
11                  provided by section 346-152.5;
- 12          (12) The department of health on operators and employees of  
13                  home and community-based case management agencies and  
14                  operators and other adults, except for adults in care,  
15                  residing in community care foster family homes as  
16                  provided by section 321-15.2;
- 17          (13) The department of human services on staff members of  
18                  the Hawaii youth correctional facility as provided by  
19                  section 352-5.5;
- 20          (14) The department of human services on employees,  
21                  prospective employees, and volunteers of contracted



1 providers and subcontractors in positions that place  
2 them in close proximity to youth when providing  
3 services on behalf of the office or the Hawaii youth  
4 correctional facility as provided by section 352D-4.3;

5 (15) The judiciary on employees and applicants at detention  
6 and shelter facilities as provided by section 571-34;

7 (16) The department of corrections and rehabilitation on  
8 employees and prospective employees, volunteers, and  
9 contract and subcontract service providers who are  
10 directly involved with the treatment and care of, or  
11 directly involved in providing correctional programs  
12 and services to, persons committed to a correctional  
13 facility, or placed in close proximity to persons  
14 committed when providing services on behalf of the  
15 department or the correctional facility, as provided  
16 by section 353-1.5 and the department of law  
17 enforcement on employees and prospective employees  
18 whose duties involve or may involve the exercise of  
19 police powers including the power of arrest as  
20 provided by section 353C-5;



- 1 (17) The board of private detectives and guards on  
2 applicants for private detective or private guard  
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on  
5 employees and prospective employees who may be in  
6 positions that necessitate close proximity to  
7 children; provided that private schools and designated  
8 organizations receive only indications of the states  
9 from which the national criminal history record  
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective  
12 employees whose positions place them in close  
13 proximity to children as provided by section 302A-  
14 601.5;
- 15 (20) The State or any of its branches, political  
16 subdivisions, or agencies on applicants and employees  
17 holding a position that has the same type of contact  
18 with children, vulnerable adults, or persons committed  
19 to a correctional facility as other public employees  
20 who hold positions that are authorized by law to



- 1           require criminal history record checks as a condition  
2           of employment as provided by section 78-2.7;
- 3       (21)   The department of health on licensed adult day care  
4           center operators, employees, new employees,  
5           subcontracted service providers and their employees,  
6           and adult volunteers as provided by section 321-15.2;
- 7       (22)   The department of human services on purchase of  
8           service contracted and subcontracted service providers  
9           and their employees and volunteers, as provided by  
10          sections 346-2.5 and 346-97;
- 11       (23)   The department of human services on foster grandparent  
12          program, senior companion program, and respite  
13          companion program participants as provided by section  
14          346-97;
- 15       (24)   The department of human services on contracted and  
16          subcontracted service providers and their current and  
17          prospective employees that provide home and community-  
18          based services under section 1915(c) of the Social  
19          Security Act, title 42 United States Code section  
20          1396n(c), or under any other applicable section or  
21          sections of the Social Security Act for the purposes



1 of providing home and community-based services, as  
2 provided by section 346-97;

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

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

12 (27) The department of commerce and consumer affairs on the  
13 original chartering applicants and proposed executive  
14 officers of a credit union as provided by section  
15 412:10-103;

16 (28) The department of commerce and consumer affairs on:  
17 (A) Each principal of every non-corporate applicant  
18 for a money transmitter license;  
19 (B) Each person who upon approval of an application  
20 by a corporate applicant for a money transmitter  
21 license will be a principal of the licensee; and



1 (C) Each person who upon approval of an application  
2 requesting approval of a proposed change in  
3 control of licensee will be a principal of the  
4 licensee,

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

6 (29) The department of commerce and consumer affairs on  
7 applicants for licensure and persons licensed under  
8 title 24;

9 (30) The Hawaii health systems corporation on:

10 (A) Employees;

11 (B) Applicants seeking employment;

12 (C) Current or prospective members of the corporation  
13 board or regional system board; or

14 (D) Current or prospective volunteers, providers, or  
15 contractors,

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

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

19 (A) An applicant for a mortgage loan originator  
20 license, or license renewal; and



1 (B) Each control person, executive officer, director,  
2 general partner, and managing member of an  
3 applicant for a mortgage loan originator company  
4 license or license renewal, as provided by  
5 chapter 454F;

6 (32) The state public charter school commission or public  
7 charter schools on employees, teacher trainees,  
8 prospective employees, and prospective teacher  
9 trainees in any public charter school for any position  
10 that places them in close proximity to children, as  
11 provided in section 302D-33;

12 (33) The counties on prospective employees who work with  
13 children, vulnerable adults, or senior citizens in  
14 community-based programs;

15 (34) The counties on prospective employees for fire  
16 department positions that involve contact with  
17 children or vulnerable adults;

