

STAND. COM. REP. NO. 2293

Honolulu, Hawaii

FEB 17 2026

RE: S.B. No. 3207
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred S.B. No. 3207 entitled:

"A BILL FOR AN ACT RELATING TO BACKGROUND CHECKS,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize applicants, operators, and third-party employers, rather than the Department of Health, to conduct background checks of employees and adult volunteers at health care facilities.

Your Committee received testimony in support of this measure from the Healthcare Association of Hawaii, Hawai'i Pacific Health, Kaiser Permanente Hawai'i, Hawaii Health Systems Corporation, Palolo Chinese Home, Rehabilitation Hospital of the Pacific, The Queen's Health Systems, Hawai'i Care Choices, and one individual.

Your Committee received testimony in opposition to this measure from the Department of the Attorney General and Department of Health.

Your Committee received comments on this measure from the Hawaii Medical Association and one individual.

Your Committee finds that the State's fingerprinting process being enforced by the Department of Health as part of the background check for health care workers has created significant



operational challenges for hospitals, long-term care facilities, home health agencies, hospices, and other providers. Your Committee further finds that this is the product of statutory ambiguity and implementation issues that make it difficult to apply a cost-effective, least burdensome fingerprinting process for health care providers. This measure ensures that fingerprinting, where required, is implemented in a reasonable, cost-effective, and legally sound manner that allows health care providers to remain focused on delivering care to the State's communities.

Your Committee acknowledges the concerns raised in testimony by the Department of the Attorney General that any statute seeking access to Federal Bureau of Investigation criminal history record information must be approved by the Federal Bureau of Investigation Criminal Justice Information Law Unit (FBI CJILU). Your Committee notes that if this measure is adopted, the Hawaii Criminal Justice Data Center of the Department of the Attorney General is requested to submit the wording of this measure to the FBI CJILU, requesting review and approval before fingerprint-based background checks could be conducted in the State in accordance with this measure.

Your Committee has amended this measure by:

- (1) Replacing the term "direct patient access employee" with "employee" throughout the measure;
- (2) Inserting language to clarify that the definition of "relevant crime" includes a crime of such a serious nature or circumstance that the Department of Health finds its perpetrator to pose a risk to the health, safety, or well-being of a patient or resident and is rationally related to the duties and responsibilities of the position in accordance with section 378-2.5(a), Hawaii Revised Statutes;
- (3) Inserting language to clarify that the definition of "third-party employer" includes any person or entity other than the applicant or operator that provides through an educational affiliation agreement an individual who provides services at a healthcare



facility pursuant to a contract, subcontract, agreement, or other arrangement;

- (4) Inserting language to exempt individuals whose duties do not involve the provision of health care services or direct physical contact with patients and whose access to patients or patient belongings is incidental, limited, or supervised from the fingerprint requirements of employees and adult volunteers at health care facilities;
- (5) Deleting language to clarify that all applicants or operators are required to obtain and ensure completion of required background checks for any prospective employee or prospective adult volunteer;
- (6) Deleting language that would have required any use of background check information to make an employment decision based on conviction record information to comply with the requirements of section 378-2.5(c), Hawaii Revised Statutes, including any applicable limitation on the consideration of conviction record information;
- (7) Inserting language to require that any inquiry into, and consideration of, conviction record information obtained pursuant to section 321-15.2, Hawaii Revised Statutes, shall comply with section 378-2.5(a), (b), and (c), Hawaii Revised Statutes, including the requirements of a rational relationship to the position, post-conditional-offer inquiry, and the time limitations set forth in section 3782.5(c), Hawaii Revised Statutes;
- (8) Clarifying that the department, applicant, operator, or third-party employer, in obtaining and relying upon the background check information in accordance with section 321-15.2, Hawaii Revised Statutes, is presumed to be acting in good faith and shall be immune from civil liability for taking or recommending action based upon the background check information;
- (9) Clarifying that the presumption of good faith may be rebutted upon a showing of proof by a preponderance of



the evidence that the department, applicant, operator, or third-party employer relied upon information or opinion that it knew was false or misleading or that such reliance was not reasonable;

- (10) Deleting language that would have authorized an applicant, operator, or third-party employer to apply to register as a qualified entity under section 846-2.7(c), Hawaii Revised Statutes, for the purposes of obtaining the background checks required by section 321-15.2, Hawaii Revised Statutes;
- (11) Inserting language to establish that:
 - (A) Any requirement to conduct fingerprint-based background or criminal history record checks shall apply only to individuals hired, engaged, or retained on or after July 1, 2028; and
 - (B) Before July 1, 2028, and for all individuals regardless of hire date, healthcare facilities shall continue to complete all other elements of the required background check, including name-based criminal history inquiries and all registry and abuse-prevention checks required under state or federal law;
- (12) Amending section 846-2.7, Hawaii Revised Statutes, to clarify that the Department of Health or an applicant, operator, or third-party employer of a healthcare facility on all applicants for licensure or certification for, operators for, prospective employees, prospective adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2, Hawaii Revised Statutes, are authorized to conduct criminal history record checks;
- (13) Inserting an effective date of January 30, 2050, to encourage further discussion; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3207, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Health and Human
Services,



JOY A. SAN BUENAVENTURA, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:* SB 3207	Committee Referral: HHS, JDC	Date: 2/6/2026		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
MCKELVEY, Angus L.K. (VC)	✓			
KANUHA, Dru Mamo				✓
KEOHOKALOLE, Jarrett	✓			
FEVELLA, Kurt	✓			
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink File with Committee Report Committee Drafting Agency				

*Only one measure per Record of Votes