18 (35) The counties on prospective employees for emergency  
19 medical services positions that involve contact with  
20 children or vulnerable adults;



- 1           (36) The counties on prospective employees for emergency  
2                   management positions and community volunteers whose  
3                   responsibilities involve planning and executing  
4                   homeland security measures including viewing,  
5                   handling, and engaging in law enforcement or  
6                   classified meetings and assisting vulnerable citizens  
7                   during emergencies or crises;
- 8           (37) The State and counties on employees, prospective  
9                   employees, volunteers, and contractors whose position  
10                  responsibilities require unescorted access to secured  
11                  areas and equipment related to a traffic management  
12                  center;
- 13          (38) The State and counties on employees and prospective  
14                  employees whose positions involve the handling or use  
15                  of firearms for other than law enforcement purposes;
- 16          (39) The State and counties on current and prospective  
17                  systems analysts and others involved in an agency's  
18                  information technology operation whose position  
19                  responsibilities provide them with access to  
20                  proprietary, confidential, or sensitive information;
- 21          (40) The department of commerce and consumer affairs on:



- 1 (A) Applicants for real estate appraiser licensure or
- 2 certification as provided by chapter 466K;
- 3 (B) Each person who owns more than ten per cent of an
- 4 appraisal management company who is applying for
- 5 registration as an appraisal management company,
- 6 as provided by section 466L-7; and
- 7 (C) Each of the controlling persons of an applicant
- 8 for registration as an appraisal management
- 9 company, as provided by section 466L-7;
- 10 (41) The department of health or its designee on all
- 11 license applicants, licensees, employees, contractors,
- 12 and prospective employees of medical cannabis
- 13 dispensaries, and individuals permitted to enter and
- 14 remain in medical cannabis dispensary facilities as
- 15 provided under sections 329D-15(a) (4) and 329D-
- 16 16(a) (3);
- 17 (42) The department of commerce and consumer affairs on
- 18 applicants for nurse licensure or license renewal,
- 19 reactivation, or restoration as provided by sections
- 20 457-7, 457-8, 457-8.5, and 457-9;



1 (43) The county police departments on applicants for  
2 permits to acquire firearms pursuant to section 134-2,  
3 on individuals registering their firearms pursuant to  
4 section 134-3, and on applicants for new or renewed  
5 licenses to carry a pistol or revolver and ammunition  
6 pursuant to section 134-9;

7 (44) The department of commerce and consumer affairs on:

8 (A) Each of the controlling persons of the applicant  
9 for licensure as an escrow depository, and each  
10 of the officers, directors, and principals who  
11 will be in charge of the escrow depository's  
12 activities upon licensure; and

13 (B) Each of the controlling persons of an applicant  
14 for proposed change in control of an escrow  
15 depository licensee, and each of the officers,  
16 directors, and principals who will be in charge  
17 of the licensee's activities upon approval of the  
18 application, as provided by chapter 449;

19 (45) The department of taxation on current or prospective  
20 employees or contractors who have access to federal  
21 tax information in order to comply with requirements



1 of federal law, regulation, or procedure, as provided  
2 by section 231-1.6;

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

8 (47) The department of human services on current or  
9 prospective employees or contractors who have access  
10 to federal tax information in order to comply with  
11 requirements of federal law, regulation, or procedure,  
12 and on current or prospective employees, volunteers,  
13 contractors, or contractors' employees or volunteers,  
14 subcontractors, or subcontractors' employees or  
15 volunteers, whose position places or would place them  
16 in close proximity to minors, young adults, or  
17 vulnerable adults, as provided by section 346-2.5;

18 (48) The child support enforcement agency on current or  
19 prospective employees, or contractors who have access  
20 to federal tax information in order to comply with



1 federal law, regulation, or procedure, as provided by  
2 section 576D-11.5;

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 28-  
8 17;

9 (50) The department of commerce and consumer affairs on  
10 each control person, executive officer, director,  
11 general partner, and managing member of an installment  
12 loan licensee, or an applicant for an installment loan  
13 license, as provided in chapter 480J;

14 (51) The University of Hawaii on current and prospective  
15 employees and contractors whose duties include  
16 ensuring the security of campus facilities and  
17 persons; and

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



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 3000.



**Report Title:**

Corrections and Rehabilitation; Department of the Attorney  
General Hawaii Criminal Justice Data Center; Background Checks

**Description:**

Authorizes the Department of Corrections and Rehabilitation to search criminal histories and fingerprint records of current and prospective volunteers and purchase of service contracted and subcontracted service providers and their employees who are directly involved in providing correctional programs, treatment, and services to persons committed to a correctional facility or places them in close proximity to persons committed when providing services on behalf of the Department or the correctional facility. Effective 7/1/3000. (HD1)

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